

# UNANNOTATED

## CHAPTER 77 Animals and Livestock

### ARTICLE 1 Dogs and Domesticated Animals

#### **77-1-1. [Dogs, cats, domesticated fowls and birds are personal property.]**

That dogs, cats and domesticated fowls and birds shall be deemed and considered as personal property, and all remedies given for the recovery of personal property and of damages for injuries thereto are hereby extended to them.

**History:** Laws 1912, ch. 38, § 1; Code 1915, § 26; C.S. 1929, § 4-101; 1941 Comp., § 49-101; 1953 Comp., § 47-1-1.

#### **77-1-2. Dog killing or injuring livestock; damages; dog to be killed.**

If any dog shall kill or injure any livestock, the owner or keeper of such dog shall be liable for all damages that may be sustained thereby, to be recovered by the party so injured before any court having competent jurisdiction, and it shall be unlawful to keep such dog after it is known that the dog is liable to kill livestock, and it shall be the duty of the owner to kill, or have killed, the dog upon order of the court after a finding that the dog has killed or injured livestock, and provided further, that it shall be the right of any owner of livestock so killed or injured by the actions of any dog to kill the dog while it is upon property controlled by the owner of the livestock.

**History:** Laws 1901, ch. 105, § 2; Code 1915, § 219; C.S. 1929, § 4-2002; 1941 Comp., § 49-103; 1953 Comp., § 47-1-2; Laws 1957, ch. 131, § 1.

#### **77-1-3. Vaccination of dogs and cats required.**

Any person who owns or keeps a dog or cat over the age of three months in this state shall have the dog or cat vaccinated against rabies as prescribed by regulation of the health and environment department [department of health]. All antirabies vaccine shall be administered by or under the supervision of a licensed veterinarian who shall issue a serially numbered certificate and tag for each such administration.

**History:** 1953 Comp., § 47-1-2.1, enacted by Laws 1959, ch. 176, § 1; 1973, ch. 170, § 1; 1977, ch. 253, § 55; 1979, ch. 194, § 1.

#### **77-1-4. Repealed.**

#### **77-1-5. Vaccination of dogs and cats brought into state.**

Any dog or cat brought into the state shall be securely confined by the owner or keeper until vaccinated against rabies, which vaccination shall be administered within one week after entry into the state unless the owner or keeper has a certificate of vaccination issued by a veterinarian in another state or foreign country and such vaccination conforms to the requirements of this state.

**History:** 1953 Comp., § 47-1-2.3, enacted by Laws 1959, ch. 176, § 3; 1973, ch. 170, § 3.

#### **77-1-6. Notice to health officer of animal bite; confinement; animal contact with rabid animals; animal rabies quarantine; procedure following death from rabies.**

The health and environment department [department of health] shall prescribe regulations for the reporting of animal bites, confinement and disposition of rabies-suspect animals, rabies quarantine and the disposition of dogs and cats exposed to rabies, in the interest of public health and safety.

**History:** 1978 Comp., § 77-1-6, enacted by Laws 1979, ch. 194, § 2.

#### **77-1-7, 77-1-8. Repealed.**

#### **77-1-9. Dogs; destruction.**

A. Any peace officer may impound any dog found running at large unaccompanied by and not under the control of the owner or handler, and further, the peace officer shall destroy the dog if it is in the act of pursuing or wounding livestock or wounding and killing poultry or attacking humans.

B. Any peace officer may kill any dog in the act of pursuing or wounding any livestock or wounding or killing poultry or attacking humans whether or not the dog wears a rabies tag required by Section 77-1-3 NMSA 1978. There shall be no liability of the peace officer in damages or otherwise for such killing.

**History:** 1953 Comp., § 47-1-2.7, enacted by Laws 1975, ch. 352, § 1.

#### **77-1-10. Vicious animals; rabid or unvaccinated dogs and cats; failure to destroy.**

A. It is unlawful for any person to keep any animal known to be vicious and liable to attack or injure human beings unless such animal is securely kept to prevent injury to any person.

B. It is unlawful to keep any unvaccinated dog or cat or any animal with any symptom of rabies.

C. It is unlawful to fail or to refuse to destroy vicious animals or unvaccinated dogs or cats with symptoms of rabies as prescribed by regulation of the health and environment department [department of health] for the protection of public health and safety.

**History:** Laws 1901, ch. 105, § 3; Code 1915, § 220; C.S. 1929, § 4-2003; 1941 Comp., § 49-104; 1953 Comp., § 47-1-3; Laws 1959, ch. 176, § 7; 1973, ch. 170, § 7; 1977, ch. 253, § 56; 1979, ch. 194, § 3.

### **77-1-11. Repealed.**

### **77-1-12. Local control by ordinance; dogs and cats running at large.**

Each municipality and each county shall make provision by ordinance for the seizure and disposition of dogs and cats running at large and not kept or claimed by any person on the person's premises; provided, however, that the ordinance does not conflict with the provisions of Chapter 77, Article 1B NMSA 1978.

**History:** Laws 1901, ch. 105, § 5; Code 1915, § 222; C.S. 1929, § 4-2005; 1941 Comp., § 49-106; 1953 Comp., § 47-1-5; Laws 1973, ch. 170, § 9; 1979, ch. 194, § 4; 2009, ch. 103, § 1.

### **77-1-13. Penalty.**

Violation of Sections 77-1-3 and 77-1-10 NMSA 1978 and Section 6 [77-18-1 NMSA 1978] of this act or regulations or orders issued pursuant thereto shall be a misdemeanor.

**History:** 1978 Comp., § 77-1-13, enacted by Laws 1979, ch. 194, § 5.

### **77-1-14, 77-1-15. Repealed.**

#### **77-1-15.1. Regulation and licensure of dogs; impoundment of animals; qualified service animals exempt.**

A. Every municipality and each county may provide by ordinance for the mandatory licensure of dogs over the age of three months. License fees shall be fixed by the responsible municipality or county. Proof of vaccination against rabies shall be provided

by the owner or keeper before a license is issued. A combined rabies vaccination certificate and license may be provided by ordinance.

B. Every municipality and each county shall provide for the impoundment of rabies-suspect animals and shall designate a part-time or full-time animal control officer who shall be deputized to enforce animal control laws, orders, ordinances and regulations.

C. No fee shall be charged for the licensure of qualified service animals who are trained to lead partially or totally blind persons, aid hearing impaired persons or assist mobility impaired persons.

**History:** Laws 1979, ch. 194, § 7; 1989, ch. 242, § 4.

### **77-1-16. Repealed.**

### **77-1-17. Abandoned dogs and cats; notice to owner; disposal without liability.**

A. As used in this act [section], "custodian" means the owner or operator of a veterinary clinic or hospital, a doctor of veterinary medicine, a kennel, grooming parlor or other animal care facility.

B. Any dog or cat placed in the custody of a veterinarian, kennel, animal clinic or hospital, grooming parlor or other animal care facility shall be deemed to be abandoned if, after the term of any agreement for board or other care has expired, the dog or cat has not been reclaimed within ten days after written notice has been given the owner or his agent by registered or certified mail.

C. Any dog or cat deemed abandoned under the provisions of Subsection B of this section, may be disposed of by the custodian if not reclaimed. Notice of the intent to dispose of a dog or cat shall be given to the owner or his agent by registered or certified mail. Such notice, when sent to the address given to the custodian by the owner, shall relieve the custodian from all liability to the owner or his agent for the disposal of the dog or cat.

D. The custodian may turn over an abandoned dog or cat to the municipal or county animal control center, pound or shelter for disposal by them. Nothing in this act [section] shall affect the holding time or notice procedures regarding any municipal or county control facility which is owned or operated by, or is under contract or franchise to, a municipality or county.

E. Nothing in this act [section] shall relieve the owner of a dog or cat for the payment of all reasonable charges for medical or care services rendered to the dog or cat while in the custody of a veterinarian, kennel, animal clinic or hospital, grooming parlor or other animal care facility.

**History:** 1953 Comp., § 47-1-9, enacted by Laws 1973, ch. 94, § 1.

### **77-1-18. Short title.**

This act [77-1-18 to 77-1-20 NMSA 1978] may be cited as the "Pet Sterilization Act".

**History:** Laws 1993, ch. 43, § 1.

### **77-1-19. Definitions.**

As used in the Pet Sterilization Act:

A. "animal" means a cat or dog;

B. "animal shelter" means any animal facility operated privately or by or for a municipality or county, in which stray, lost or unwanted animals are kept and released for adoption;

C. "sterilization" means rendering an animal unable to reproduce, either by the spaying of a female animal or by the neutering of a male animal; and

D. "sterilization deposit" means that portion of the adoption fee charged by the animal shelter when a person adopts an unsterilized animal; the "sterilization deposit" is refunded when the animal is sterilized.

**History:** Laws 1993, ch. 43, § 2.

### **77-1-20. Sterilization agreement and sterilization deposit required.**

A. No animal shall be released from an animal shelter to an adopting person unless a sterilization agreement has been signed and a sterilization deposit has been paid, as provided in Subsections C and D of this section.

B. In addition to any adoption fee charged, a sterilization deposit of at least twenty-five dollars (\$25.00) shall be imposed on the adoption of each animal from an animal shelter.

C. Animals less than six months of age shall be released only upon payment of the adoption fee and a sterilization deposit and after the adopting person has signed an agreement stating he will have the adopted animal sterilized when it is no older than six months of age.

D. Adult animals over the age of six months shall be released only upon payment of the adoption fee and a sterilization deposit and after the adopting person has signed an agreement stating he will have the animal sterilized within thirty days of the date of adoption.

E. The sterilization deposit shall be reimbursed only upon presentation of a receipt from a veterinarian that the adopted animal has been sterilized.

F. An unsterilized animal reclaimed by its owner shall be released without being sterilized upon payment of the twenty-five dollars (\$25.00) for the sterilization deposit and impoundment fees imposed by the shelter, and the owner shall sign an agreement stating he will sterilize the animal within thirty days after release or will obtain a breeder permit or its equivalent. The sterilization deposit shall be reimbursed upon presentation by the owner of a receipt from a veterinarian that the animal has been sterilized.

**History:** Laws 1993, ch. 43, § 3.

## **ARTICLE 1A**

### **Dangerous Dog**

#### **77-1A-1. Short title.**

This act [77-1A-1 to 77-1A-6 NMSA 1978] may be cited as the "Dangerous Dog Act".

**History:** Laws 2005, ch. 61, § 1.

#### **77-1A-2. Definitions.**

As used in the Dangerous Dog Act:

A. "animal control authority" means an entity authorized to enforce the animal control laws of a city, county or state, whether acting alone or in concert with other governmental authorities. In those areas not served by an animal control authority, the sheriff or municipal law enforcement shall carry out the duties of the animal control authority under the Dangerous Dog Act;

B. "dangerous dog" means a dog that caused a serious injury to a person or domestic animal;

C. "owner" means a person who possesses, harbors, keeps or has control or custody of a dog or, if that person is under the age of eighteen, that person's parent or guardian;

D. "potentially dangerous dog" means a dog that may reasonably be assumed to pose a threat to public safety as demonstrated by the following behaviors:

(1) causing an injury to a person or domestic animal that is less severe than a serious injury;

(2) chasing or menacing a person or domestic animal in an aggressive manner and without provocation; or

(3) acting in a highly aggressively [aggressive] manner within a fenced yard or enclosure and appearing able to jump out of the yard or enclosure;

E. "proper enclosure" means secure confinement indoors or outdoors, such as in a fenced yard, locked pen or other structure, that is designed to prevent the animal from escaping the confined area and young children from entering the confined area but does not include chaining, restraining or otherwise affixing the animal to a stationary object; and

F. "serious injury" means a physical injury that results in broken bones, multiple bites or disfiguring lacerations requiring sutures or reconstructive surgery.

**History:** Laws 2005, ch. 61, § 2.

### **77-1A-3. Exceptions.**

A dog shall not be declared a dangerous or potentially dangerous dog if:

A. the dog was used by a law enforcement official for legitimate law enforcement purposes;

B. the threat, injury or damage was sustained by a person or domestic animal who was:

(1) trespassing upon premises occupied by the owner or the dog;

(2) provoking, tormenting, abusing or assaulting the dog or had repeatedly, in the past, provoked, tormented, abused or assaulted the dog; or

(3) committing or attempting to commit a crime; or

C. the dog was:

(1) responding to pain or injury;

(2) protecting itself or its offspring; or

(3) protecting or defending a human being or domestic animal from attack or assault.

**History:** Laws 2005, ch. 61, § 3.

### **77-1A-4. Seizure of dog; petition to court.**

A. If an animal control authority has probable cause to believe that a dog is a dangerous dog and poses an imminent threat to public safety, the animal control authority may apply to a court of competent jurisdiction in the county where the animal is located for a warrant to seize the animal.

B. If an animal control authority has probable cause to believe that a dog is a potentially dangerous dog and poses a threat to public safety, the animal control authority may apply to a court of competent jurisdiction in the county where the animal is located for a warrant to seize the animal.

C. After seizure, the animal control authority shall impound the dog pending disposition of the case or until the owner has fulfilled the requirements for a certificate of registration pursuant to the provisions of Section 5 [77-1A-5 NMSA 1978] of the Dangerous Dog Act .

D. After seizure:

(1) the owner may admit that the dog is dangerous or potentially dangerous and comply with the requirements for a certificate of registration pursuant to Section 5 of the Dangerous Dog Act; or

(2) the animal control authority may, within fourteen days after seizure of the dog, bring a petition in court seeking a determination of whether the dog is dangerous or potentially dangerous. If the court finds, by clear and convincing evidence, that the dog is dangerous and poses an imminent threat to public safety or potentially dangerous and poses a threat to public safety, the court shall order the owner to comply with the registration and handling requirements for the dog and obtain a certificate of registration within thirty days or have the dog humanely destroyed. If the court does not make the required findings pursuant to this paragraph, the court shall immediately order the release of the dog to its owner.

E. If the owner does not admit that the dog is dangerous or potentially dangerous and the animal control authority does not bring a petition in court within fourteen days of seizure of the dog, the court shall immediately order the release of the dog to its owner.

F. If the owner admits that the dog is dangerous and transfers ownership of the dog to the animal control authority, the animal control authority may humanely destroy the dog.

G. A determination that a dog is not dangerous or potentially dangerous shall not prevent an animal control authority from making a subsequent application for seizure based on the dog's subsequent behavior.

**History:** Laws 2005, ch. 61, § 4.



## **77-1A-5. Registration and handling requirements for dangerous and potentially dangerous dogs.**

A. An animal control authority shall issue a certificate of registration to the owner of a potentially dangerous dog if the owner establishes that:

- (1) the owner is able to keep the dog under control at all times;
- (2) a license, if applicable, has been issued pursuant to the requirements of the jurisdiction;
- (3) the dog has a current rabies vaccination;
- (4) the owner has a proper enclosure for the dog;
- (5) the owner has paid an annual fee, if applicable, established by the animal control authority to register a potentially dangerous dog;
- (6) the dog has been spayed or neutered;
- (7) the dog has been implanted with a microchip containing owner identification information that is also provided to the animal control authority; and
- (8) the owner has entered the dog in a socialization and behavior program approved or offered by the animal control authority.

B. If a dog previously determined to be potentially dangerous has not exhibited any of the behaviors specified in Subsection D of Section 2 [77-1A-2 NMSA 1978] of the Dangerous Dog Act for thirty-six consecutive months, the owner may request the animal control authority in the jurisdiction to lift the requirements for registration pursuant to this section. If the animal control authority has no reasonable basis to believe that the dog has exhibited the behaviors specified, it shall relieve the owner of the requirements of this section.

C. An animal control authority shall issue a certificate of registration to the owner of a dangerous dog if the owner, in addition to the requirements of Subsection A of this section, establishes that:

- (1) the owner has paid an annual fee, if applicable, established by the animal control authority to register a dangerous dog;
- (2) the owner has written permission of the property owner or homeowner's association where the dangerous dog will be kept, if applicable;
- (3) the dangerous dog will be maintained exclusively on the owner's property except for medical treatment or examination;

(4) when the dangerous dog is removed from the owner's property, the dog shall be caged or muzzled and restrained with a lead no longer than four feet, and the dog shall be under complete control at all times;

(5) the dangerous dog will not be transported in a vehicle that might allow the dog to escape or gain access to any person or animal outside the vehicle; and

(6) a clearly visible warning sign with a conspicuous warning symbol indicating that there is a dangerous dog on the premises is posted where the dog is kept and is visible from a public roadway or from fifty feet, whichever is less.

