

1 HOUSE BILL 218

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

4 Nathan P. Small

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10 AN ACT

11 RELATING TO ANIMALS; PROVIDING A REGISTERED EQUINE RESCUE OR
12 RETIREMENT FACILITY WITH THE RIGHT OF FIRST REFUSAL TO PURCHASE
13 ESTRAY, CRUELLY TREATED OR TRESPASSING EQUINES; DEFINING
14 "EQUINE"; MAKING CONFORMING CHANGES.

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. Section 7-2-30.7 NMSA 1978 (being Laws 2013,
18 Chapter 49, Section 2) is amended to read:

19 "7-2-30.7. OPTIONAL DESIGNATION OF TAX REFUND
20 CONTRIBUTION--~~[HORSE]~~ EQUINE SHELTER RESCUE FUND.--

21 A. Any individual whose state income tax liability
22 after application of allowable credits and tax rebates in any
23 year is lower than the amount of money held by the department
24 to the credit of such individual for that tax year may
25 designate any portion of the income tax refund due to the

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1 individual to be paid to the [~~horse~~] equine shelter rescue
2 fund. In the case of a joint return, both individuals must
3 make such a designation.

4 B. The department shall revise the state income tax
5 form to allow the designation of such contributions in the
6 following form:

7 "[~~Horse~~] Equine Shelter Rescue Fund - Check [] if
8 you wish to contribute a part or all of your tax
9 refund to the [~~horse~~] equine shelter rescue fund.
10 Enter here \$ _____ the amount of your
11 contribution."

12 C. The provisions of this section do not apply to
13 income tax refunds subject to interception under the provisions
14 of the Tax Refund Intercept Program Act, and any designation
15 made under the provisions of this section to such refunds is
16 void."

17 SECTION 2. Section 30-18-1.2 NMSA 1978 (being Laws 1999,
18 Chapter 107, Section 3, as amended) is amended to read:

19 "30-18-1.2. DISPOSITION OF SEIZED ANIMALS.--

20 A. If the court finds that a seized animal is not
21 being cruelly treated and that the animal's owner is able to
22 provide for the animal adequately, the court shall return the
23 animal to its owner.

24 B. If the court finds that a seized animal is being
25 cruelly treated or that the animal's owner is unable to provide

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1 for the animal adequately, the court shall hold a hearing to
2 determine the disposition of the animal.

3 C. An agent of the New Mexico livestock board, an
4 animal control agency operated by the state, a county or a
5 municipality, ~~[or]~~ an animal shelter or other animal welfare
6 organization designated by an animal control agency or an
7 animal shelter, in the custody of which an animal that has been
8 cruelly treated has been placed, may petition the court to
9 request that the animal's owner may be ordered to post security
10 with the court to indemnify the costs incurred to care and
11 provide for the seized animal pending the disposition of any
12 criminal charges of committing cruelty to animals pending
13 against the animal's owner.

14 D. The court shall determine the amount of security
15 while taking into consideration all of the circumstances of the
16 case, including the owner's ability to pay, and may conduct
17 periodic reviews of its order. If the posting of security is
18 ordered, the livestock board, the animal control agency, animal
19 shelter or animal welfare organization may, with permission of
20 the court, draw from the security to indemnify the costs
21 incurred to care and provide for the seized animal pending
22 disposition of the criminal charges.

23 E. If the owner of the animal does not post
24 security within fifteen days after the issuance of the order,
25 or if, after reasonable and diligent attempts the owner cannot

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1 be located, the animal may be deemed abandoned and relinquished
2 to the livestock board, animal control agency, animal shelter
3 or animal welfare organization for adoption or humane
4 destruction; provided that if the animal is livestock other
5 than poultry associated with cockfighting, the animal may be
6 sold pursuant to the procedures set forth in Section 77-18-2
7 NMSA 1978.

