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SENATE BILL 62

**50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012**

INTRODUCED BY

Mary Jane M. Garcia

AN ACT

RELATING TO ANIMAL CRUELTY; AMENDING THE DEFINITION OF  
"ANIMAL"; EXPANDING THE SCOPE OF WHAT CONSTITUTES CRUELTY TO  
ANIMALS; EXPANDING THE SCOPE OF WHAT CONSTITUTES EXTREME  
CRUELTY TO ANIMALS; ENHANCING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**SECTION 1.** Section 30-18-1 NMSA 1978 (being Laws 1999,  
Chapter 107, Section 1, as amended) is amended to read:

"30-18-1. CRUELTY TO ANIMALS--EXTREME CRUELTY TO  
ANIMALS--PENALTIES--EXCEPTIONS.--

A. As used in this section, "animal" [~~does not  
include insects or reptiles~~] includes all non-human  
vertebrates.

B. Cruelty to animals consists of a person:

(1) negligently mistreating, injuring, killing

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1 without lawful justification or tormenting an animal; [~~or~~]

2 (2) abandoning or failing to provide necessary  
3 sustenance, including sufficient food to maintain normal  
4 weight; water of drinkable temperature; adequate, clean, pest-  
5 free, suitable shelter from the elements; proper veterinary  
6 care; and timely medical care in the event of injury or  
7 illness, to an animal under that person's custody or control  
8 such that the life or health of an animal is endangered due to  
9 negligent treatment; or

10 (3) tethering or tying an animal in a manner  
11 that precludes the animal's access to food, water and suitable  
12 shelter from the elements or causes injury to the animal.

13 C. As used in Subsection B of this section, "lawful  
14 justification" means:

15 (1) humanely destroying a sick or injured  
16 animal; or

17 (2) protecting a person or animal from death  
18 or injury due to an attack by another animal.

19 D. Whoever commits cruelty to animals is guilty of  
20 a misdemeanor and shall [~~be sentenced pursuant to the~~  
21 ~~provisions of Section 31-19-1 NMSA 1978. Upon a fourth or~~  
22 ~~subsequent conviction for committing cruelty to animals, the~~  
23 ~~offender is guilty of a fourth degree felony and shall be~~  
24 ~~sentenced pursuant to the provisions of Section 31-18-15 NMSA~~  
25 ~~1978] not own, live with or have custodial responsibility for~~

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1 an animal for a period of five years.

2 E. Whoever commits cruelty to animals is guilty of  
3 a fourth degree felony if:

4 (1) the person committing the animal cruelty  
5 has previously been convicted of cruelty to animals in New  
6 Mexico or under the equivalent animal cruelty laws of another  
7 jurisdiction;

8 (2) has previously been convicted of domestic  
9 violence according to Section 40-13-1 NMSA 1978 or the  
10 equivalent domestic violence laws of another jurisdiction; or

11 (3) the person knowingly commits animal  
12 cruelty in the immediate presence of a minor child. For  
13 purposes of this subsection, a minor child is in the immediate  
14 presence of the animal cruelty if the cruelty is seen or  
15 directly perceived in any other manner by the minor child.

16 ~~[E.]~~ F. Extreme cruelty to animals consists of a  
17 person:

18 (1) intentionally or maliciously torturing,  
19 mutilating, injuring or poisoning an animal; ~~[or]~~

20 (2) maliciously killing an animal;

21 (3) causing the death of an animal by  
22 abandonment; or

23 (4) tethering an animal in a manner that  
24 results in the death of the animal.

25 ~~[F.]~~ G. Whoever commits extreme cruelty to animals

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1 is guilty of a fourth degree felony and [~~shall be sentenced~~  
2 ~~pursuant to the provisions of Section 31-18-15 NMSA 1978~~] shall  
3 not own, live with or have custodial responsibility for an  
4 animal for a period of ten years.

5 H. Whoever commits extreme cruelty to animals is  
6 guilty of a third degree felony if:

7 (1) the person committing the extreme cruelty  
8 has previously been convicted of extreme cruelty to animals in  
9 New Mexico or under the equivalent animal cruelty laws of  
10 another jurisdiction;

11 (2) has previously been convicted of domestic  
12 violence according to Section 40-13-1 NMSA 1978 or the  
13 equivalent domestic violence laws of another jurisdiction; or

14 (3) the person knowingly commits the extreme  
15 cruelty in the immediate presence of a minor child. For  
16 purposes of this subsection, a minor child is in the immediate  
17 presence of the extreme cruelty if the cruelty is seen or  
18 directly perceived in any other manner by the minor child.

19 [~~G.~~] I. The court may order a person convicted for  
20 committing cruelty to animals to participate in an animal  
21 cruelty prevention program or an animal cruelty education  
22 program. The court may also order a person convicted for  
23 committing cruelty to animals or extreme cruelty to animals to  
24 obtain psychological counseling for treatment of a mental  
25 health disorder if, in the court's judgment, the mental health

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1 disorder contributed to the commission of the criminal offense.  
2 The offender shall bear the expense of participating in an  
3 animal cruelty prevention program, animal cruelty education  
4 program or psychological counseling ordered by the court.

5 ~~[H.]~~ J. If a child is adjudicated of cruelty to  
6 animals, the court shall order an assessment and any necessary  
7 psychological counseling or treatment of the child.

8 ~~[I.]~~ K. The provisions of this section do not apply  
9 to:

10 (1) fishing, hunting, falconry, taking and  
11 trapping, as provided in Chapter 17 NMSA 1978;

12 (2) the practice of veterinary medicine, as  
13 provided in Chapter 61, Article 14 NMSA 1978;

14 (3) rodent or pest control, as provided in  
15 Chapter 77, Article 15 NMSA 1978;

16 (4) the treatment of livestock and other  
17 animals used on farms and ranches for the production of food,  
18 fiber or other agricultural products, when the treatment is in  
19 accordance with commonly accepted agricultural animal husbandry  
20 practices;

21 (5) the use of commonly accepted Mexican and  
22 American rodeo practices, unless otherwise prohibited by law;

23 (6) research facilities licensed pursuant to  
24 the provisions of 7 U.S.C. Section 2136, except when knowingly  
25 operating outside provisions, governing the treatment of

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1 animals, of a research or maintenance protocol approved by the  
2 institutional animal care and use committee of the facility; or

3 (7) other similar activities not otherwise  
4 prohibited by law.

5 [~~J~~] L. If there is a dispute as to what  
6 constitutes commonly accepted agricultural animal husbandry  
7 practices or commonly accepted rodeo practices, the New Mexico  
8 livestock board shall hold a hearing to determine if the  
9 practice in question is a commonly accepted agricultural animal  
10 husbandry practice or commonly accepted rodeo practice."