D. An animal control authority may order the immediate impoundment or humane destruction of a dog previously determined to be a dangerous dog if the owner fails to abide by the conditions for registration, confinement or handling set forth in this section.

**History:** Laws 2005, ch. 61, § 5.

### **77-1A-6. Prohibited acts; penalties.**

A. It is unlawful for an owner of a dangerous or potentially dangerous dog to:

(1) keep the dog without a valid certificate of registration;

(2) violate the registration and handling requirements for the dog;

(3) fail to notify the animal control authority immediately upon:

(a) the escape of the dog; or

(b) an attack by the dog upon a human being or a domestic animal;

(4) fail to notify the animal control authority of the dog's death within five business days;

(5) fail to notify the animal control authority within twenty-four hours if the dog has been sold or given away and provide the name, address and telephone number of the new owner of the dog;

(6) fail to surrender the dog to an animal control authority for safe confinement pending a determination of the case when there is reason to believe that the dog poses an imminent threat to public safety; or

(7) fail to comply with special handling or care requirements for the dog that a court has ordered.

B. Whoever violates a provision of Subsection A of this section is guilty of a misdemeanor and shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978 and, for a second or subsequent offense, is guilty of a fourth degree felony and shall be sentenced in accordance with the provisions of Section 31-18-15 NMSA 1978.

C. An owner of a dangerous or potentially dangerous dog that causes serious injury or death to a domestic animal, without provocation, is guilty of a fourth degree felony and shall be sentenced in accordance with the provisions of Section 31-18-15 NMSA 1978.

D. An owner of a dangerous or potentially dangerous dog that causes serious injury to a human being, without provocation, is guilty of a third degree felony and shall be sentenced in accordance with the provisions of Section 31-18-15 NMSA 1978.

E. An owner of a dangerous or potentially dangerous dog that causes the death of a human being, without provocation, is guilty of a third degree felony resulting in the death of a human being and shall be sentenced in accordance with the provisions of Section 31-18-15 NMSA 1978.

F. Prosecution pursuant to this section requires a showing that:

- (1) an owner knew of the propensity of a dog to inflict serious injury; or
- (2) the dog had previously been found by a court to be a dangerous or potentially dangerous dog.

**History:** Laws 2005, ch. 61, § 6.

## **ARTICLE 1B**

### **Animal Sheltering**

#### **77-1B-1. Short title. (Repealed effective July 1, 2030.)**

Chapter 77, Article 1B NMSA 1978 may be cited as the "Animal Sheltering Act".

**History:** Laws 2007, ch. 60, § 1; 2009, ch. 102, § 3.

#### **77-1B-2. Definitions. (Repealed effective July 1, 2030.)**

As used in the Animal Sheltering Act:

A. "animal" means any animal, except humans, not defined as "livestock" in Subsection K of this section;

B. "animal shelter":

(1) means:

(a) a county or municipal facility that provides shelter to animals on a regular basis, including a small animal impound facility; and

(b) a private humane society or a private animal shelter that temporarily houses stray, unwanted or injured animals through administrative or contractual arrangements with a local government agency; and

(2) does not include a municipal zoological park;

C. "board" means the board of veterinary medicine;

D. "disposition" means adoption of an animal; return of an animal to the owner; release of an animal to a rescue organization; release of an animal to another animal shelter or to a rehabilitator licensed by the department of game and fish or the United States fish and wildlife service; or euthanasia of an animal;

E. "emergency field euthanasia" means the process defined by rule of the board to cause the death of an animal in an emergency situation when safe and humane transport of the animal is not possible;

F. "euthanasia" means to produce a humane death of an animal by standards deemed acceptable by the board as set forth in its rules;

G. "euthanasia agency" means a facility that provides shelter to animals on a regular basis, including a small animal impound facility, a humane society or a public or private shelter facility that temporarily houses stray, unwanted or injured animals, and that performs euthanasia;

H. "euthanasia drugs" means non-narcotic Schedule II or Schedule III substances and chemicals as set forth in the Controlled Substances Act [Chapter 30, Article 31 NMSA 1978] that are used for the purposes of euthanasia and pre-euthanasia of animals;

I. "euthanasia instructor" means a veterinarian or a euthanasia technician certified by the board to instruct other individuals in euthanasia techniques;

J. "euthanasia technician" means a person licensed by the board to euthanize animals for a euthanasia agency;

K. "livestock" means all domestic or domesticated animals that are used or raised on a farm or ranch and exotic animals in captivity and includes horses, asses, mules,

cattle, sheep, goats, swine, bison, poultry, ostriches, emus, rheas, camelids and farmed cervidae but does not include canine or feline animals;

L. "rescue organization" means an organization that rescues animals and is not involved in the breeding of animals;

M. "supervising veterinarian" means a person who is a veterinarian, who holds both a valid New Mexico controlled substance license and a valid federal drug enforcement agency license and who approves the drug protocols and the procurement and administration of all pharmaceuticals; and

N. "veterinarian" means a person who is licensed as a doctor of veterinary medicine by the board pursuant to the Veterinary Practice Act [Chapter 61, Article 14 NMSA 1978].

**History:** Laws 2007, ch. 60, § 2; 2009, ch. 102, § 4; 2017, ch. 44, § 8.

### **77-1B-3. Animal sheltering committee created; members; qualifications; terms; vacancies; duties; removal; application of Uniform Licensing Act. (Repealed effective July 1, 2030.)**

A. The "animal sheltering committee" is created. The animal sheltering committee shall consist of five members as follows:

- (1) one euthanasia agency employee with training and education in euthanasia;
- (2) one veterinarian who has provided paid or unpaid services to an animal shelter;
- (3) one representative from a nonprofit animal advocacy group;
- (4) one member of the public; and
- (5) a manager or director of a New Mexico facility that provides shelter to animals on a regular basis; provided that the manager or director selected is trained in animal shelter standards.

B. No more than two animal sheltering committee members shall be appointed from any one county within the state.

C. With respect to licenses issued pursuant to the Animal Sheltering Act, the board and its operations are governed by the Uniform Licensing Act [61-1-1 to 61-1-31 NMSA 1978]. If the provisions of the Uniform Licensing Act conflict with the provisions of the Animal Sheltering Act, the provisions of the Animal Sheltering Act shall prevail.

D. The board shall appoint members to the animal sheltering committee for terms of four years, except in the first year of the animal sheltering committee, when members shall be appointed for staggered terms. Of the first appointments, two members shall be appointed for four-year terms, one member shall be appointed for a three-year term, one member shall be appointed for a two-year term and one member shall be appointed for a one-year term. Subsequent appointments shall be made to fill vacancies created in unexpired terms, but only until the term ends or for a full four-year term when the term of an animal sheltering committee member expires. Animal sheltering committee members shall hold office until their successors are duly qualified and appointed. Vacancies shall be filled by appointment by the board for the unexpired term within sixty days of the vacancy to maintain the required composition of the animal sheltering committee.

E. Members of the animal sheltering committee shall be reimbursed for per diem and mileage as provided in the Per Diem and Mileage Act [10-8-1 to 10-8-8 NMSA 1978] and shall receive no other compensation, perquisite or allowance.

F. A simple majority of the appointed board members constitutes a quorum.

**History:** Laws 2007, ch. 60, § 3; 2009, ch. 102, § 5; 2017, ch. 44, § 9.

#### **77-1B-4. Animal care and facility fund created; administration. (Repealed effective July 1, 2030.)**

A. The "animal care and facility fund" is created in the state treasury. All fees collected pursuant to the Animal Sheltering Act shall be deposited in the fund.

B. The animal care and facility fund shall consist of money collected by the board pursuant to the Animal Sheltering Act; income from investment of the fund; and money appropriated to the fund or accruing to it through fees or administrative penalties, cooperative research agreements, income, gifts, grants, donations, bequests, sales of promotional items, handbooks or educational materials or any other source. Money in the fund shall not be transferred to another fund or encumbered or expended except for expenditures authorized pursuant to the Animal Sheltering Act.

C. Money in the fund is appropriated by the legislature to the board to be used to help animal shelters and communities defray the cost of implementing the board's initiatives conducted pursuant to the Animal Sheltering Act. The fund shall be administered by the board to carry out the purposes of the Animal Sheltering Act.

D. The "statewide spay and neuter subaccount" is established in the animal care and facility fund. Money in the subaccount shall only be used to carry out the board's dog and cat spay and neuter assistance program and for the reasonable costs of administering the Animal Sheltering Act, which reasonable costs shall not exceed five percent of the total fees distributed to the subaccount pursuant to the provisions of Section 5 [76-19A-10.1 NMSA 1978] of this 2020 act. Money collected pursuant to

Section 7-2-30.9 NMSA 1978, Section 66-3-424.3 NMSA 1978 and Section 5 of this 2020 act shall be deposited in the subaccount.

E. A disbursement from the fund shall be made only upon a warrant drawn by the secretary of finance and administration pursuant to a voucher signed by the executive director of the board or the director's designee with the approval of the majority of the board with consideration of the recommendation of a majority of the animal sheltering committee.

F. Unexpended and unencumbered balances in the fund at the end of a fiscal year shall not revert to the general fund.

**History:** Laws 2007, ch. 60, § 4; 2009, ch. 102, § 6; 2009, ch. 192, § 2; 2015, ch. 82, § 3; 2017, ch. 44, § 10; 2020, ch. 69, § 2.

### **77-1B-5. Board powers and duties. (Repealed effective July 1, 2030.)**

The board shall:

A. adopt infrastructure and operating standards and may enforce those standards with consideration of the recommendations by the animal sheltering committee;

B. provide for inspections of animal shelters and euthanasia agencies;

C. provide for oversight, including oversight of licensing requirements, regulations and discipline, of veterinarians employed by local government animal shelters;

D. adopt methods and procedures acceptable for conducting emergency field euthanasia;

E. adopt, promulgate and revise rules necessary to carry out the provisions of the Animal Sheltering Act;

F. have authority to issue licenses and certificates pursuant to the Animal Sheltering Act;

G. establish the types of licenses and certificates that may be issued pursuant to the Animal Sheltering Act and establish criteria for issuing the licenses and certificates;

H. prescribe standards and approve curricula for educational programs that will be used to train and prepare persons for licensure or certification pursuant to the Animal Sheltering Act;

I. implement continuing education requirements for licensees and certificate holders pursuant to the Animal Sheltering Act;

J. conduct administrative hearings upon charges relating to violations of provisions of the Animal Sheltering Act or rules adopted pursuant to that act in accordance with the Uniform Licensing Act [61-1-1 to 61-1-31 NMSA 1978];

K. provide for all examinations and for issuance and renewal of licenses and certificates;

L. establish fees not to exceed one hundred fifty dollars (\$150) for licenses and certificates pursuant to the Animal Sheltering Act;

M. establish committees as the board deems necessary to effect the provisions of the Animal Sheltering Act;

N. apply for injunctive relief to enforce the provisions of the Animal Sheltering Act;

O. conduct national criminal background checks on applicants seeking licensure or certification under the Animal Sheltering Act;

P. keep a record of all proceedings;

Q. make an annual report to the legislature, including information on the total number of dogs and cats spayed and neutered and the average costs per surgery paid for from the statewide spay and neuter subaccount of the animal care and facility fund. The New Mexico department of agriculture shall provide for inclusion in the annual report the number of pet foods registered pursuant to Section 76-19A-10 NMSA 1978 for the current and previous year listed by registrant;

R. provide for the inspection of animal shelters and euthanasia agencies;

S. develop mechanisms to address complaints of misconduct at animal shelters and euthanasia agencies and noncompliance with the provisions of the Animal Sheltering Act or rules adopted pursuant to that act;

T. develop mechanisms to address complaints of licensee and certificate holder misconduct and noncompliance;

U. adopt standards for maintaining records concerning health care and disposition of animals; and

V. refer to the published association of shelter veterinarians standards in determining its regulations for animal shelters and euthanasia agencies.

**History:** Laws 2007, ch. 60, § 5; 2009, ch. 102, § 7; 2015, ch. 82, § 4; 2017, ch. 44, § 11; 2020, ch. 69, § 3.



**77-1B-6. Euthanasia technician; license. (Repealed effective July 1, 2030.)**

A. The board shall have authority to license euthanasia technicians.

B. A person, other than a veterinarian licensed to practice in New Mexico, who engages in euthanasia for a euthanasia agency in this state shall be licensed by the board.

C. Applicants for licensure by examination as a euthanasia technician shall be required to pass a euthanasia technician examination approved by the board and shall be required to complete a training course approved by the board in euthanasia practices.

D. A person licensed to practice as a euthanasia technician shall:

- (1) have passed the examination to qualify as a euthanasia technician;
- (2) hold a certificate of completion in a training course in euthanasia issued within three years of the date that the euthanasia technician examination is successfully completed;
- (3) have attained an age of at least eighteen years;
- (4) not be guilty of fraud or deceit in procuring or attempting to procure a license;
- (5) pay the required fee to be determined by the board, but not to exceed fifty dollars (\$50.00); and
- (6) comply with all other requirements established by the board.

E. The board may issue a license to practice as a euthanasia technician without examination to an applicant who meets the qualifications required for euthanasia technicians in this state as set forth in Paragraphs (3) through (6) of Subsection D of this section. The application for a license as a euthanasia technician shall be accompanied by proof of completion of training in euthanasia practices, as approved by the board.

F. A person whose euthanasia technician license expires while the person is on active duty with a branch of the armed forces of the United States, called into service or training with the state militia or in training or education under the supervision of the United States government prior to induction into military service may have the license restored without paying renewal fees, if within two years after the termination of that service, training or education, except under conditions other than honorable, the board

is furnished with satisfactory evidence that the person had been engaged in the service, training or education.

**History:** Laws 2007, ch. 60, § 6; 2009, ch. 102, § 8.

### **77-1B-6.1. Euthanasia technician authority defined. (Repealed effective July 1, 2030.)**

A euthanasia technician may purchase, possess and administer euthanasia drugs for the purpose of performing euthanasia and pre-euthanasia on animals for a euthanasia agency. A formulary shall be developed by the board and be approved by the board of pharmacy.

**History:** Laws 2009, ch. 102, § 9.

### **77-1B-7. Euthanasia instructors; certification. (Repealed effective July 1, 2030.)**

A. The board shall have authority over the certification of euthanasia instructors.

B. A person certified to practice as a euthanasia instructor shall:

(1) have passed the examination approved by the board to qualify as a euthanasia instructor;

(2) have completed training in euthanasia practices, as defined by the board, within one year preceding the date the application for certification is submitted;

(3) have participated in the euthanasia of animals for a minimum of three years preceding the date of application;

(4) not have been found guilty of fraud or deceit in procuring or attempting to procure any type of certification; and

(5) pay the required fee.

C. The board may certify an applicant as a euthanasia instructor without an examination if the applicant has been certified or licensed under the laws of another state and the applicant meets the qualifications set forth in Paragraphs (3) through (5) of Subsection B of this section.

D. A person whose euthanasia instructor certification expires while on active duty with the armed forces of the United States, called into service or training with the state militia or in training or education under the supervision of the United States government prior to induction into military service may have the certification restored without paying

renewal fees, if within two years after the termination of that service, training or education, except under conditions other than honorable, the board is furnished with satisfactory evidence that the person has been engaged in such service, training or education.

**History:** Laws 2007, ch. 60, § 7; 2009, ch. 102, § 10.

**77-1B-8. Euthanasia agencies; inspections; exemptions. (Repealed effective July 1, 2030.)**

A. The board shall have authority over the licensing of euthanasia agencies. All euthanasia agencies shall be licensed by the board prior to euthanasia being performed by that agency.

B. The board shall adopt rules governing the procedures for administering euthanasia; provided that the use of carbon monoxide gas chambers shall be prohibited for the euthanasia of cats and dogs.

C. The board shall establish rules for inspecting a facility holding or claiming to hold a license as a euthanasia agency in this state.