8 F. Nothing in this section shall prohibit an owner
9 from voluntarily relinquishing an animal to an animal control
10 agency or shelter in lieu of posting security. A voluntary
11 relinquishment shall not preclude further prosecution of any
12 criminal charges alleging that the owner has committed felony
13 cruelty to animals.

14 G. Upon conviction, the court shall place the
15 animal with an animal shelter or animal welfare organization
16 for placement or for humane destruction.

17 H. As used in this section, "livestock" means all
18 domestic or domesticated animals that are used or raised on a
19 farm or ranch and exotic animals in captivity and includes
20 [~~horses, asses, mules~~] equines as defined in Section 77-2-1.1
21 NMSA 1978, cattle, sheep, goats, swine, bison, poultry,
22 ostriches, emus, rheas, camelids and farmed cervidae but does
23 not include canine or feline animals."

24 SECTION 3. Section 77-2-1.1 NMSA 1978 (being Laws 1993,
25 Chapter 248, Section 2, as amended) is amended to read:

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1 "77-2-1.1. DEFINITIONS.--As used in The Livestock Code:

2 A. "animals" or "livestock" means all domestic or
3 domesticated animals that are used or raised on a farm or
4 ranch, including the carcasses thereof, and exotic animals in
5 captivity and includes [~~horses, asses, mules~~] equines, cattle,
6 sheep, goats, swine, bison, poultry, ostriches, emus, rheas,
7 camelids and farmed cervidae upon any land in New Mexico.

8 "Animals" or "livestock" does not include canine or feline
9 animals;

10 B. "bill of sale" means an instrument in
11 substantially the form specified in The Livestock Code by which
12 the owner or the owner's authorized agent transfers to the
13 buyer the title to animals described in the bill of sale;

14 C. "bison" or "buffalo" means a bovine animal of
15 the species bison;

16 D. "board" means the New Mexico livestock board;

17 E. "bond" means cash or an insurance agreement from
18 a New Mexico licensed surety or insurance corporation pledging
19 surety for financial loss caused to another, including
20 certificate of deposit, letter of credit or other surety as may
21 be approved by the grain inspection, packers and stockyards
22 administration of the United States department of agriculture
23 or the board;

24 F. "brand" means a symbol or device in a form
25 approved by and recorded with the board as may be sufficient to

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1 readily distinguish livestock should they become intermixed
2 with other livestock;

3 G. "brand inspector" means an inspector who is not
4 certified as a peace officer;

5 H. "carcasses" means dead or dressed bodies of
6 livestock or parts thereof;

7 I. "cattle" means animals of the genus bos,
8 including dairy cattle, and does not include any other kind of
9 livestock;

10 J. "dairy cattle" means animals of the genus bos
11 raised not for consumption but for dairy products and
12 distinguished from meat breed cattle;

13 K. "director" means the executive director of the
14 board;

15 L. "disease" means a communicable, infectious or
16 contagious disease;

17 M. "district" means a livestock inspection
18 district;

19 N. "equine" means a horse, pony, mule, donkey or
20 hinny;

21 [~~N.~~] O. "estray" means livestock found running at
22 large upon public or private lands, either fenced or unfenced,
23 whose owner is unknown, or that is branded with a brand that is
24 not on record in the office of the board or is a freshly
25 branded or marked offspring not with its branded or marked

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1 mother, unless other proof of ownership is produced;

2 [Ø-] P. "inspector" means a livestock or brand
3 inspector;

4 [P-] Q. "livestock inspector" means a certified
5 inspector who is granted full law enforcement powers for
6 enforcement of The Livestock Code and other criminal laws
7 relating to livestock;

8 [Q-] R. "mark" means an ear tag or ownership mark
9 that is not a brand;

10 [R-] S. "meat" means the edible flesh of poultry,
11 birds or animals sold for human consumption and includes
12 livestock, poultry and livestock and poultry products; and

13 [~~S. "mule" means a hybrid resulting from the cross~~
14 ~~of a horse and an ass; and]~~