D. The board shall establish policies and procedures for record keeping and for securing, using and disposing of euthanasia drugs in accordance with requirements of the Controlled Substances Act [Chapter 30, Article 31 NMSA 1978], the United States drug enforcement administration's Controlled Substances Act and the rules of the board of pharmacy.

E. Euthanasia agencies using controlled substances shall have on staff or under contract a consulting pharmacist as that position is defined in the Pharmacy Act [Chapter 61, Article 11 NMSA 1978].

F. A supervising veterinarian is not required to be on the premises of a euthanasia agency when euthanasia is performed.

G. Nothing in Chapter 77, Article 1B NMSA 1978 shall be construed as allowing a euthanasia technician or a euthanasia instructor to engage in the practice of veterinary medicine when performing the duties set forth in that act.

H. Nothing in Chapter 77, Article 1B NMSA 1978 shall be construed as preventing a euthanasia instructor from euthanizing animals during a board-approved course on euthanasia instruction.

I. Nothing in Chapter 77, Article 1B NMSA 1978 affects wildlife rehabilitators working under the auspices of the department of game and fish.

J. A veterinary clinic serving as a euthanasia agency pursuant to a contract with a local government is exempt from the provisions of Chapter 77, Article 1B NMSA 1978; provided that the veterinary clinic is subject to licensure and rules adopted pursuant to the Veterinary Practice Act [Chapter 61, Article 14 NMSA 1978].

K. A municipal facility that is a zoological park is exempt from the provisions of Chapter 77, Article 1B NMSA 1978.

**History:** Laws 2007, ch. 60, § 8; 2009, ch. 102, § 11; 2009, ch. 103, § 2.

### **77-1B-9. Violations. (Repealed effective July 1, 2030.)**

A. Unless otherwise provided in the Animal Sheltering Act, it is a violation of that act for a person to:

- (1) perform euthanasia for a euthanasia agency or an animal shelter in this state without possessing a valid license pursuant to the Animal Sheltering Act;
- (2) solicit, advertise or offer to perform an act for which licensure or certification is required pursuant to the Animal Sheltering Act, unless the person holds a license or certification;
- (3) refuse to comply with a cease and desist order issued by the board;
- (4) refuse or fail to comply with the provisions of the Animal Sheltering Act;
- (5) make a material misstatement in an application for licensure or certification;
- (6) intentionally make a material misstatement to the board during an official investigation;
- (7) impersonate an official or inspector;
- (8) refuse or fail to comply with rules adopted by the board or with a lawful order issued by the board;
- (9) aid or abet another in violating provisions of the Animal Sheltering Act, or a rule adopted by the board;
- (10) alter or falsify a certificate of inspection, license or certification issued by the board;
- (11) fail to carry out the duties of a euthanasia technician in a professional manner;

(12) abuse the use of a chemical substance or be guilty of habitual or excessive use of intoxicants or drugs;

(13) sell or give chemical substances used in euthanasia procedures to an unlicensed person; or

(14) assist an unlicensed or unauthorized person in euthanizing animals, except during a board-approved course in euthanasia.

B. It is a violation of the Animal Sheltering Act for a euthanasia agency or an animal shelter to:

(1) refuse to permit entry or inspection of its facilities by the board or its designees;

(2) sell, offer for sale, barter, exchange or otherwise transfer animals that are prohibited by the department of game and fish, the United States department of agriculture or any other regulatory agency to be kept unless the sale, offer for sale, bartering, exchanging or transferring of the animal is to a facility employing permitted rehabilitators or an individual that is a permitted rehabilitator pursuant to the rules adopted by the department of game and fish or another agency that has authority over people who are permitted to receive and provide care for such animals;

(3) allow a license or certificate issued pursuant to the Animal Sheltering Act to be used by an unlicensed or uncertified person; or

(4) make a misrepresentation or false promise through advertisements, employees, agents or other mechanisms in connection with the euthanasia of an animal.

C. It is a violation of the Animal Sheltering Act for an employee or official of the board or the animal sheltering committee to disclose or use for that person's own advantage information derived from reports or records submitted to the board pursuant to that act.

**History:** Laws 2007, ch. 60, § 9; 2009, ch. 102, § 12; 2017, ch. 44, § 12.

### **77-1B-10. Enforcement and injunctions. (Repealed effective July 1, 2030.)**

A. The board or the board's designees shall enforce the provisions of the Animal Sheltering Act.

B. Whenever the board has reasonable cause to believe a violation of a provision of the Animal Sheltering Act or a rule adopted pursuant to that act has occurred that creates a health risk for the animals or the community and immediate enforcement is

deemed necessary, the board may issue a cease and desist order to require a person to cease violations. At any time after service of the order to cease and desist, the person may request a prompt hearing to determine whether a violation occurred. If a person fails to comply with a cease and desist order within twenty-four hours, the board may bring a suit for a temporary restraining order and for injunctive relief to prevent further violations.

C. Whenever the board possesses evidence that indicates a person has engaged in or intends to engage in an act or practice constituting a violation of the Animal Sheltering Act or a rule adopted pursuant to that act, the board may seek temporarily or permanently to restrain or enjoin the act or practice. The board shall not be required to post a bond when seeking a temporary or permanent injunction.

**History:** Laws 2007, ch. 60, § 10; 2009, ch. 102, § 13.

**77-1B-11. Disciplinary actions; euthanasia technicians, euthanasia agencies and euthanasia instructors; hearings; penalties.  
(Repealed effective July 1, 2030.)**

A. With the respect to licenses pursuant to the Animal Sheltering Act, the provisions of the Uniform Licensing Act [61-1-1 to 61-1-31 NMSA 1978] apply to all disciplinary procedures and hearings of the board.

B. The board may:

(1) deny, suspend, revoke, reprimand, place on probation or take other action against a license or certificate held or applied for pursuant to the Animal Sheltering Act, including imposing an administrative penalty, upon a finding by the board that the licensee, certificate holder or applicant has performed acts in violation of the Animal Sheltering Act or a rule adopted pursuant to that act; and

(2) impose an administrative penalty on a person who makes a false representation as being a licensed euthanasia technician, a certified euthanasia instructor or a licensed euthanasia agency.

C. The board may issue letters of admonition or deny, suspend, refuse to renew, restrict or revoke a license or certification authorized pursuant to the Animal Sheltering Act if the applicant or licensee:

(1) has refused or failed to comply with a provision of the Animal Sheltering Act, a rule adopted pursuant to that act or an order of the board;

(2) is guilty of cruelty to animals pursuant to a statute of this state or another state;

(3) has had an equivalent license or certificate denied, revoked or suspended by an authority;

(4) has refused to provide the board with reasonable, complete and accurate information regarding the care or euthanasia of animals when requested by the board;  
or

(5) has falsified information requested by the board or the board's designee.

D. In a proceeding held pursuant to this section, the board may accept as prima facie evidence of grounds for disciplinary action any disciplinary action taken against a licensee from another jurisdiction, if the violation that prompted the disciplinary action in that jurisdiction would be grounds for disciplinary action pursuant to this section.

E. Disciplinary proceedings may be instituted by the board or by a complaint to the board.

F. The board shall not initiate a disciplinary action more than two years after the date that it receives a complaint or that it begins an investigation without a filed complaint.

G. The board may administer oaths, take statements and compel disclosure by the witnesses of all facts known to them relative to matters under investigation.

H. The board may impose an administrative penalty in an amount not to exceed five hundred dollars (\$500) on a holder of a license or certificate for violations of the Animal Sheltering Act.

I. A person or euthanasia agency whose license or certificate is suspended or revoked by the board pursuant to the provisions of this section may, at the discretion of the board, obtain a license or certificate at any time without examination upon written application to the board showing cause to justify reinstatement or renewal of the license or certificate.

J. The board shall adopt other rules pertaining to hearings, appeals and rehearings as it deems necessary.

K. The board shall not be required to certify a record to the court of appeals of a decision of the board until the proper fee has been paid to the board for a copy and certification of the record.

L. A person engaging in acts without a license or certificate issued by the board is guilty of a misdemeanor.

M. A person who practices, offers to practice, attempts to practice as, or makes any representation as being, a euthanasia technician, a euthanasia instructor or a licensed

euthanasia agency without holding a license or certificate issued by the board shall, in addition to any other penalty provided in this section or any other law, pay an administrative penalty to the board in an amount not to exceed five hundred dollars (\$500) for each offense.

**History:** Laws 2007, ch. 60, § 11; 2009, ch. 102, § 14; 2017, ch. 44, § 13.

### **77-1B-12. Repealed.**

**History:** Laws 2007, ch. 60, § 12; 2009, ch. 102, § 15; 2011, ch. 172, § 1; 2013, ch. 166, § 9; repealed by Laws 2017, ch. 44, § 16.

## **ARTICLE 2 Livestock Board**

### **77-2-1. Short title; purpose.**

Chapter 77, Articles 2 through 18 NMSA 1978 may be cited as "The Livestock Code". The Livestock Code shall be liberally construed to carry out its purposes, which are to promote greater economy, service and efficiency in the administration of the laws relating to the livestock industry of New Mexico, to control disease, to prevent the theft or illegal movement of livestock and to oversee the New Mexico meat inspection program.

**History:** 1953 Comp., § 47-23-1, enacted by Laws 1967, ch. 213, § 1; 1993, ch. 248, § 1; 1999, ch. 282, § 1.

#### **77-2-1.1. Definitions.**

As used in The Livestock Code:

A. "animals" or "livestock" means all domestic or domesticated animals that are used or raised on a farm or ranch, including the carcasses thereof, and exotic animals in captivity and includes equines, cattle, sheep, goats, swine, bison, poultry, ostriches, emus, rheas, camelids and farmed cervidae upon any land in New Mexico. "Animals" or "livestock" does not include canine or feline animals;

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

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

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



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

F. "brand" means a symbol or device in a form approved by and recorded with the board as may be sufficient to readily distinguish livestock should they become intermixed with other livestock;

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

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

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

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

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

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

M. "district" means a livestock inspection district;

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

O. "estrays" means livestock found running at large upon public or private lands, either fenced or unfenced, whose owner is unknown, or that is branded with a brand that is not on record in the office of the board or is a freshly branded or marked offspring not with its branded or marked mother, unless other proof of ownership is produced;

P. "inspector" means a livestock or brand inspector;

Q. "livestock inspector" means a certified inspector who is granted full law enforcement powers for enforcement of The Livestock Code and other criminal laws relating to livestock;

R. "mark" means an ear tag or ownership mark that is not a brand;

S. "meat" means the edible flesh of poultry, birds or animals sold for human consumption and includes livestock, poultry and livestock and poultry products;

T. "mule" means a hybrid resulting from the cross of a horse and an ass; and

U. "person" means an individual, firm, partnership, association, corporation or similar legal entity.

**History:** 1978 Comp., § 77-2-1.1, enacted by Laws 1993, ch. 248, § 2; 1995, ch. 111, § 1; 1999, ch. 282, § 2; 2001, ch. 8, § 2; 2001, ch. 341, § 2; 2015, ch. 22, § 1; 2023, ch. 45, § 3.

### **77-2-2. New Mexico livestock board created; transfer of powers; transfer of property.**

A. In order to achieve the purposes set forth in Section 1 [77-2-1 NMSA 1978], there is hereby created a board to be known as the "New Mexico livestock board." The New Mexico livestock board shall have all powers which have heretofore been held by the cattle sanitary board or the sheep sanitary board and those powers are hereby transferred to the New Mexico livestock board.

B. Wherever in the NMSA 1978 the term "board" or "sanitary board" is used in relation to the sheep sanitary board or the cattle sanitary board, it shall mean the New Mexico livestock board. Wherever in the NMSA 1978 the terms [term] "sheep sanitary board" or "cattle sanitary board" are [is] used it shall mean the New Mexico livestock board.

C. Wherever in the NMSA 1978 the term "secretary," "secretary of the board," "secretary of the sheep sanitary board," "secretary of the cattle sanitary board" or any similar term is used in relation to the secretary of the sheep sanitary board or the secretary of the cattle sanitary board, it shall mean the executive director of the New Mexico livestock board.

D. All books, records, property and equipment of the sheep sanitary board and the cattle sanitary board are transferred to the New Mexico livestock board.

**History:** 1953 Comp., § 47-23-2, enacted by Laws 1967, ch. 213, § 2.

### **77-2-3. New Mexico livestock board; scope; composition; qualifications; terms; meetings.**

A. The New Mexico livestock board is established to govern the livestock industry of the state in the manner required by law.

B. The New Mexico livestock board shall be composed of nine members appointed by the governor and adequately representing the state livestock industry. Seven of the nine members must raise and own cattle or raise and own sheep in this state and be residents of this state. Two members of the board shall not raise or own cattle or sheep but shall be appointed to represent the general public. The two public members also shall be residents of New Mexico. The majority of the members of the board at any

given time shall, however, be primarily engaged in the business of raising and owning cattle in this state. The board shall be bipartisan, but no more than five members of the board shall belong to the same political party.

C. The term of office of each member of the New Mexico livestock board shall be six years; provided, that of the members of the board to be appointed after the passage and approval of this act, two shall be appointed for a term of two years, two for a term of four years and three for a term of six years and, upon the expiration of the terms of such appointments, the successors shall be appointed for the full term of six years.

D. The New Mexico livestock board shall elect from their number a chairman, vice-chairman and secretary. The board shall hold two regular meetings in each year, one in June and the other in December. Special meetings may be called by the chairman or by the vice-chairman in the event that the chairman is absent from the state or because the chairman is physically incapacitated or by a majority of the members of the board.

**History:** 1953 Comp., § 47-23-3, enacted by Laws 1967, ch. 213, § 3; 1983, ch. 229, § 1; 1993, ch. 248, § 3.

#### **77-2-4. Compensation of members.**

The members of the New Mexico livestock board shall receive per diem and mileage as provided in the Per Diem and Mileage Act [10-8-1 to 10-8-8 NMSA 1978] and shall receive no other compensation, perquisite or allowance.

**History:** 1953 Comp., § 47-23-4, enacted by Laws 1967, ch. 213, § 4.

#### **77-2-5. Report of board.**

It shall be the duty of the board during the first week in December of each year to transmit to the governor a report of its activities for the previous calendar year. This report shall contain a detailed account of all of the receipts and expenditures of money by the board, together with other facts relating to the livestock industry in New Mexico which may be of public interest. The report of the board shall be transmitted by the governor to the legislature.

**History:** 1953 Comp., § 47-23-5, enacted by Laws 1967, ch. 213, § 5.

#### **77-2-6. Livestock board attached to New Mexico department of agriculture.**

The board is attached for coordinative purposes to the New Mexico department of agriculture. The board shall execute a memorandum of understanding with the director of the New Mexico department of agriculture, identifying areas for cooperation and coordination of the activities of the board with those of the department of agriculture.

Administrative and other services may be provided the board by the department pursuant to the terms of the memorandum of understanding. The board shall submit an annual report on its activities to the director. This section shall not be construed to affect the exercise of any board power or duty.

**History:** 1953 Comp., § 47-23-5.1, enacted by Laws 1977, ch. 256, § 3.

### **77-2-7. Additional powers of the board.**

In addition to the powers transferred from the cattle and sheep sanitary boards, the board may:

A. exercise general regulatory supervision over the livestock industry of this state in order to protect the industry from theft and diseases and in order to protect the public from diseased or unwholesome meat or meat products;

B. appoint and fix the salary of an executive director who shall file an oath and be bonded in an amount fixed by the board. The director shall manage the affairs of the board under the direction of the board. He shall be chosen solely on qualifications and fitness for the office. He shall devote his entire time to the duties of the office;

C. employ clerical help, provide office space and purchase equipment, including vehicles;

D. employ livestock inspectors and brand inspectors and other personnel necessary to carry out the purposes of The Livestock Code. All livestock inspectors appointed by the board shall have the same powers as any other peace officer in the enforcement of that code;

E. appoint a state veterinarian and subordinate veterinarians as are necessary to carry out the duties of the board;

F. adopt and promulgate rules to control the importation and exportation of animals;

G. establish livestock inspection districts;

H. establish quarantine, provide its boundaries and give notice of the quarantine and do all other things necessary to effect the object of the quarantine and to protect the livestock industry of this state from disease and prevent the spread of disease;

I. adopt and promulgate rules for meat inspection, including the slaughter and disposition of the carcasses of livestock affected with diseases when the action appears necessary to prevent the spread of any contagion or infection among livestock;

J. adopt and promulgate rules governing the importation, manufacture, sale, distribution or use within the state of serums, vaccine and other biologicals intended for

diagnostic or therapeutic uses with livestock and regulate the importation, manufacture or use of virulent blood or living virus of any diseases affecting livestock;

K. set fees or charges, not to exceed one hundred dollars (\$100) per call, for any services rendered by the board or its employees that are deemed necessary by the board and for which no fee has been set by statute;

L. consider the views of the livestock industry in the administration of The Livestock Code;

M. adopt and promulgate rules to otherwise carry out the purposes of The Livestock Code;

N. hold hearings and subpoena witnesses for the purpose of investigating or enforcing The Livestock Code or rules established pursuant to that code; and

O. enter into joint powers agreements with Indian nations, tribes or pueblos to promote cooperation in carrying out the provisions of The Livestock Code.

**History:** 1953 Comp., § 47-23-6, enacted by Laws 1967, ch. 213, § 6; 1973, ch. 234, § 5; 1983, ch. 229, § 2; 1993, ch. 248, § 4; 1995, ch. 111, § 2; 1999, ch. 282, § 3.

### **77-2-7.1. Brands; subject to change in ownership; fees for transfer.**

Brands recorded in accordance with the provisions of Section 77-9-10 [77-2-7.4] NMSA 1978 are personal property of the person in whose name they are recorded. Ownership may be transferred in the same manner as other personal property. The fee for recording a transfer of ownership with the director of the New Mexico livestock board shall be a sum fixed by the board not to exceed the amount prescribed by law.

**History:** Laws 1895, ch. 6, § 3; C.L. 1897, § 108; Code 1915, § 119; C.S. 1929, § 4-1405; 1941 Comp., § 49-905; 1953 Comp., § 47-9-5; Laws 1959, ch. 249, § 1; 1971, ch. 50, § 1; 1975, ch. 91, § 1; 1981, ch. 357, § 5; 1978 Comp., § 77-9-7, recompiled as 1978 Comp., § 77-2-7.1 by Laws 1999, ch. 282, § 103.

### **77-2-7.2. Registration of brands and marks; board.**

Except as otherwise authorized by the board, the board is the sole authority for the registration of brands, marks or electronic identification on livestock in this state.

**History:** Laws 1895, ch. 6, § 4; C.L. 1897, § 109; Code 1915, § 120; C.S. 1929, § 4-1406; 1941 Comp., § 49-906; 1953 Comp., § 47-9-6; Laws 1971, ch. 50, § 2; 1978 Comp., § 77-9-8, amended and recompiled as 1978 Comp., § 77-2-7.2 by Laws 1999, ch. 282, § 11.

### **77-2-7.3. Brand books.**

The board shall keep a suitable record of all registered brands, marks and electronic identification used for the identification of livestock in this state.

**History:** Laws 1895, ch. 6, § 5; C.L. 1897, § 110; Code 1915, § 121; C.S. 1929, § 4-1407; 1941 Comp., § 49-907; 1953 Comp., § 47-9-7; Laws 1983, ch. 229, § 7; 1993, ch. 248, § 45; 1978 Comp., § 77-9-9, amended and recompiled as 1978 Comp., § 77-2-7.3 by Laws 1999, ch. 282, § 12.

#### **77-2-7.4. Recording before use; recording fee; conflicting brands.**

A. A brand shall not be used until recorded. A facsimile of the brand and a recording fee fixed by the board shall be forwarded to the director. One certified copy of the recorded brand shall be furnished to the owner of the brand by the director when the brand is recorded.

B. The director shall immediately record the brand unless it has been recorded previously or conflicts with a prior recorded brand. In that event, the director shall return the facsimile unrecorded and charge a fee for the research.

C. Additional certified copies of brands recorded may be obtained from the director by the payment of a fee to be fixed by the board in a sum not to exceed the amount prescribed by law.

**History:** Laws 1895, ch. 6, § 9; C.L. 1897, § 113; Code 1915, § 123; C.S. 1929, § 4-1409; 1941 Comp., § 49-908; Laws 1949, ch. 49, § 1; 1953 Comp., § 47-9-8; Laws 1959, ch. 249, § 2; 1971, ch. 50, § 3; 1975, ch. 91, § 2; 1981, ch. 357, § 6; 1978 Comp., § 77-9-10, amended and recompiled as 1978 Comp., § 77-2-7.4 by Laws 1999, ch. 282, § 13.

#### **77-2-7.5. Fees; disposition.**

The fees for recording or researching brands and for furnishing certified copies of the recording or research shall be placed to the credit of the New Mexico livestock board interim receipts and disbursements fund.

**History:** Laws 1905, ch. 30, § 1; Code 1915, § 124; C.S. 1929, § 4-1410; 1941 Comp., § 49-909; 1953 Comp., § 47-9-9; Laws 1993, ch. 248, § 46; 1978 Comp., § 77-9-11, amended and recompiled as 1978 Comp., § 77-2-7.5 by Laws 1999, ch. 282, § 14.

#### **77-2-7.6. Brand book.**

The director shall publish a brand book in which shall be given a facsimile or copy of all brands recorded in the office of the board, together with the owner's name and address. The board may publish if it deems best to do so a limited number of brand books in addition to the number required by the provisions of this section and to sell

them for such price as the board considers reasonable and proper. The price shall not be less than the actual cost.

**History:** Laws 1895, ch. 6, § 12; C.L. 1897, § 116; Code 1915, § 127; C.S. 1929, § 4-1413; 1941 Comp., § 49-912; 1953 Comp., § 47-9-11; Laws 1983, ch. 229, § 8; 1993, ch. 248, § 48; 1978 Comp., § 77-9-13, amended and recompiled as 1978 Comp., § 77-2-7.6 by Laws 1999, ch. 282, § 15.

### **77-2-7.7. More than one brand unlawful; exceptions; penalty.**

A. It is unlawful for an owner of livestock in originally marking or branding livestock to make use of or keep up more than one mark or brand; provided that an owner may own and possess livestock in different marks or brands if they were acquired by him by purchase or other lawful manner and evidenced by a bill of sale from the previous owner of the livestock having such brands or from the heirs, executors, administrators or legal representatives of the owner. Livestock so acquired shall be branded or marked as provided in The Livestock Code by and with the recorded brand or mark of the person acquiring the livestock. It is lawful for the purpose of identification during the pendency of a mortgage or lien to brand the increase of the branded livestock in the recorded brand designated in the mortgage or lien.

B. A brand shall not be altered by placing another brand on it or in the same location.

C. A person who unlawfully brands livestock contrary to the provisions of The Livestock Code is guilty of a misdemeanor and upon conviction shall be punished in accordance with the provisions of Section 31-19-1 NMSA 1978 for each offense.

**History:** Laws 1895, ch. 6, § 13; C.L. 1897, § 117; Code 1915, § 128; Laws 1919, ch. 54, § 1; C.S. 1929, § 4-1414; 1941 Comp., § 49-913; 1953 Comp., § 47-9-12; Laws 1975, ch. 139, § 4; 1993, ch. 248, § 49; 1978 Comp., § 77-9-14, amended and recompiled as 1978 Comp., § 77-2-7.7 by Laws 1999, ch. 282, § 16.

### **77-2-7.8. Brands of minors.**

Minors owning livestock separate from that of the parent or guardian may have a mark or brand, which shall be recorded in accordance with the requirement of The Livestock Code, but the parent or guardian shall be responsible for the proper use of the mark or brand by any minor.

**History:** Laws 1895, ch. 6, § 14; C.L. 1897, § 118; Code 1915, § 129; C.S. 1929, § 4-1415; 1941 Comp., § 49-914; 1953 Comp., § 47-9-13; 1993, ch. 248, § 50; 1978 Comp., § 77-9-15, amended and recompiled as § 77-2-7.8 by Laws 1999, ch. 282, § 17.

### **77-2-7.9. Filing of facsimile; designation of brands; holding brand renewal and fee; branding increase; offenses; penalty.**

An owner of livestock desiring to use in branding a brand not already recorded in the office of the board shall file with the director a facsimile of the desired brand. The owner may record the desired brands as holding brands upon livestock so owned upon furnishing to the director a full description as to the number, class and locality of all livestock branded with the holding brand. A recorded holding brand may be used also on a show animal. A fee shall be charged for the recording of a holding brand, which recording shall be valid for a period of one year or until the described livestock depart the state, whichever comes first. The recording may be renewed for additional years by the payment of a fee at each yearly renewal; provided that it is unlawful for the owner to brand the increase of such livestock in any other brand than the recorded brand of the owner except in the case of mortgaged livestock as provided in Section 77-9-14 NMSA 1978, as recompiled [77-2-7.7 NMSA 1978]. A person who violates the provisions of this section is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978 for each offense.

**History:** Laws 1912, ch. 55, § 2; Code 1915, § 138; Laws 1919, ch. 55, § 1; C.S. 1929, § 4-1424; 1941 Comp., § 49-915; 1953 Comp., § 47-9-14; Laws 1977, ch. 148, § 1; 1981, ch. 357, § 7; 1993, ch. 248, § 51; 1978 Comp., § 77-9-16, amended and recompiled as 1978 Comp., § 77-2-7.9 by Laws 1999, ch. 282, § 18.

### **77-2-7.10. Brands; board may reject.**

The board shall have the power to reject any brand offered for record under the provisions of Section 77-9-16 [77-2-7.9] NMSA 1978 when upon satisfactory evidence it is shown to the board that the same is offered for or is of such character that may be used for malicious or deceptive purposes or is not in conformity with the provisions of Section 77-9-16 [77-2-7.9] NMSA 1978.

**History:** Laws 1912, ch. 55, § 5; Code 1915, § 141; C.S. 1929, § 4-1427; 1941 Comp., § 49-917; 1953 Comp., § 47-9-16; 1993, ch. 248, § 52; 1978 Comp., § 77-9-18, recompiled as 1978 Comp., § 77-2-7.10 by Laws 1999, ch. 282, § 103.

### **77-2-7.11. Brand; priority of right to.**

The time of record of any brand by the owner in the county wherein the brand was originally recorded before the creation of the board shall determine the priority of right and property in the brand and not the time of filing with the board, provided the brand has been continuously used from the date of original record.

**History:** Laws 1912, ch. 55, § 6; Code 1915, § 142; C.S. 1929, § 4-1428; 1941 Comp., § 49-918; 1953 Comp., § 47-9-17; Laws 1993, ch. 248, § 53; 1978 Comp., § 77-9-19, recompiled as 1978 Comp., § 77-2-7.11 by Laws 1999, ch. 282, § 103.



### **77-2-7.12. Re-recording of brands; notice; publication; fees.**

A. The board shall cause all brands now on record to be re-recorded whenever the board deems necessary to clear records of unused brands. For this purpose, the board shall mail a notice, addressed to each owner of a brand now of record with the board at the current address shown on the brand record, requiring the owners of brands to file with the director any brand being on record to the owners. In addition to this notice, the board shall publish in either English or Spanish or both in at least one newspaper in each county in this state where there is a newspaper a copy of the notice to re-record. The publication shall continue for at least four consecutive weeks.

B. Within three months from the date of the first publication of the notice to re-record, owners of brands of record in the office of the board shall file with the director the brands in actual use and recorded by them and pay the re-recording fee. The fees shall be deposited in the proper fund of the board. Re-recording shall not be required more often than once in a three-year period.

**History:** Laws 1923, ch. 146, § 1; C.S. 1929, § 4-1445; 1941 Comp., § 49-919; Laws 1949, ch. 47, § 1; 1953 Comp., § 47-9-18; Laws 1971, ch. 50, § 4; 1975, ch. 91, § 3; 1981, ch. 357, § 8; 1993, ch. 248, § 54; 1978 Comp., § 77-9-20, amended and recompiled as 1978 Comp., § 77-2-7.12 by Laws 1999, ch. 282, § 19.

### **77-2-8. Research and promotion of meat and meat products.**

The board may enter into contracts for research into and promotion of meat and meat products. The contracts shall carry provisions for financing, and the board may accept and expend voluntary contributions from any source to finance the contracts. The provisions of this section shall not apply to or include cattle coming out of feed lots.

**History:** 1953 Comp., § 47-23-6.1, enacted by Laws 1969, ch. 177, § 1; 1999, ch. 282, § 4.

### **77-2-9. Reports of inspectors; prosecution of violations of livestock laws.**

A. The board shall keep reports of its veterinarians and inspectors in accordance with the Public Records Act [Chapter 14, Article 3 NMSA 1978].

B. The board shall assist in the prosecution of persons charged with the violation of the livestock laws, including criminal laws relating to livestock, and may call upon a livestock inspector or other peace officer to execute its orders, and when it does, the peace officer shall obey the order of the board.

C. Livestock inspectors may arrest persons found in the act or whom they have probable cause to believe to be guilty of driving, holding or slaughtering stolen livestock;

of violating the inspection laws of the state; or of violating any provision of Chapter 30, Article 18 NMSA 1978 relating to livestock or other criminal law relating to livestock.

**History:** 1953 Comp., § 47-23-7, enacted by Laws 1967, ch. 213, § 8; 1983, ch. 229, § 3; 2001, ch. 8, § 3; 2001, ch. 341, § 3.

### **77-2-10. Receipts; deposit of funds.**

A. The board shall designate banks where its money is to be deposited.

B. Notwithstanding the provisions of Section 6-10-3 NMSA 1978, the board may establish rules governing the receipt and deposit of fees collected by its inspectors requiring remittance to the board in not more than ten days.

**History:** 1953 Comp., § 47-23-8, enacted by Laws 1973, ch. 84, § 1; 1993, ch. 248, § 5; 2003, ch. 273, § 24.

### **77-2-11. Repealed.**

### **77-2-12. Executive director; duties, oath and bond.**

The executive director of the board shall keep records of inspections of brands and earmarks as deemed necessary by the board and shall perform such other duties as are prescribed by the board. He shall take and subscribe an oath faithfully to perform all of his duties as executive director of the board and shall enter into bond in an amount to be fixed by the board, with good and sufficient sureties, to be approved by the board, conditioned for the faithful performance of his duties.

**History:** Laws 1891, ch. 34, § 11; C.L. 1897, § 217; Code 1915, § 72; C.S. 1929, § 4-807; Laws 1933, ch. 53, § 3; 1941 Comp., § 49-206; 1953 Comp., § 47-2-6; Laws 1983, ch. 229, § 4; 1993, ch. 248, § 6.

### **77-2-13. Records; certified copy evidence.**

The records required to be kept by the director, including inspector reports, shall be maintained by the board in a readily available manner, and a certified copy of any such records under the hand and seal of the director or the verified oath of an inspector shall be prima facie evidence in all courts of this state of the truth of any fact required to be recorded therein.

**History:** Laws 1891, ch. 34, § 9; C.L. 1897, § 215; Code 1915, § 73; C.S. 1929, § 4-808; 1941 Comp., § 49-207; 1953 Comp., § 47-2-7; Laws 1983, ch. 229, § 5; 1999, ch. 282, § 5.

### **77-2-14. Attorney; duties.**

The board may employ a competent attorney to give advice and counsel in regard to any matter connected with the duties of the board, to represent the board in any legal proceedings and to aid in the enforcement of the laws in relation to livestock. The board shall fix the compensation to be paid to such attorney.

**History:** Laws 1937, ch. 205, § 1; 1941 Comp., § 49-210; 1953 Comp., § 47-2-10; Laws 1986, ch. 32, § 41; 1999, ch. 282, § 6.

### **77-2-15. Special taxes; levy; collection.**

A. Each year the board of county commissioners of each county shall at its first meeting after the return of the assessment of the property for taxation by the county assessors of each county, levy a special tax at a rate to be fixed each year by the New Mexico livestock board. Subject to the provisions of Section 7-37-7.1 NMSA 1978, the New Mexico livestock board shall, in each year, order the levy of a tax on livestock at a rate not to exceed ten dollars (\$10.00) on each one thousand dollars (\$1,000) of net taxable value, as that term is defined in the Property Tax Code [Chapter 7, Articles 35 to 38 NMSA 1978], of the livestock. The New Mexico livestock board may set different rates for individual classes of livestock.