15 T. "person" means an individual, firm, partnership,
16 association, corporation or similar legal entity."

17 SECTION 4. Section 77-2-30 NMSA 1978 (being Laws 2005,
18 Chapter 236, Section 1) is amended to read:

19 "77-2-30. [~~HORSE~~] EQUINE RESCUE OR RETIREMENT FACILITY--
20 REGISTRATION--BOARD POWERS AND DUTIES--FEES.--

21 A. As used in this section, "facility" means [~~a~~
22 ~~horse~~] an equine rescue or retirement facility, including a
23 private reserve or private preserve, that advertises [~~of~~] or
24 solicits for [~~horses~~] equines and provides lifelong care or
25 finds new owners for [~~horses~~] equines that are unwanted or have

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1 been neglected or abused or captured wild [~~horses~~] equines that
2 cannot be returned to their range.

3 B. A facility shall not operate in New Mexico
4 unless registered by the board.

5 C. The board shall:

6 (1) register facilities that meet the
7 requirements of this section;

8 (2) annually consult with representatives from
9 the equine industry, equine rescue organizations and
10 veterinarians on facility standards; and

11 (3) after consideration of recommendations by
12 facilities and national organizations for the care of unwanted
13 [~~horses and equine rescue and retirement facilities~~] equines,
14 promulgate rules for facilities, including:

15 (a) health and sanitary requirements;

16 (b) standards for barns, paddocks,
17 pastures and ranges;

18 (c) qualifications of the facility
19 staff;

20 (d) provision of veterinary care;

21 (e) feeding and watering requirements;

22 (f) transportation; [~~and~~]

23 (g) a process to issue a temporary
24 capacity waiver to a facility for the purpose of transferring
25 to a facility equines in the custody of the board; and

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1 [~~g~~] (h) other requirements necessary
2 to ensure the humane care of [~~horses~~] equines.

3 D. The board may charge the following fees:

4 (1) an initial inspection and registration fee
5 of not more than two hundred fifty dollars (\$250);

6 (2) an annual inspection and registration fee
7 of not more than one hundred dollars (\$100); and

8 (3) reinspection fees of not more than one
9 hundred dollars (\$100).

10 E. Fees collected pursuant to this section shall be
11 deposited in the New Mexico livestock board general fund and
12 may be used to carry out the provisions of [~~Sections 1 and 2~~
13 ~~of~~] this [~~act~~] section and Section 77-2-31 NMSA 1978."

14 SECTION 5. Section 77-2-31 NMSA 1978 (being Laws 2005,
15 Chapter 236, Section 2) is amended to read:

16 "77-2-31. [~~HORSE~~] EQUINE RESCUE OR RETIREMENT
17 FACILITIES--INSPECTIONS--REINSPECTION.--

18 A. Prior to annual registration, each facility
19 shall be inspected in accordance with board rules.

20 B. The board or its agents may enter the premises
21 of a facility to conduct unannounced inspections.

22 C. If, following an inspection, the board
23 determines that the facility does not meet the board's minimum
24 facility requirements, it shall give the registrant written
25 notice of the deficiencies and schedule a reinspection,

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1 allowing a reasonable time for the registrant to correct the
2 deficiencies.

3 D. The registrant shall remedy the deficiencies and
4 submit evidence to the board demonstrating compliance with
5 board rules for the facility.

6 E. If on reinspection the board determines that the
7 facility is still deficient in those areas for which it has
8 been given written notice, the [~~horses~~] equines may be
9 impounded in accordance with the provisions of Section 77-18-2
10 NMSA 1978 and the board shall hold a hearing as provided in the
11 Uniform Licensing Act to determine if the registration should
12 be suspended or revoked.

13 F. If a facility's registration is suspended or
14 revoked, the board shall place the [~~horses~~] equines in another
15 facility."