B. The order imposing the levy of the tax shall be made on or before June 30 in each year and shall be certified to the department of finance and administration by the director. The department of finance and administration shall certify the amount of the levy to the board of county commissioners of each county, and the board of county commissioners shall include the levy in its annual levy of taxes. The special tax shall be collected in each county and paid to the state treasurer in the manner provided by law for the collection and payment of other state taxes. Such funds shall be remitted to the New Mexico livestock board for deposit in the interim receipts and disbursements fund.

**History:** Laws 1937, ch. 205, § 2; 1939, ch. 15, § 1; 1941, ch. 151, § 1; 1941 Comp., § 49-211; 1953 Comp., § 47-2-11; Laws 1961, ch. 142, § 1; 1986, ch. 32, § 42; 1993, ch. 248, § 7; 1999, ch. 282, § 7.

### **77-2-16. Financial report and tax estimate; state levy; maximum rate.**

It is the duty of the board on or before June 30 of each year to make and file with the department of finance and administration a report and estimate showing the amount of money in the custody or under the control of the treasurer of the board, the estimated receipts from all sources and the actual and estimated expenditures for the current fiscal year. The department of finance and administration shall annually, at the time and in the manner of certifying rates under the Property Tax Code [Chapter 7, Articles 35 to 38 NMSA 1978], certify a rate and impose a levy upon all cattle, horses, mules, asses, sheep, goats and buffalo in every county in the state, provided that such levy shall not exceed the amount required by operation of the rate limitation provisions of Section 7-37-7.1 NMSA 1978.

**History:** Laws 1915, ch. 85, § 1; 1929, ch. 157, § 2; C.S. 1929, § 4-815; 1941 Comp., § 49-212; 1953 Comp., § 47-2-12; Laws 1977, ch. 249, § 29; 1986, ch. 32, § 43; 1993, ch. 248, § 8.

### **77-2-17. Payment of tax collections to state treasurer; disbursement.**

The special tax provided by Section 77-2-16 NMSA 1978 shall be assessed and collected in every county and paid over to the state treasurer as provided by law for the assessment, collection and payment of other state taxes, and all money so collected and paid over on account of such special tax levies shall be transferred each month to the board for deposit in the interim receipts and disbursements fund and shall be used for fees, salaries, wages, costs and expenses as provided for by laws relating to the powers, duties and expenditures of the board.

**History:** Laws 1915, ch. 85, § 2; C.S. 1929, § 4-816; Laws 1933, ch. 53, § 6; 1941 Comp., § 49-213; 1953 Comp., § 47-2-13; Laws 1993, ch. 248, § 9.

### **77-2-18. Compensation of employees.**

The compensation of all employees by or under the board and, in the first instance, all other expenses incurred by or under that board shall be paid by the board or, upon its order, out of the funds provided for in The Livestock Code, such board taking or causing to be taken proper vouchers for all money so expended by them.

**History:** Laws 1889, ch. 106, § 21; C.L. 1897, § 201; Code 1915, § 80; C.S. 1929, § 4-817; 1941 Comp., § 49-214; 1953 Comp., § 47-2-14; Laws 1993, ch. 248, § 10.

### **77-2-19. Limitation on expenditures.**

The amount of money to be expended by the board in any one year, is limited to the amount set forth in a budget approved by the department of finance and administration.

**History:** Laws 1889, ch. 106, § 22; C.L. 1897, § 202; Code 1915, § 81; C.S. 1929, § 4-818; 1941 Comp., § 49-215; 1953 Comp., § 47-2-15; Laws 1981, ch. 357, § 1; 1993, ch. 248, § 11.

### **77-2-20. Repealed.**

### **77-2-21. Fees.**

All fees and charges collected pursuant to the provisions of The Livestock Code shall be paid to the executive director of the board to be deposited in the New Mexico livestock board general fund, hereby created. All fees and charges deposited in the New

Mexico livestock board general fund may be expended in accordance with a budget approved by the department of finance and administration.

**History:** Laws 1893, ch. 67, § 3; C.L. 1897, § 222; Code 1915, § 83; C.S. 1929, § 4-820; Laws 1933, ch. 53, § 7; 1941 Comp., § 49-217; 1953 Comp., § 47-2-17; Laws 1993, ch. 248, § 12.

### **77-2-22. Penalty for violating rule.**

Any person who violates a rule adopted under the power granted to the board unless the penalty has been fixed by law is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978.

**History:** Laws 1933, ch. 53, § 2; 1941 Comp., § 49-219; 1953 Comp., § 47-2-19; Laws 1967, ch. 213, § 7; 1999, ch. 282, § 8.

### **77-2-23, 77-2-24. Repealed.**

### **77-2-25. Interim receipts and disbursements fund created.**

There is created the "interim receipts and disbursements fund". All money received by the board from tax levies authorized by this article shall be credited to this fund and deposited in a designated bank in the name of the board. Money shall be disbursed from this fund only upon a warrant issued by the executive director in the name of the board. Disbursements may be made to pay necessary expenses and obligations of the board, which include expenses for salaries, supplies, equipment, rent on office space or other goods and services in accordance with a budget approved by the department of finance and administration. The board shall prescribe any additional administrative procedure necessary to administer this fund.

**History:** 1953 Comp., § 47-2-23, enacted by Laws 1959, ch. 291, § 2; 1993, ch. 248, § 14.

### **77-2-26. Board not to be assessed for general administrative overhead.**

No appropriation for the board shall include an item for general administrative overhead. No charge for general administrative overhead shall be assessed against or appropriated out of the interim receipts and disbursement fund or from any other fund or money administered by the board. No fees or money collected by the board shall be subject to assessment for any charge for general administrative overhead.

**History:** 1953 Comp., § 47-2-24, enacted by Laws 1959, ch. 291, § 3; 1993, ch. 248, § 15.

## **77-2-27. Repealed.**

## **77-2-28. Repealed.**

## **77-2-29. Fees.**

The following fees shall be fixed by the board for services rendered pursuant to the provisions of The Livestock Code:

A. an inspection or permit fee not to exceed sixteen cents (\$.16) per head to be charged for the importation or exportation of sheep and goats pursuant to Section 77-8-3 NMSA 1978 and a service charge in an amount not to exceed ten dollars (\$10.00) for each inspection request; provided that the board shall not increase the inspection fee more than four cents (\$.04) in any one fiscal year;

B. a fee for recording a transfer of a brand pursuant to Section 77-2-7.1 NMSA 1978 in an amount not to exceed one hundred dollars (\$100);

C. a fee for recording a brand or researching a brand pursuant to Section 77-2-7.4 NMSA 1978 in an amount not to exceed one hundred dollars (\$100);

D. a fee for additional copies of certified copies of brands pursuant to Section 77-2-7.4 NMSA 1978 in an amount not to exceed ten dollars (\$10.00) per copy;

E. a fee for the recording of a holding brand pursuant to Section 77-2-7.9 NMSA 1978 in an amount not to exceed one hundred dollars (\$100), which recording shall be valid for one year from the date of recording, and an additional fee in an amount not to exceed one hundred dollars (\$100) for each annual renewal;

F. a fee for the rerecording of brands pursuant to Section 77-2-7.12 NMSA 1978 in an amount not to exceed one hundred dollars (\$100);

G. a fee for the inspection of livestock pursuant to Section 77-9-38 or 77-10-4 NMSA 1978 in an amount not to exceed fifty cents (\$.50) per head and a service charge in an amount not to exceed ten dollars (\$10.00) for each inspection request; provided that the board may not increase the inspection fee more than ten cents (\$.10) in any one fiscal year;

H. a fee for the inspection of hides pursuant to Section 77-9-54 NMSA 1978 in an amount not to exceed fifty cents (\$.50) per hide and a service charge in an amount not to exceed ten dollars (\$10.00) for each inspection request; provided that the board may not increase the inspection fee more than ten cents (\$.10) in any one fiscal year;

I. a fee for the handling of the proceeds of the sale of an estray pursuant to Section 77-13-6 NMSA 1978 in an amount not to exceed ten dollars (\$10.00);

J. a fee for the impoundment of trespass livestock pursuant to Section 77-14-36 NMSA 1978 in an amount not to exceed ten dollars (\$10.00) per head per day and a reasonable charge for the moving of trespass livestock pursuant to Section 77-14-36 NMSA 1978 to be set by the board;

K. a fee for the licensing of a livestock auction market pursuant to Section 77-10-2 NMSA 1978 in an amount not to exceed twenty-five dollars (\$25.00);

L. a fee for issuing a transportation permit pursuant to Section 77-9-42 NMSA 1978 in an amount not to exceed fifty dollars (\$50.00);

M. a fee for the licensing of a cattle or sheep rest station pursuant to Section 77-9A-2 NMSA 1978 in an amount not to exceed twenty-five dollars (\$25.00); and

N. a fee for issuing a certificate of brand exemption pursuant to Section 77-8-22 or 77-9-3 NMSA 1978 in an amount not to exceed one hundred dollars (\$100).

**History:** 1978 Comp., § 77-2-28, enacted by Laws 1981, ch. 357, § 2; 1982, ch. 61, § 1; 1993, ch. 248, § 17; 1999, ch. 282, § 10; 2004, ch. 26, § 1.

### **77-2-30. Equine rescue or retirement facility; registration; board powers and duties; fees.**

A. As used in this section, "facility" means an equine rescue or retirement facility, including a private reserve or private preserve, that advertises or solicits for equines and provides lifelong care or finds new owners for equines that are unwanted or have been neglected or abused or captured wild equines that cannot be returned to their range.

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

C. The board shall:

- (1) register facilities that meet the requirements of this section;
- (2) annually consult with representatives from the equine industry, equine rescue organizations and veterinarians on facility standards; and
- (3) after consideration of recommendations by national organizations for the care of unwanted equines and equine rescue and retirement facilities, promulgate rules for facilities, including:
  - (a) health and sanitary requirements;
  - (b) standards for barns, paddocks, pastures and ranges;
  - (c) qualifications of the facility staff;

(d) provision of veterinary care;

(e) feeding and watering requirements;

(f) transportation;

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

(h) other requirements necessary to ensure the humane care of equines.

D. The board may charge the following fees:

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

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

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

E. Fees collected pursuant to this section shall be deposited in the New Mexico livestock board general fund and may be used to carry out the provisions of this section and Section 77-2-31 NMSA 1978.

**History:** Laws 2005, ch. 236, § 1; 2023, ch. 45, § 4.

### **77-2-31. Equine rescue or retirement facilities; inspections; reinspection.**

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

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

C. If, following an inspection, the board determines that the facility does not meet the board's minimum facility requirements, it shall give the registrant written notice of the deficiencies and schedule a reinspection, allowing a reasonable time for the registrant to correct the deficiencies.

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

E. If on reinspection the board determines that the facility is still deficient in those areas for which it has been given written notice, the equines may be impounded in



accordance with the provisions of Section 77-18-2 NMSA 1978 and the board shall hold a hearing as provided in the Uniform Licensing Act [Chapter 61, Article 1 NMSA 1978] to determine if the registration should be suspended or revoked.

F. If a facility's registration is suspended or revoked, the board shall place the equines in another facility.

**History:** Laws 2005, ch. 236, § 2; 2023, ch. 45, § 5.

### **77-2-32. Equine shelter rescue fund; created.**

A. The "equine shelter rescue fund" is created as a nonreverting fund in the state treasury. The fund consists of appropriations, gifts, grants, donations and amounts designated pursuant to Section 7-2-30.7 NMSA 1978. The board shall administer the fund, and money in the fund is appropriated to the board to carry out the intent of aiding equine rescues and homeless equines in the state.

B. The board shall establish by rule the distribution of funds from the equine shelter rescue fund to equine rescue and retirement facilities registered by the board pursuant to Section 77-2-30 NMSA 1978, taking into consideration the number of equines being cared for in each facility and the need of each facility.

**History:** Laws 2013, ch. 49, § 1; 2023, ch. 45, § 6.

## **ARTICLE 2A Beef Council**

### **77-2A-1. Short title.**

Chapter 77, Article 2A NMSA 1978 may be cited as the "New Mexico Beef Council Act".

**History:** Laws 1979, ch. 197, § 1; 1997, ch. 18, § 1.

### **77-2A-2. Definitions.**

As used in the New Mexico Beef Council Act:

- A. "board" means the New Mexico livestock board;
- B. "council" means the New Mexico beef council;
- C. "director" means the director of the New Mexico department of agriculture;
- D. "department" means the New Mexico department of agriculture; and

E. "producer" means any person engaged in the business of raising, breeding, feeding or growing cattle or calves for beef production or for dairy production.

**History:** Laws 1979, ch. 197, § 2; 1983, ch. 228, § 1.

### **77-2A-3. Beef council created; terms; vacancies.**

There is created the "New Mexico beef council", consisting of nine members appointed by the director with the approval of the governor for terms of three years or less so that the terms of three members expire on June 30 of each year. Vacancies shall be filled by the director for the unexpired term. The director shall serve as an ex-officio, nonvoting member of the council.

**History:** Laws 1979, ch. 197, § 3; 1991, ch. 128, § 1.

### **77-2A-4. Members' qualifications.**

All members of the council shall be producers, citizens of the United States and bona fide residents of New Mexico. Each member shall at the time of his appointment and during his entire term receive a substantial portion of his income from the branch of the business he represents on the council. In making his appointments, the director shall appoint one member to represent fluid milk producers, five to represent beef producers, one to represent breeders of registered purebreds and two to represent commercial cattle feeders. Appointments of council members are to be made from lists of individuals recommended by farm organizations, producer associations and individual producers.

**History:** Laws 1979, ch. 197, § 4; 1991, ch. 128, § 2; 1997, ch. 18, § 2.

### **77-2A-5. Officers; meetings; expenses.**

The council shall elect annually a chairman, vice chairman and such other officers as it deems necessary from among its members. The council shall meet at least once each six months, and at such other times as it may be called by the chairman. The council may provide rules for reimbursement of members' expenses while on official business of the council, but such reimbursement shall in no case exceed the provisions of the Per Diem and Mileage Act [10-8-1 to 10-8-8 NMSA 1978]. Council members shall receive no other compensation, perquisite or allowance.

**History:** Laws 1979, ch. 197, § 5.

### **77-2A-6. Duties; powers.**

A. The council shall:

- (1) conduct marketing programs, including promotion, education and research programs relating to cattle and beef products;
- (2) submit to the director a detailed annual budget for the council on a fiscal year basis;
- (3) bond officers and employees of the council who receive and disburse council funds;
- (4) keep detailed and accurate records of all receipts and disbursements, have those records audited annually and keep the audit available for inspection in the council office;
- (5) establish procedures for the adoption of regulations that will provide for input from producers;
- (6) determine and publish each year the assessment rates to be collected by the board; and
- (7) employ staff not to exceed four persons.

B. The council may:

- (1) contract for scientific research to discover and improve the commercial value of beef and products thereof;
- (2) disseminate reliable information showing the value of beef and its products for any purpose for which they may be found useful and profitable;
- (3) make grants to research agencies for financing studies or for the purchase or acquisition of facilities necessary to carry out the purposes of the council as authorized by the New Mexico Beef Council Act;
- (4) cooperate with any local, state or national organizations or agencies, whether created by law or voluntary, engaged in work or activities similar to that of the council and enter into contracts with those organizations or agencies and expend funds in connection therewith for carrying on joint programs;
- (5) study legislation, state and federal, with respect to tariffs, duties, reciprocal trade agreements, import quotas and other matters concerning the effect on the beef industry and represent and protect the interests of the beef industry with respect to any legislation or proposed legislation or executive action that may affect that industry;
- (6) enter into contracts that it deems appropriate to the carrying out of the purposes of the council as authorized by that act;

(7) sue and be sued as a council without individual liability for acts of the council within the scope of the powers conferred upon it by that act;

(8) appoint subordinate officers and employees of the council, prescribe their duties and fix their compensation;

(9) adopt regulations for the exercise of its powers and duties. A copy of all council regulations shall be filed with the department; and

(10) cooperate with other state beef councils or agencies in the collection of assessments.