16 SECTION 6. Section 77-2-32 NMSA 1978 (being Laws 2013,
17 Chapter 49, Section 1) is amended to read:

18 "77-2-32. [~~HORSE~~] EQUINE SHELTER RESCUE FUND--CREATED.--

19 A. The "[~~horse~~] equine shelter rescue fund" is
20 created as a nonreverting fund in the state treasury. The fund
21 consists of appropriations, gifts, grants, donations and
22 amounts designated pursuant to Section [~~2 of this 2013 act~~]
23 7-2-30.7 NMSA 1978. The board shall administer the fund, and
24 money in the fund is appropriated to the board to carry out the
25 intent of aiding [~~horse~~] equine rescues and homeless [~~horses~~]

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1 equines in the state.

2 B. The board shall establish by rule the
3 distribution of funds from the [~~horse~~] equine shelter rescue
4 fund to [~~horse~~] equine rescue and retirement facilities
5 registered by the board pursuant to Section 77-2-30 NMSA 1978,
6 taking into consideration the number of [~~horses~~] equines being
7 cared for in each facility and the need of each facility."

8 SECTION 7. Section 77-13-4 NMSA 1978 (being Laws 1907,
9 Chapter 80, Section 4, as amended) is amended to read:

10 "77-13-4. OWNER UNKNOWN--PUBLICATION AND POSTING OF
11 NOTICE.--

12 A. If the director of the [~~New Mexico livestock~~]
13 board is unable to determine from the records and description
14 who is the owner or probable owner of [~~such~~] an estray, [~~or~~
15 ~~estrays, he~~] the director shall publish at least once in some
16 publication in general circulation in the county in which the
17 estray animal was picked up, [~~said~~] the publication to be
18 designated by the [~~New Mexico livestock~~] board, a notice of
19 [~~such~~] the estray [~~which~~].

20 B. For an estray that is not an equine, the notice
21 shall give a description of the animal [~~or animals~~], shall
22 state when and where [~~the same were~~] it was impounded and shall
23 give notice that unless the animal [~~or animals are~~] is claimed
24 by the legal owner within five days after the publication of
25 the notice, the [~~same~~] animal shall be sold by the [~~New Mexico~~

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1 ~~livestock~~] board for the benefit of the owner when found.

2 C. For an estray that is an equine, the notice
3 shall give a description of the equine, shall state when and
4 where it was impounded and shall give notice that, unless the
5 equine is claimed by the legal owner within five days after
6 publication of the notice, a registered equine rescue or
7 retirement facility shall be given the right of first refusal
8 to purchase the equine for an ownership transfer fee as
9 established by board rule, but not to exceed the actual costs
10 incurred in caring for the equine while the equine was
11 impounded, and that if a registered equine rescue or retirement
12 facility is unable or unwilling to purchase the equine, the
13 board shall auction the equine through a closed bid process
14 administered by the board and established in rule. If the
15 equine is not purchased through the closed bid process, the
16 board shall have the equine humanely euthanized by a licensed
17 veterinarian."

18 **SECTION 8.** Section 77-13-5 NMSA 1978 (being Laws 1907,
19 Chapter 80, Section 5, as amended) is amended to read:

20 "77-13-5. [~~SALE~~] DISPOSITION OF UNCLAIMED ESTRAYS--BILL
21 OF SALE--EFFECT--SALE WITHOUT ADVERTISEMENT--CONDITIONS.--

22 A. If an estray, other than an equine, is not
23 claimed within five days after the last publication of notice,
24 it may be sold by the board through an inspector in such manner
25 as the board may direct. The inspector making the sale shall

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1 give a bill of sale to the purchaser from the board, signed by
2 [~~himself as~~] the inspector. The bill of sale shall be legal
3 evidence of the ownership of the livestock by the purchaser and
4 shall be a legal title to the livestock. Where the director
5 determines that it is impractical to publish notice, the estray
6 may be sold immediately without notice. In such case, the
7 board shall publish notice of the proceeds from the sale of the
8 estray in the same manner and for the same length of time as
9 provided for the notice of the sale and shall hold and
10 distribute the proceeds from the sale in the same manner as if
11 the sale were made after notice.

12 B. If the estray is an equine and the equine is not
13 claimed within five days after the last publication of notice,
14 the board shall give a registered equine rescue or retirement
15 facility the right of first refusal to purchase the equine for
16 an ownership transfer fee. The ownership transfer fee shall be
17 established by board rule and shall not exceed the actual costs
18 incurred in caring for the equine while the equine was
19 impounded. The board shall provide a bill of sale to the
20 registered equine rescue or retirement facility that purchases
21 the equine. The bill of sale shall be legal evidence of the
22 ownership of the equine by the registered equine rescue or
23 retirement facility and shall be legal title to the equine. If
24 a registered equine rescue or retirement facility is unable or
25 unwilling to purchase the equine, the board shall auction the

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1 equine through a closed bid process administered by the board
2 and established in rule. If the equine is not purchased
3 through the closed bid process, the board shall have the equine
4 humanely euthanized by a licensed veterinarian."

5 SECTION 9. Section 77-13-6 NMSA 1978 (being Laws 1907,
6 Chapter 80, Section 6, as amended) is amended to read:

7 "77-13-6. DISPOSITION OF PROCEEDS--RECORD OF SALE--
8 PAYMENTS TO OWNER.--~~[The inspector making the sale of an estray~~
9 ~~shall return the]~~ Proceeds ~~[of]~~ from the sale of an estray
10 pursuant to Section 77-13-5 NMSA 1978 shall be returned to the
11 board. The board shall pay the expenses incurred in the
12 impounding, publishing of notice and selling of the animal and
13 place the balance in the fund of the board, making a record of
14 the same showing the marks and brands and other means of
15 identification of the livestock and giving the amount realized
16 from the sale. The record shall be open to ~~[the]~~ inspection
17 ~~[of]~~ by the public. Should the lawful owner of an estray that
18 has been sold be found within two years after the sale of the
19 livestock, the net amount received from the sale of the estray
20 less the sum prescribed by law for office handling fees shall
21 be paid to the owner upon ~~[his]~~ the owner's proving ownership
22 to the satisfaction of the board."

23 SECTION 10. Section 77-14-7 NMSA 1978 (being Laws 1909,
24 Chapter 146, Section 4, as amended) is amended to read:

25 "77-14-7. LIVESTOCK RUNNING AT LARGE--WHEN UNLAWFUL--

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1 IMPOUNDING--~~[SALE]~~ DISPOSITION--SUIT FOR DAMAGES.--

2 A. It is unlawful for the owners of livestock to
3 willfully allow the livestock to run at large within the town,
4 conservancy district, irrigation district or military
5 reservation or enclave. An owner who willfully allows
6 livestock to run at large is guilty of a misdemeanor and upon
7 conviction shall be punished in accordance with the provisions
8 of Section 31-19-1 NMSA 1978 for each offense.

9 B. For livestock that is not an equine, the sheriff
10 or other peace officer or proper military authority or the
11 board shall impound livestock found running at large and sell
12 the livestock at public auction to the highest bidder for cash
13 after giving notice of the time and place of sale in some
14 newspaper published in the county where the violation occurred
15 three days prior to the day of sale; provided that in the case
16 of a military reservation or enclave, the sale shall be
17 conducted by the board pursuant to the procedure set forth in
18 Section 77-14-36 NMSA 1978. The proceeds up to ten dollars
19 (\$10.00) per day for each animal shall be retained by the
20 impounding authority to cover its expense and fees. The
21 balance, if any, shall be paid to the general fund.