**History:** Laws 1979, ch. 197, § 6; 1983, ch. 228, § 2; 1991, ch. 128, § 3; 1997, ch. 18, § 3.

### **77-2A-7. Funding.**

In order to accomplish the purposes of the New Mexico Beef Council Act, the council is empowered to:

A. receive any funds which may be returned to the New Mexico cattle industry as its share of assessments collected by a national beef industry research council or any similar entity;

B. accept grants, donations, contributions or gifts from any source for expenditure for any purpose consistent with the powers and duties conferred on the council; and

C. receive any other funds that may be authorized by law.

**History:** Laws 1979, ch. 197, § 7.

#### **77-2A-7.1. Assessments; council assessment opt-out.**

A. There is levied and imposed upon all cattle involved in a transfer of ownership in this state an assessment to be called the "council assessment". The council assessment is to be fixed by the council at a rate of not more than one dollar (\$1.00) per head. The board shall collect this council assessment and the federal domestic assessment imposed pursuant to the Beef Promotion and Research Act of 1985 at the same time and in the same manner as the fee charged for the state brand inspection required upon the movement of those cattle. The board shall not deliver the certificate of inspection or permit the cattle to move until all fees have been paid. The proceeds of the council assessment shall be remitted by the board to the council at the end of each month, along with information that will allow the council to make necessary refunds. At the request of the board, the council shall reimburse the board for the responsible and necessary expenses incurred for such collections and information at not more than four

cents (\$.04) per one dollar (\$1.00) collected on only those cattle involved in a transfer of ownership and not on refunded council assessments.

B. Producers may elect not to participate in the council assessment for each duly registered New Mexico livestock brand through an application process. The application must be in writing, on a form prescribed by the council for that purpose. Incomplete information on an opt-out form may delay the processing of the form. Upon receipt of the completed form, the council shall notify the board. The board shall enter the request in the board brand database in order to stop collection of the council assessment for the given brand. The council assessment opt-out shall be in effect for three years from the application date. A producer may revoke the opt-out option at any time by request made through the council.

**History:** Laws 1983, ch. 228, § 3; 1991, ch. 128, § 4; 1997, ch. 18, § 4; 2019, ch. 36, § 1.

### **77-2A-7.2. Repealed.**

### **77-2A-7.3. Refunds.**

Any person who has paid a council assessment is entitled to a refund of the amount paid by making written application therefor to the council. The application form shall be returned within thirty days after the inspection was made giving rise to the council assessment and shall contain enough detail to enable the council to find the record of payment. Refunds shall be made within thirty days of the date of the application unless the proceeds and the necessary information have not been received by the council, in which case the refund shall be made within fifteen days after receipt of the proceeds and necessary information. The form shall be provided by the council.

**History:** Laws 1983, ch. 228, § 5; 2019, ch. 36, § 2.

### **77-2A-8. Disposition of funds.**

A. All funds received by the council shall be received and disbursed directly by the council. Such funds shall be audited in accordance with the provisions of the Audit Act [12-6-1 to 12-6-14 NMSA 1978]. The council is not required to submit vouchers, purchase orders or contracts to the department of finance and administration as otherwise required by Section 6-5-3 NMSA 1978.

B. The council shall issue warrants against funds of the council in payment of its lawful obligations. The council shall provide its own warrants, purchase orders and contract forms as well as other supplies and equipment. All warrants shall be signed by a council member and one other person designated by the council.

C. The council shall designate banks where its funds are to be deposited, provided such banks have been qualified as depository banks for state funds.

**History:** Laws 1979, ch. 197, § 8; 1991, ch. 128, § 6.

## **77-2A-9. Procurement Code; Personnel Act; exemption; Tort Claims Act.**

The council is exempt from the operation of the Procurement Code [13-1-28 to 13-1-199 NMSA 1978] and the Personnel Act [Chapter 10, Article 9 NMSA 1978]. The council members and employees shall be subject to the Tort Claims Act [41-4-1 to 41-4-27 NMSA 1978] and shall be provided all insurance and self-insurance coverage provided by the risk management division, general services department, state of New Mexico.

**History:** Laws 1979, ch. 197, § 9; 1991, ch. 128, § 7.

## **ARTICLE 3 Control of Contagious Diseases**

### **77-3-1. Diseases; inspection; quarantine.**

A. The board may use all proper means to prevent the spreading of dangerous and fatal diseases among livestock and for the extirpation of such diseases. If a disease breaks out in the state, it is the duty of all persons owning or having in their charge livestock infected to immediately notify the board of the existence of such disease. The board shall cause proper examination to be made by a veterinarian and, if the disease is found to be a dangerously contagious or infectious malady, the board shall order the diseased livestock that have been exposed to be strictly quarantined and shall order any premises or farms where such disease exists or has recently existed to be put in quarantine so that no livestock subject to the disease is removed from or brought to the premises or places so quarantined. The board shall prescribe such rules as it deems necessary to prevent the disease from being communicated in any way from the premises so quarantined.

B. The board may expend funds to prevent, suppress, control or eradicate any disease or parasite of livestock that the board has by rule declared to be a disease or pest of significant economic impact to any segment of the livestock industry. This power shall include the right to purchase and destroy or sell infected or exposed livestock.

C. Whenever the board finds any livestock infested with a disease or pest declared by the board to be of significant economic impact, the board may request the governor to declare an emergency as provided in Section 6-7-3 NMSA 1978.

**History:** Laws 1909, ch. 9, § 1; Code 1915, § 106; C.S. 1929, § 4-1009; 1941 Comp., § 49-301; 1953 Comp., § 47-3-1; Laws 1983, ch. 229, § 6; 1999, ch. 282, § 20.

### **77-3-2. Report of diseased livestock; offenses; expense recovery; duties of sheriffs; penalty.**

A. A person who has in his possession or under his care any livestock that he knows or has reason to believe is affected with a disease shall without unnecessary delay tell the board or some member of the board or the sheriff of the county in which the livestock is situate. The sheriff shall immediately notify the director.

B. A person shall not bring into this state or sell or dispose of any livestock known to be affected or exposed to disease or move diseased or exposed livestock from quarantine or move any livestock to or from a district in the state declared to be infected with a disease or bring into this state any diseased livestock from a district outside the state that may at any time be legally declared to be affected with such disease without the consent of the board.

C. A person who violates a provision of Subsection A or B of this section is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978 for each head illegally moved.

D. Any guard or other proper expenses incurred in the quarantining of the livestock shall be paid by the owner, and if the same is refused, after demand made by order of the board, an action may be brought to recover the same with costs of suit, which action may be brought in the name of the state for the use of the board. It is the duty of all sheriffs to execute all lawful orders of the board.

**History:** Laws 1909, ch. 9, § 2; Code 1915, § 107; Laws 1927, ch. 25, § 2; C.S. 1929, § 4-1010; 1941 Comp., § 49-302; 1953 Comp., § 47-3-2; Laws 1993, ch. 248, § 18; 1999, ch. 282, § 21.

### **77-3-3. Repealed.**

### **77-3-4. Dead animals; disposal.**

The bodies of all dead animals shall be buried, burned or disposed of by the owners as provided by regulations of the board.

**History:** Laws 1909, ch. 9, § 3; Code 1915, § 108; C.S. 1929, § 4-1011; 1941 Comp., § 49-304; 1953 Comp., § 47-3-4; Laws 1993, ch. 248, § 19.

### **77-3-5. Infected pastures and buildings; notices.**

A. If a pasture, building, corral, yard or enclosure where livestock have been or may be pastured or confined is infected with or has become dangerous on account of a disease or poisonous weed or plant, the board may post danger or quarantine notices in not less than two conspicuous places in or upon such pasture, building, corral, yard or

enclosure sufficient to warn all owners and others in charge of livestock of the danger or quarantine. When the danger has passed or the quarantine is lifted, the board shall require the posted notices to be removed.

B. Except as authorized by the director, a person who removes a posted notice of danger or quarantine is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA [1978].

**History:** Laws 1917, ch. 30, § 1; C.S. 1929, § 4-915; 1941 Comp., § 49-305; 1953 Comp., § 47-3-5; Laws 1993, ch. 248, § 20; 1999, ch. 282, § 22.

### **77-3-6, 77-3-7. Repealed.**

### **77-3-8. Destruction of diseased livestock; payment to the owner; appraisal.**

In cases where the board deems it necessary to destroy any diseased, infected or exposed livestock in order to prevent the spread of dangerous and fatal diseases such as glanders, farcy, tuberculosis, pleuro-pneumonia, rinderpest, foot and mouth disease or any other dangerous and fatal disease, foreign or other, which according to the rules, regulations and standards adopted by the United States department of agriculture animal and plant health inspection service cannot be extirpated by means other than the destroying of the diseased, infected or exposed livestock, the board may have the livestock killed and burned or buried under such rules as the board may prescribe. The board shall cooperate with the United States department of agriculture in paying to the owners of the slaughtered livestock the allowed indemnity determined by the United States department of agriculture animal and plant health inspection service and the board.

**History:** Laws 1909, ch. 9, § 8; 1909, ch. 75, § 2; Code 1915, § 113; C.S. 1929, § 4-1016; Laws 1933, ch. 53, § 13; 1941 Comp., § 49-308; 1953 Comp., § 47-3-8; Laws 1993, ch. 248, § 21; 1999, ch. 282, § 23.

### **77-3-9. Acceptance of federal rules and regulations; cooperation.**

The board may accept on behalf of the state the rules and regulations prepared by the secretary of the United States department of agriculture relating to the control of diseases of livestock and to cooperate with the authorities of the United States in the enforcement of the provisions of all acts and regulations relating to diseased livestock.

**History:** Laws 1909, ch. 9, § 4; Code 1915, § 109; C.S. 1929, § 4-1012; Laws 1933, ch. 53, § 12; 1941 Comp., § 49-309; 1953 Comp., § 47-3-9; Laws 1993, ch. 248, § 22; 1999, ch. 282, § 24.

### **77-3-10. Federal officers; powers.**



The representatives of the United States department of agriculture animal and plant health inspection service under the specific authorization of the board may inspect, quarantine and condemn livestock affected with a disease or suspected of being affected with a disease or that have been exposed to a disease and for these purposes may enter any grounds or premises in the state. The representatives may call upon peace officers to assist them in the discharge of their duties as specified by the board in carrying out federal laws and regulations as provided in Section 77-3-9 NMSA 1978. The peace officers shall assist the representatives when so requested and authorized by the board.

**History:** Laws 1909, ch. 9, § 5; Code 1915, § 110; C.S. 1929, § 4-1013; 1941 Comp., § 49-310; 1953 Comp., § 47-3-10; Laws 1993, ch. 248, § 23; 1999, ch. 282, § 25.

### **77-3-11. Marking or branding of cattle and bison found infected with tuberculosis or Bang's disease.**

Whenever cattle or bison within this state are tested for tuberculosis or Bang's disease by the board or its agents or employees or by an authorized agent or employee of the United States department of agriculture animal and plant health inspection service, if an animal so tested is found to have a positive reaction to such tests, it shall be permanently marked or branded according to the requirements of the board by the owner or his agent. The type of mark or brand to be used shall be designated by the board, and an animal shall be marked or branded immediately upon instructions from the board.

**History:** 1941 Comp., § 49-318, enacted by Laws 1949, ch. 48, § 1; 1953 Comp., § 47-3-11; Laws 1993, ch. 248, § 24; 1999, ch. 282, § 26.

### **77-3-12. Penalty.**

A person who fails to identify his animals as required by Section 77-3-11 NMSA 1978 is guilty of a misdemeanor for each head in violation and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978.

**History:** 1941 Comp., § 49-319, enacted by Laws 1949, ch. 48, § 2; 1953 Comp., § 47-3-12; Laws 1993, ch. 248, § 25; 1999, ch. 282, § 27.

### **77-3-13. Dangerous epidemics; emergency rules; imports prohibited; penalty.**

A. When the board or any of its authorized representatives finds that a disease, the nature of which is known to be fatal or highly injurious to livestock, pigeons or fowl of any kind, has become epidemic or exists in a locality in a country, state or territory beyond the limits of this state, the board shall immediately adopt and promulgate

emergency rules to prohibit the importation into this state of any animals, including livestock, subject to the disease that may be so reported.

B. The board shall specify such restrictions and safeguards as it deems proper and shall specify for the protection of livestock in this state and may also prohibit the importation into this state of any hoofs, hides, skins or meat of any animals or any hay, straw fodder, cottonseed or other products or material calculated to carry the infection of such disease.

C. Emergency rules may be adopted and promulgated without the notice and hearing required of other rules and shall take effect immediately. If the board contemplates that an emergency rule will be in effect for longer than ninety days, it shall give notice and hold a hearing to adopt the emergency rule as a rule.

D. Any person who violates any provision of this section or an emergency rule issued in accordance with this section is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978 for each head and is also liable in a civil action for any damages and loss sustained by reason of such importation of the livestock or of any of the products provided for in this section.

**History:** Laws 1889, ch. 106, § 8; C.L. 1897, § 188; Code 1915, § 86; Laws 1915, ch. 35, § 1; C.S. 1929, § 4-903; Laws 1933, ch. 53, § 8; 1941 Comp., § 49-311; 1953 Comp., § 47-3-13; Laws 1993, ch. 248, § 26; 1999, ch. 282, § 28.

### **77-3-14. Health certificate; inspection; permit; penalty.**

A. After the issuance of an emergency rule pursuant to the provisions of Section 77-3-13 NMSA 1978 and while the emergency rule continues in force, it is unlawful for a person to drive or transport or cause to be driven or transported into this state any livestock that by any direct or circuitous route might have come from any place or district covered by the emergency rule without first having obtained a certificate of health from a veterinarian or a permit in writing from the board under such rules as the board prescribes.

B. A person failing to comply with this provision is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978 and is also personally liable for all loss and damages sustained by any persons by reason of the introduction of a disease from the livestock unlawfully imported into this state.

C. During the time covered by the emergency rule, all livestock desiring to enter the state shall submit to an inspection and shall not be permitted to enter the state until a written or printed permit is issued by the board. A livestock inspector or other agent of the board may require the person in charge of the livestock to produce the permit for his inspection, and any person refusing to produce the permit at any time within a year from

the time the livestock were driven in is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978.

**History:** Laws 1889, ch. 106, § 9; C.L. 1897, § 189; Code 1915, § 87; C.S. 1929, § 4-904; Laws 1933, ch. 53, § 9; 1941 Comp., § 49-312; 1953 Comp., § 47-3-14; Laws 1993, ch. 248, § 27; 1999, ch. 282, § 29.

### **77-3-14.1. AGID tests required.**

The board shall adopt rules prohibiting the driving or transporting into this state of any horses or other equidae that have not tested negative to the AGID, or Coggins, test or a United States department of agriculture-approved equivalent test for equine infectious anemia within twelve months prior to the date of entry, the evidence of which test result shall be shown on a health certificate; excepting from regulation only those foals accompanied in shipment by a negative-tested dam, those horses or other equidae consigned directly to slaughter.

**History:** 1978 Comp., § 77-3-14.1, enacted by Laws 1993, ch. 248, § 28; 1999, ch. 282, § 30.

### **77-3-15. Investigation of suspected illegal imports; oaths; health certificate of [or] permit.**

Whenever the board, during the continuance in force of any prohibition against the importation into this state of livestock has good reason to believe or suspect that any such livestock against the importation of which prohibition then exists have been or are about to be driven, conveyed or transported into this state in violation of any such prohibition then existing and then in force, it is the duty of the board, either by its own members or through a veterinarian or through one or more of such persons then in their employ as circumstances shall seem to require, to thoroughly investigate the same. They may examine, under oath or affirmation, any person in charge of the livestock or any person cognizant of any facts or circumstances material to the investigations and all facts connected with the driving or transportation of the livestock, including the place or places from which the livestock have been driven or transported; the places or districts through which they have been driven or transported; the length of time and where they have remained, fed or grazed at any designated place or district; what contagious or infectious disease of livestock, if any, they have been exposed to and when and where; and any other facts or circumstances material to the investigation and reduce such testimony to writing in all cases where the certificate of health or the permit in writing provided for in this section shall be refused. The members of the board, a veterinarian and all other persons as aforesaid so in the employ of the board through whom any such investigation shall be made hereby are authorized to administer all oaths and affirmations required in any such investigation. If any such investigation is made by such veterinarian and he is satisfied that the livestock are free from all contagious and infectious disease and will not communicate any disease to any livestock in this state, he shall deliver to the person in charge of the livestock a certificate of health to the

effect that the livestock are healthy and entitled to pass into the state, otherwise he shall refuse the same. If such investigation is made by any other persons authorized as specified in this section to make the investigation and they are satisfied that the livestock will not transmit to the livestock in this state any livestock disease and that the facts and circumstances attending their transportation warrant the presumption that such livestock are not from any prohibited areas, a recommendation that the importation of the livestock shall then be permitted, shall be communicated to the board and the board shall upon concurrence give the person in charge of the livestock a written permit to pass the same into the state, otherwise such permit shall be refused.