22 C. For livestock that is an equine, the sheriff,
23 other peace officer, proper military authority or the board
24 shall impound the equine running at large and give notice in
25 some newspaper published in the county where the violation

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1 occurred that unless the equine is redeemed by the legal owner
2 within three days after publication of the notice, a registered
3 equine rescue or retirement facility shall be given the right
4 of first refusal to purchase the equine for an ownership
5 transfer fee as established by board rule, but not to exceed
6 the actual costs incurred in caring for the equine while the
7 equine was impounded, and that if a registered equine rescue or
8 retirement facility is unable or unwilling to purchase the
9 equine, the board shall auction the equine through a closed bid
10 process administered by the board and established in rule. The
11 notice shall additionally give a description of the equine and
12 state when and where the equine was impounded. If the equine
13 is not purchased through the closed bid process, the board
14 shall have the equine humanely euthanized by a licensed
15 veterinarian. Any proceeds from the sale of an equine pursuant
16 to this subsection shall be retained by the impounding
17 authority to cover its expenses and costs. The balance, if
18 any, shall be paid to the general fund.

19 ~~[G-]~~ D. The owner of livestock impounded may redeem
20 the livestock at any time prior to sale by paying the impound
21 fees and costs incurred for each day or portion of a day that
22 the livestock has been in custody; provided that in the case of
23 a military reservation or enclave, redemption shall be allowed
24 pursuant to Section 77-14-36 NMSA 1978.

25 ~~[D-]~~ E. A person claiming damages for violation of

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1 the ~~[order]~~ provisions of Subsection A of this section may file
2 suit to recover damages as in other civil cases; provided that
3 such damages, in the case of a violation involving a military
4 reservation or enclave, shall include direct, indirect,
5 incidental and consequential damages."

6 SECTION 11. Section 77-14-36 NMSA 1978 (being Laws 1975,
7 Chapter 329, Section 1, as amended) is amended to read:

8 "77-14-36. IMPOUNDMENT OF TRESPASS LIVESTOCK.--

9 A. Any livestock found to be in trespass upon the
10 lands of another or running at large upon any public highway
11 ~~[which]~~ that is fenced on both sides or running at large within
12 the limits of any municipality, town or village, whether
13 incorporated or not, or within a military reservation or
14 enclave ~~[whether incorporated or not]~~ is subject to impoundment
15 by an agent of the ~~[New Mexico livestock]~~ board. The place of
16 impoundment shall be at the nearest or most convenient location
17 from where the trespass occurred.

18 B. Any livestock impounded under the provisions of
19 this section ~~[will]~~ shall be released to the owner or ~~[his]~~ the
20 owner's representative upon the payment by the owner of a fee
21 set by regulation of the ~~[New Mexico livestock]~~ board not to
22 exceed amounts prescribed by law for impounding ~~[if any~~
23 ~~incurred]~~.

24 C. The ~~[New Mexico livestock]~~ board shall designate
25 ~~[the person]~~ a custodian and a place of impoundment and allow a

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1 reasonable fee to be charged by the custodian of the impounded
2 livestock; provided that in case of a controversy as to what
3 constitutes a reasonable charge, the board shall set the amount
4 of the charge.

5 D. This section shall not be construed to affect
6 the obligation of a property owner of meeting the requirements
7 of Section 77-16-1 NMSA 1978 for fencing against such
8 trespasses.

9 E. Any cost charged against trespass livestock will
10 be a lien on the livestock. If the owner does not pay the
11 charges and reclaim possession of the livestock within five
12 days after receipt of notification by the owner, the livestock
13 shall be considered unclaimed estrays and may be [~~sold~~]
14 disposed of in accordance with the provisions of Section
15 77-13-5 NMSA 1978."

16 SECTION 12. Section 77-18-2 NMSA 1978 (being Laws 1987,
17 Chapter 151, Section 1, as amended) is amended to read:

18 "77-18-2. SEIZURE AND DISPOSITION OF CRUELLY TREATED
19 LIVESTOCK.--

20 A. If a livestock inspector or other peace officer
21 has reason to believe that livestock [~~is~~] are being cruelly
22 treated, the inspector or peace officer may apply to a court in
23 the county where the livestock [~~is~~] are located for a warrant
24 to seize the allegedly cruelly treated livestock.

25 B. On a showing of probable cause to believe that

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1 the livestock [~~is~~] are being cruelly treated, the court shall
2 issue a warrant for the seizure of the livestock and set the
3 matter for hearing as expeditiously as possible within thirty
4 days unless good cause for a later time is demonstrated by the
5 state. Seizure as authorized by this section shall be
6 restricted to only those livestock allegedly being cruelly
7 treated. The board by rule shall establish procedures for
8 preserving evidence of alleged cruel treatment of livestock.

9 C. If criminal charges are filed against the owner,
10 the court shall, upon proper petition, proceed to determine if
11 security is required to be posted pursuant to Section 30-18-1.2
12 NMSA 1978. Otherwise, the judge or magistrate executing the
13 warrant shall notify the board, have the livestock impounded
14 and give written notice to the owner of the livestock of the
15 time and place of a hearing to determine disposition of the
16 livestock. [~~D.~~] All interested parties, including the district
17 attorney, shall be given an opportunity to present evidence at
18 the hearing. [~~and~~]

19 D. For livestock that is not an equine:

20 (1) if the court finds that the owner has
21 cruelly treated the livestock, the court shall order the sale
22 of the livestock at fair market value or order humane
23 destruction. If the livestock [~~is~~] are ordered sold, the sale
24 shall occur within ten days of the order. If the court does
25 not find that the owner has cruelly treated the livestock, the

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1 court shall order the livestock returned to the owner;

2 [F-] (2) if the court orders the sale of the
3 livestock, the board shall take proper action to ensure that
4 the livestock [~~is~~] are sold at fair market value, including
5 acceptance of reasonable bids or sale at auction. A bid by the
6 owner of the livestock or the owner's representative shall not
7 be accepted; and

8 [F-] (3) proceeds from the sale of the
9 livestock shall be forwarded to the court ordering the sale.
10 From these proceeds, the court shall pay all expenses incurred
11 in caring for the livestock while [~~it was~~] they were impounded
12 and any expenses involved in [~~its~~] their sale. Any excess
13 proceeds of the sale shall be forwarded to the former owner.
14 If the expenses incurred in caring for and selling the
15 livestock exceed the amount received from the sale, the court
16 shall order the former owner to pay the additional cost.

17 E. For livestock that is an equine:

18 (1) if the court finds that the owner has
19 cruelly treated the equine, the court shall give a registered
20 equine rescue or retirement facility the right of first refusal
21 to purchase the equine for an ownership transfer fee. The
22 ownership transfer fee shall be established by board rule and
23 shall not exceed the actual costs incurred in caring for the
24 equine while the equine was impounded. The board shall provide
25 a bill of sale to the registered equine rescue or retirement

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1 facility that purchases the equine. The bill of sale shall be
2 legal evidence of the ownership of the equine by the registered
3 equine rescue or retirement facility and shall be legal title
4 to the equine;

5 (2) if the court finds that the owner has
6 cruelly treated the equine and a registered equine rescue or
7 retirement facility has been given the right of first refusal
8 but the registered equine rescue or retirement facility is
9 unable or unwilling to purchase the equine, the board shall
10 auction the equine through a closed bid process administered by
11 the board and established by rule. Any proceeds from the sale
12 less expenses incurred in caring for the equine while the
13 equine was impounded shall be forwarded to the former owner.
14 If the expenses incurred in caring for the equine exceed the
15 proceeds from the sale, the court shall order the former owner
16 to pay the additional cost;

17 (3) if the equine is not purchased through the
18 closed bid process, the board shall have the equine humanely
19 euthanized by a licensed veterinarian; and

20 (4) if the court does not find that the owner
21 cruelly treated the equine, the court shall order the equine
22 returned to the owner."