**History:** Laws 1889, ch. 106, § 11; C.L. 1897, § 191; Code 1915, § 88; C.S. 1929, § 4-905; Laws 1933, ch. 53, § 10; 1941 Comp., § 49-313; 1953 Comp., § 47-3-15; Laws 1993, ch. 248, § 29.

### **77-3-16. Rules and regulations.**

It is the duty of the board to make all useful rules and regulations respecting examinations and investigations for the granting or refusing of certificates of health and permits provided for in the next succeeding section and give ample publicity thereto so that all persons, companies and corporations who may desire to drive or transport any livestock into the state may be conveniently advised of what will be required to obtain any such certificate or permit during the existence of any prohibition to the importation of livestock into the state and of when, where and to whom application therefor may be made.

**History:** Laws 1889, ch. 106, § 12; C.L. 1897, § 192; Code 1915, § 89; C.S. 1929, § 4-906; 1941 Comp., § 49-314; 1953 Comp., § 47-3-16; Laws 1993, ch. 248, § 30.

### **77-3-17. Quarantine; seizure of cattle.**

Whenever any livestock are driven or transported into the state without obtaining a certificate of health or permit by the person in charge thereof, in any case where a certificate or permit is required and if such livestock have been inspected and an investigation had in relation thereto and the certificate or permit refused, then the livestock may be seized and securely held in quarantine under such reasonable rules and regulations as shall be prescribed therefor by the board and as they may deem necessary to guard against other livestock becoming affected with any such livestock diseases. They shall be held in quarantine for such length of time as the board shall in their opinion deem necessary for the sanitary protection of livestock in this state. If such livestock shall not have been so inspected and an investigation had, then the same shall take place wherever the livestock may be found, and they may be seized and held for that purpose and a certificate of health or permit granted or refused, as the case may require. If refused, the livestock may in like manner be held in quarantine. All the necessary expenses of quarantine and inspection under the provisions of this section shall be paid by the owners of the livestock.

**History:** Laws 1889, ch. 106, § 14; C.L. 1897, § 194; Code 1915, § 91; C.S. 1929, § 4-908; 1941 Comp., § 49-315; 1953 Comp., § 47-3-17; Laws 1993, ch. 248, § 31.

### **77-3-18. Liens for expenses and for damages for communicating disease.**

All expenses incurred in and by the inspection and quarantine of livestock under Section 77-3-17 NMSA 1978 shall be a lien on such livestock to secure the payment thereof in favor of the board, as an indemnity for the expenses so incurred. All loss and damages incurred and suffered by any person, company or corporation of any of the provisions of this chapter shall be lien on the livestock so unlawfully imported in favor of the person, company or corporation so incurring or suffering such loss or damage. All liens covered by this section shall take precedence and priority over any other lien or encumbrance on any such livestock existing at the time of their unlawful importation as aforesaid or at any time subsequent thereto. All such liens shall subsist and become effective as security for ultimate payment without any other act or proceeding whatever and after judgment any such lien may be foreclosed by sale of the livestock on execution.

**History:** Laws 1889, ch. 106, § 15; C.L. 1897, § 195; Code 1915, § 92; C.S. 1929, § 4-909; 1941 Comp., § 49-316; 1953 Comp., § 47-3-18; Laws 1993, ch. 248, § 32.

### **77-3-19. Repealed.**

## **ARTICLE 4 Eradication of Scabies**

### **77-4-1. Disease eradication; rules.**

The board shall determine the existence of and employ the most efficient and practical means to prevent, suppress, control and eradicate the disease known as mange or scabies or any other disease among livestock and to direct and regulate the handling or treating of any livestock when infected or that it may have good reason to believe has been exposed to any of the diseases; to make and adopt quarantine and sanitary rules that, so far as practicable, conform to the regulations of the United States department of agriculture as they may be from time to time promulgated; and to create and define districts within which such disease exists. In determining the districts within this state in which such disease from time to time exists, the board shall cooperate with the United States department of agriculture. The costs of treatment of livestock pursuant to this section are the responsibility of the owner of the livestock.

**History:** Laws 1905, ch. 31, § 1; Code 1915, § 98; Laws 1927, ch. 36, § 1; C.S. 1929, § 4-1001; 1941 Comp., § 49-401; 1953 Comp., § 47-4-1; Laws 1993, ch. 248, § 34; 1999, ch. 282, § 31.

## **77-4-2, 77-4-3. Repealed.**

## **77-4-4. [Inspectors; employment; compensation; duties; reports; powers.]**

To aid in the enforcement of Sections 77-4-1 to 77-4-8 NMSA 1978, it shall be the duty of the board, and they are hereby authorized to employ for that service, and to be known as inspector, as many competent and discreet persons from time to time as emergencies may arise, as in their judgment they may deem necessary for the purpose, and shall fix their compensation, while in actual service, and their actual and necessary expenses, while in performance of their duties and as to where, when and how to perform them. Such persons [are] to make full reports to said board in writing of all their acts and doings under said instructions. And in the performance of their duties, whenever necessary, they may enter upon and examine any car, yard, stable, corral or any building or premises to examine any said livestock therein or thereon, and otherwise do whatever may be necessary and proper therein or thereon to the effectual discharge of their said powers and duties.

**History:** Laws 1905, ch. 31, § 4; Code 1915, § 101; C.S. 1929, § 4-1004; Laws 1933, ch. 53, § 11; 1941 Comp., § 49-404; 1953 Comp., § 47-4-4.

## **77-4-5. [Inspectors of department of agriculture; appointment by board.]**

Subject to the approval of the department of agriculture of the United States, the inspectors appointed by it, may also be appointed by the said board, for the services set forth in Section 77-4-4 NMSA 1978, and they shall hold said appointment at the pleasure of said board so long as they remain inspectors of said department and as such are stationed in this state and they shall act as such inspectors without bond or compensation from the state and shall possess all the powers and duties of state inspectors as needed for the purpose of said section.

**History:** Laws 1905, ch. 31, § 5; Code 1915, § 102; C.S. 1929, § 4-1005; 1941 Comp., § 49-405; 1953 Comp., § 47-4-5.

## **77-4-6, 77-4-7. Repealed.**

## **77-4-8. Offenses; penalty.**

A person who willfully violates any provisions of Sections 77-4-1 through 77-4-8 NMSA 1978 or rules promulgated in conformity with those sections or who in any manner hinders, obstructs or resists the execution of a rule or hinders, obstructs or resists an officer or employee of the board in the discharge of his duty or in the exercise of his lawful powers or who willfully or negligently breaks any quarantine or willfully or negligently suffers any quarantined livestock to escape from any quarantine is guilty of a

misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978.

**History:** Laws 1905, ch. 31, § 8; Code 1915, § 105; Laws 1927, ch. 25, § 1; C.S. 1929, § 4-1008; 1941 Comp., § 49-408; 1953 Comp., § 47-4-8; Laws 1999, ch. 282, § 32.

## **ARTICLE 5**

### **Eradication of Tuberculosis**

#### **77-5-1. Tuberculosis; examinations.**

The board may make tests and examinations for the purpose of ascertaining whether any domestic livestock in the state are affected with tuberculosis. The tests or examinations shall be made by veterinarians of the board, inspectors of the United States department of agriculture animal and plant health inspection service or other veterinarians authorized by the board to perform the tests and examinations.

**History:** Laws 1929, ch. 159, § 1; C.S. 1929, § 4-1101; 1941 Comp., § 49-501; 1953 Comp., § 47-5-1; Laws 1993, ch. 248, § 35; 1999, ch. 282, § 33.

#### **77-5-2. Infected livestock; destruction.**

If, upon making any tests or examinations as provided for in Chapter 77, Article 5 NMSA 1978, it appears that any livestock are infected with tuberculosis and that the public interest would be best served through the destruction of the livestock, the board shall cause the destruction of the livestock in a manner deemed most expedient.

**History:** Laws 1929, ch. 159, § 2; C.S. 1929, § 4-1102; 1941 Comp., § 49-502; 1953 Comp., § 47-5-2; Laws 1993, ch. 248, § 36; 1999, ch. 282, § 34.

#### **77-5-3. Special areas; cooperation; regulations.**

The board is hereby authorized to create and supervise tuberculosis-free areas, modified accredited areas and accredited areas and to cooperate with and arrange for such assistance from the United States department of agriculture in carrying out the provisions of this article as it may deem best and just. The board is authorized to adopt and promulgate such rules and regulations which it may deem necessary and proper for the enforcement of the provisions of this article; and such rules and regulations when so adopted and promulgated shall have the same force and effect as if they were an integral part of this article.

**History:** Laws 1929, ch. 159, § 3; C.S. 1929, § 4-1103; 1941 Comp., § 49-503; 1953 Comp., § 47-5-3; Laws 1993, ch. 248, § 37.

#### **77-5-4. Dairy cattle; importation; tests.**

All cattle intended for dairy or milking purposes or for the breeding of dairy cattle brought into this state in any manner must be tagged for identification and must be accompanied by a permit from the board and a certificate signed by some duly qualified veterinarian of the United States department of agriculture or of some state or territory showing record of tuberculine test made immediately prior to shipment and showing that they are free from infection, except in cases where cattle are from accredited herds, modified accredited areas, accredited areas or free areas created and supervised by the United States department of agriculture and state cooperating agency, in which event such cattle must be accompanied by a certificate from a duly qualified veterinarian of the United States department of agriculture or a state recognized veterinarian. Copies of such certificates shall be mailed by the officer making same to the director of the board. Such cattle after coming into the state, if deemed necessary, shall be held for a period of sixty to ninety days or until retested and released in quarantine under such rules as may be provided by the board and shall not be allowed to mingle with nor occupy the same range, pasture, lots, corrals, pens, barns or sheds with other animals. Such cattle shall be tested again before the expiration of the ninety days but no sooner than sixty days by a qualified veterinarian duly authorized by the board and the report of the test filed with the board. Provided, that if any such cattle when retested for tuberculosis shall react and shall be destroyed in accordance with the provisions of this article, the owners of the cattle shall not be reimbursed for the loss of any such imported cattle.

**History:** Laws 1929, ch. 159, § 4; C.S. 1929, § 4-1104; 1941 Comp., § 49-504; 1953 Comp., § 47-5-4; Laws 1993, ch. 248, § 38.

#### **77-5-5. Offenses; penalty.**

A person, whether acting as a common carrier or otherwise, who brings into New Mexico any dairy cattle of the kind described in Section 77-5-4 NMSA 1978 in violation of the provisions of Chapter 77, Article 5 NMSA 1978 or of any of the rules promulgated by the board for the enforcement of that article is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978.

**History:** Laws 1929, ch. 159, § 5; C.S. 1929, § 4-1105; 1941 Comp., § 49-505; 1953 Comp., § 47-5-5; Laws 1999, ch. 282, § 35.

## **ARTICLE 6**

### **Dairy Industry Indemnity (Repealed.)**

**77-6-1 to 77-6-10. Repealed.**



## **ARTICLE 7**

### **Feeding of Hogs**

**77-7-1 to 77-7-15. Repealed.**

#### **77-7-16. Definitions.**

As used in this act [77-7-16 to 77-7-19 NMSA 1978]:

A. "garbage" means waste consisting in whole or in part of animal waste resulting from handling, preparing, cooking and consuming of food, including the offal from animal carcasses or parts thereof, but excluding such waste obtained by an individual from his own household operations and fed to his own swine on the same premises;

B. "special processing" means handling swine and subjecting swine products to heat treatment in accordance with current requirements of the board;

C. "permit for special processing" means a permit by the board for the handling, slaughtering and special processing of swine, and which shall be limited to a point or points designated by the board; and

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

**History:** 1953 Comp., § 47-7-23, enacted by Laws 1970, ch. 79, § 1.

#### **77-7-17. Feeding of garbage unlawful; registration required; movement of swine fed on garbage unlawful except by permit; penalty.**

A. It is unlawful for any person, firm, partnership or corporation not registered with the livestock board, as provided by this act [77-7-16 to 77-7-19 NMSA 1978], to feed garbage to any swine in this state.

B. It is unlawful to slaughter or transport within the state any swine which have been fed garbage except under the appropriate permit for either special processing or for the transportation of swine fed with garbage as issued by the livestock board.

C. Any person, firm, partnership or corporation violating the provisions of this section is guilty of a petty misdemeanor and each day the provisions of this section are violated shall be a separate offense.

**History:** 1953 Comp., § 47-7-24, enacted by Laws 1970, ch. 79, § 2; 1971, ch. 152, § 1.

## **77-7-18. Garbage feeders; slaughterers of garbage-fed swine; registration; garbage cooking; penalty.**

A. All persons feeding garbage to or slaughtering swine which have been fed garbage shall first obtain a certificate of registration or a permit for special processing from the livestock board. Application for registration or a permit shall be made to the office of the livestock board on forms which may be obtained from the board. The board shall be notified when such operation is discontinued or upon sale of equipment, transfer of ownership or change of location. Such rights and privileges as are granted by the registration may be revoked for cause by the director of the livestock board, subject to review by the livestock board.

B. All garbage fed in New Mexico shall be cooked and brought to the boiling point or equivalent temperature for a period of not less than thirty minutes.

C. A recording thermometer shall be used and maintained with dated charts for examination by a representative of the board, and be kept on file for a period of not less than ninety days. Each such chart shall bear therein the name and address of the person for whom the garbage was cooked. There shall be no retracing of charts.

D. Cooking facilities shall be approved by the board before certificate of registration is issued.

E. Periodic inspections shall be made of cooking facilities and premises. Premises shall be open for inspection, including cooking operations, equipment and animals, at any reasonable time by designated representatives of the board.

F. The livestock board shall promulgate and adopt, in accordance with the provisions of the State Rules Act [Chapter 14, Article 4 NMSA 1978], regulations setting standards for the maintenance and operation of swine feeding and slaughtering facilities, and providing for the regulation of the movement of garbage-fed swine.

G. Any person, firm or corporation failing to meet the standards set by the regulations of the livestock board for the maintenance and operation of facilities for the feeding or slaughtering of swine or failing to obtain a permit or to meet the requirements of the board for moving garbage-fed swine, may be denied registration or if registered, may have such registration revoked, and shall be guilty of a petty misdemeanor.

H. The board may by regulation set an inspection fee for the permit to transport swine fed on garbage in an amount not to exceed twenty-five cents [(\$.25)] per animal.

**History:** 1953 Comp., § 47-7-25, enacted by Laws 1970, ch. 79, § 3; 1971, ch. 152, § 2.

## **77-7-19. Fees for registration; renewal.**

For each certificate of registration issued under Section 77-7-18 NMSA 1978, the livestock board may charge and receive a fee not to exceed ten dollars (\$10.00) at the time of issuance and, in addition, on the anniversary date of each such certificate of registration an annual renewal fee in an amount not to exceed ten dollars (\$10.00).

**History:** 1953 Comp., § 47-7-26, enacted by Laws 1970, ch. 79, § 4.

## **ARTICLE 8**

### **Sheep**

#### **77-8-1. Repealed.**

#### **77-8-2. Quarantine; treatment.**

Sheep or goats afflicted with or exposed to a disease shall be immediately placed under quarantine under the supervision of a veterinarian or inspector in conformity with the rules of the board. The sheep or goats shall not be moved from the quarantine area except under the supervision of a veterinarian or inspector until a veterinarian declares them to be free of disease or until the board otherwise grants permission for the moving of the sheep or goats. The sheep or goats shall be treated under the direction of a veterinarian or inspector at once and thereafter as often as necessary until they are declared free of the disease by a veterinarian or inspector.

**History:** 1941 Comp., § 49-872, enacted by Laws 1951, ch. 188, § 11; 1953 Comp., § 47-8-11; Laws 1999, ch. 282, § 36.

#### **77-8-3. Importation; notice; inspection; fees.**

A. A person intending to bring sheep or goats into the state from another country or state shall give notice of his intention to the director by certified letter or delivery in person or by telephone to the director or other authorized official of the board so that the notice is received prior to the proposed day of entry. The notice shall state the number of head, the date and place the sheep or goats will be loaded and their destination. The director shall then issue a permit for entry of the sheep or goats into the state, stating in the permit the applicable board rules to be complied with before or after entry into the state.

B. The shipment shall be accompanied by a health certificate issued by a federal or state inspector or authorized veterinarian that the sheep or goats are healthy and free from disease. On arrival, the owner or person in charge of the sheep or goats shall not commingle the imported sheep or goats or release them to pasture until the inspector examines the sheep or goats as to their sanitary condition and inspects and makes a record of all the marks and brands on the sheep or goats, which record shall be forwarded to the board office and used for future reference. The inspector shall issue

the owner or person in charge of the sheep or goats a copy of the brand inspection certificate if the inspector is satisfied all requirements have been met.

C. An inspection fee to be fixed by the board shall be charged and paid by the owner or person in charge of the sheep or goats to the board and received by the inspector for the inspection and certificates. If the inspector suspects that the sheep or goats are infected with a disease or finds that the owner or person in charge has not met the entry requirements, the inspector shall require the owner or the person in charge to comply with the provisions of Section 77-8-2 NMSA 1978 or other applicable statutes and rules. The provisions of this section shall not apply to sheep or goats loaded on transport vehicles that are being transported from some country or state to another country or state through New Mexico if the sheep or goats are not to be unloaded in this state except in approved rest stations or other quarantine pens for the purpose of feeding and watering the sheep or goats for a period of time not to exceed twenty-four hours.

**History:** 1941 Comp., § 49-873, enacted by Laws 1951, ch. 188, § 12; 1953 Comp., § 47-8-12; Laws 1963, ch. 129, § 1; 1981, ch. 357, § 3; 1993, ch. 248, § 39; 1999, ch. 282, § 37.

#### **77-8-4. Sheep imported without inspection; inspection.**

When any inspector learns that sheep have been brought into the state without first having been inspected as provided in Section 12 [77-8-3 NMSA 1978], he shall immediately inspect the sheep as provided in said section.

**History:** 1941 Comp., § 49-874, enacted by Laws 1951, ch. 188, § 13; 1953 Comp., § 47-8-13.

#### **77-8-5. Infected sheep or goats; notice to board.**

A person who owns or has under his control sheep or goats that have been exposed to or infected with a reportable disease shall forthwith report such fact to the director. A veterinarian shall be immediately dispatched to examine the sheep or goats and, if found to be so exposed or infected, the veterinarian or inspector shall follow the quarantine and treating provisions set forth in Section 77-8-2 NMSA 1978.

**History:** 1941 Comp., § 49-875, enacted by Laws 1951, ch. 188, § 14; 1953 Comp., § 47-8-14; Laws 1999, ch. 282, § 38.

#### **77-8-6. Repealed.**

#### **77-8-7. Exportation; notice; inspection and permit fees; penalty.**

A. A person intending to ship sheep or goats beyond the limits of the district or the limits of the state shall give notice of his intention to the director or to the inspector for his district by certified letter or by delivery in person or by telephone to the director or inspector so that the notice is received in a reasonable time previous to the proposed date of shipment. The notice shall state the date and place that the sheep or goats will be loaded and destination of the sheep or goats. The board may require an inspector to inspect the sheep or goats as to their sanitary conditions and make a record of all the marks and brands upon the sheep or goats or the board may provide by rule an alternate means of allowing the movement of sheep or goats. The inspector shall not allow sheep or goats bearing any of the marks declared by the law of this state to be unlawful to be shipped except under express authority of the board. The inspector shall also require each person shipping sheep or goats to exhibit a bill of sale executed as provided by Section 77-8-15 NMSA 1978 or authority in writing to ship the sheep or goats from the recorded owner of all marks and brands upon the sheep or goats unless the person is himself the recorded owner of the marks and brands.

B. The inspector shall issue to the shipper a New Mexico livestock board form-1 certificate of inspection or other document or permit approved by the board if he is fully satisfied that the sheep or goats are free from disease and that the person shipping has rightful ownership of the sheep or goats as evidenced by the brands or marks and bill of sale or has complied with the board's alternative method as provided for in this section and all other applicable rules of the board. This certificate or permit shall authorize the shipping of the sheep and goats out of the state.

C. A fee to be fixed by the board in a sum not to exceed the amount prescribed by law shall be charged for the inspection and certificates, and the inspector shall refuse to issue the certificates until he has been paid the fee. The board shall charge a fee not to exceed the amount prescribed by law for issuing the permits allowed in this section in lieu of inspection. The inspector shall make a report to the director after each inspection of any matters contained in this section that may be required of him by the director.

D. A person who knowingly ships sheep or goats from one district to another district without an inspection certificate is guilty of a misdemeanor and shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978. A person who knowingly ships sheep or goats outside the state without an inspection certificate is guilty of a fourth degree felony and shall be sentenced in accordance with the provisions of Section 31-18-15 NMSA 1978.

**History:** 1941 Comp., § 49-877, enacted by Laws 1951, ch. 188, § 16; 1953 Comp., § 47-8-16; Laws 1957, ch. 191, § 1; 1959, ch. 246, § 1; 1963, ch. 129, § 2; 1981, ch. 357, § 4; 1993, ch. 248, § 40; 1999, ch. 282, § 39.

**77-8-8, 77-8-9. Repealed.**

**77-8-10. Recording or rerecording by person with lien or interest.**

Any person having a lien or interest in any sheep may cause the mark or brand appearing on said sheep to be recorded or rerecorded in the name of the owner provided he follows the recording or rerecording procedure set forth in this act [77-8-1 to 77-8-19 NMSA 1978]. The secretary [executive director] shall mail a certificate of mark to the owner and a duplicate copy of the certificate to the person having a lien or interest in the sheep.

**History:** 1941 Comp., § 49-883, enacted by Laws 1951, ch. 188, § 22; 1953 Comp., § 47-8-22.

### **77-8-11. Repealed.**

### **77-8-12. Effect of cancellation or new award to one claiming interest; amending original instrument.**

The cancellation of an existing mark or brand of a sheep owner shall in no way affect a lien on or interest in any sheep claimed by a third person, and as to such third person a cancellation shall not be deemed to have taken place. Where a new or different brand is awarded the owner, such interested third person or lien holder may have the instrument on which he bases his lien amended so as to show the date the new mark or brand was awarded, a description or facsimile of such new mark or brand and the sheep affected by such new mark or brand. Such amended instrument must be signed and acknowledged in the same manner as the original instrument to give it the force and effect of the original instrument, and recorded, where required by law, in order to give constructive notice.

**History:** 1941 Comp., § 49-885, enacted by Laws 1951, ch. 188, § 24; 1953 Comp., § 47-8-24.

### **77-8-13. Evidential value of mark or brand records.**

A certified copy of the records of the board relating to any mark or brand shall be accepted in all courts of this state as prima facie evidence of the ownership of sheep bearing the same.

**History:** 1941 Comp., § 49-886, enacted by Laws 1951, ch. 188, § 25; 1953 Comp., § 47-8-25.

### **77-8-14. Altering marks or brands.**

No person shall alter the mark or brand on his or any other sheep or goats, without first having secured written permission from the director and unless an inspector is present to supervise the alteration.

**History:** 1941 Comp., § 49-887, enacted by Laws 1951, ch. 188, § 26; 1953 Comp., § 47-8-26; Laws 1999, ch. 282, § 40.

### **77-8-15. Bills of sale; evidence of larceny.**

A. A duly executed bill of sale is an instrument in writing by which the owner or his authorized agent transfers to the buyer the title to the sheep or goat described in the bill of sale and guarantees to defend the title against all lawful claims. It shall fully describe in detail the sheep or goat, and such description shall include marks, brands and all other identification. The bill of sale shall be executed the day of the transaction.

B. A purchase sheet properly executed by a licensed livestock auction market constitutes a valid bill of sale.

C. A registration certificate issued by a recognized pure-bred association, properly identifying the animal and properly acknowledged by the secretary of the association, may be used as proof of ownership.

D. An inspection certificate executed as a bill of sale and certified by inspector may be used as proof of ownership.

E. A person shall not sell or buy sheep or goats unless a bill of sale is provided. The possession by a person of sheep or goats having any mark or brand not his recorded mark or brand unless he has a bill of sale or authority in writing to possess or sell such sheep or goats shall be taken as prima facie evidence that he committed larceny of the sheep or goats and shall be sufficient for his conviction of larceny unless the evidence shows his innocence.

**History:** 1941 Comp., § 49-888, enacted by Laws 1951, ch. 188, § 27; 1953 Comp., § 47-8-27; Laws 1999, ch. 282, § 41.

### **77-8-16. Report of estray sheep or goats; sale.**

A person finding estray sheep or goats shall immediately report them to an inspector or the director and deliver them to an inspector upon demand. If the mark or brand on the sheep or goat is recorded in the board office, the director shall notify the owner of record and make arrangements to deliver the sheep or goats to the owner of record if he is the actual owner. If the owner of record no longer owns the sheep or goats, the director shall deliver them to the subsequent purchaser who can prove ownership with a valid bill of sale. In either case, delivery shall be conditioned upon payment by the claimant of all costs incurred in keeping the sheep or goats and such other expenses as may have been necessarily incurred. If the owner cannot be ascertained after diligent inquiry, the director shall order an inspector to sell them to the person paying the highest cash price for them after giving general or special notice or advertising as the director deems necessary under the circumstances. The money arising from the sale shall be used first to defray the costs and expenses in keeping and advertising the

sheep or goats and those incurred in the sale. The residue, if any, shall be placed in the board fund; provided, however, that if at any time within two years after the sale any person shall prove ownership of the sheep or goats at the time they became lost, the residue shall be paid to him.

**History:** 1941 Comp., § 49-889, enacted by Laws 1951, ch. 188, § 28; 1953 Comp., § 47-8-28; Laws 1999, ch. 282, § 42.

### **77-8-17. Enforcement of provisions; recovery of costs and expenses.**

Upon the failure or refusal of any owner or person in charge of sheep to comply with the provisions of Sections 11, 12, 14, 16, or 18 [77-8-2, 77-8-3, 77-8-5, 77-8-7 NMSA 1978] of this act or rules and regulations made in pursuance thereof, the inspector shall summarily take custody of and hold the sheep involved in the violation of said sections or rules and regulations until said provisions are complied with or until there is a determination of any legal proceedings brought under said sections. The board shall bring legal proceedings against any violator who after reasonable notice still refuses to comply with these provisions for the enforcement of these provisions or for the costs and expenses incurred in holding the sheep and of bringing said legal proceedings, or for both purposes. In these proceedings no bond shall be required from the board.

**History:** 1941 Comp., § 49-890, enacted by Laws 1951, ch. 188, § 29; 1953 Comp., § 47-8-29.

### **77-8-18. Penalties.**

A person who violates the provisions of Section 77-8-2, 77-8-3, 77-8-14 or 77-8-22 NMSA 1978 or rules adopted pursuant to any of those sections is guilty of a misdemeanor for each head and, upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978.

**History:** 1941 Comp., § 49-891, enacted by Laws 1951, ch. 188, § 30; 1953 Comp., § 47-8-30; Laws 1999, ch. 282, § 43.

### **77-8-19. Repealed.**

### **77-8-20. Commuting sheep or goats; fees.**

A. For the purpose of this section, "commuting sheep or goats" means sheep or goats that are transferred from New Mexico to some other state with which New Mexico shares a common boundary and back again or from some other state that shares a common boundary with New Mexico, to New Mexico and back again:

- (1) during any twelve-month period;



(2) by one owner; and

(3) for the purpose of seasonal grazing, breeding, lambing or kidding on lands owned or leased by that owner in the course of his normal operations in each of the two states.

B. Owners of commuting sheep or goats shall have them inspected for each movement but shall pay the inspection fees for transporting commuting sheep or goats only once in any twelve-month period. For subsequent movements in a twelve-month period, the owner shall pay the inspection fees on those sheep or goats over the number involved in the first movement. If the owner of commuting sheep or goats transports them for a purpose other than regular commuting they shall, at that time, lose their special character of commuting sheep or goats and be subject to the fees normally required by law.

**History:** 1953 Comp., § 47-8-41, enacted by Laws 1963, ch. 129, § 6; 1999, ch. 282, § 44; 2001, ch. 38, § 1.

### **77-8-21. Repealed.**

### **77-8-22. Necessity of branding or marking sheep and goats.**

A. A person owning sheep or goats shall have and adopt a brand for them except for registered sheep or goats that are properly identified by legible tattoos and whose owner has been issued a certificate of brand exemption for his flock by the board. The brand shall be applied by any method approved by the board. Each brand shall be recorded in the office of the board. The board may provide for the use of a mark in lieu of the owner's brand if the mark is recorded in conjunction with the brand.

B. Unbranded or unmarked sheep or goats, except offspring with a branded or marked mother, shall be subject to seizure by a peace officer or inspector and shall be handled and disposed of in the same manner as is provided for the handling and disposal of estrays.

C. Sheep or goats that are purchased shall be rebranded or remarked by the new owner with his recorded brand or mark within thirty days of the purchase date unless he is given special permission by the board or the former owner to use the former owner's recorded brand or mark on the sheep or goats.

**History:** 1978 Comp., § 77-8-22, enacted by Laws 1999, ch. 282, § 45.

## **ARTICLE 8A**

### **Sheep and Goats**

#### **77-8A-1. Short title.**

This act [77-8A-1 to 77-8A-11 NMSA 1978] may be cited as the "New Mexico Sheep and Goat Act".

**History:** Laws 1997, ch. 99, § 1 and Laws 1997, ch. 147, § 1.

## **77-8A-2. Definitions.**

As used in the New Mexico Sheep and Goat Act:

- A. "board" means the New Mexico livestock board;
- B. "council" means the New Mexico sheep and goat council;
- C. "department" means the New Mexico department of agriculture;
- D. "director" means the director of the New Mexico department of agriculture;
- E. "handler" means any producer, processor, distributor or other person engaged in handling, marketing or dealing in sheep or haired goats or their products; and
- F. "producer" means any person engaged in the business of raising, breeding, feeding or growing sheep or haired goats.

**History:** Laws 1997, ch. 99, § 2 and Laws 1997, ch. 147, § 2.

## **77-8A-3. Sheep and goat council created; election; vacancies; ex-officio members.**

- A. There is created the "New Mexico sheep and goat council", consisting of seven members. Members shall be elected by producers from nominations made to the director by producers or producer organizations.
- B. The initial members of the council shall be elected as follows:
  - (1) two members for one-year terms;
  - (2) two members for two-year terms; and
  - (3) three members for three-year terms.
- C. Thereafter, each member shall be elected for a term ending three years from the date of expiration of the term for which his predecessor was elected, except in case of a vacancy, when the appointee shall serve the unexpired part of the term of the member whom he replaces. Vacancies shall be filled by appointment by the director from nominations made by producers and producer organizations. The director shall serve as an ex-officio, nonvoting member of the council.

**History:** Laws 1997, ch. 99, § 3 and Laws 1997, ch. 147, § 3.

#### **77-8A-4. Council member qualifications.**

A. Each member of the council shall have the following qualifications, which shall continue during his term of office:

- (1) be actively engaged in sheep or goat production; or
- (2) be in some branch of the sheep or haired goat business and during his entire term receive a substantial portion of his income from the sheep or haired goat business.

B. Members of the council shall be elected according to the following plan: two producers from northern New Mexico in areas north of interstate 40, four producers from southern New Mexico in areas south of interstate 40 and one handler of sheep or haired goats or their products.

**History:** Laws 1997, ch. 99, § 4 and Laws 1997, ch. 147, § 4.

#### **77-8A-5. Officers; meetings; expenses.**

The council shall elect annually a chairman, vice chairman and such other officers as it deems necessary from among its members. The council shall meet at least once each six months and at such other times as it may be called by the chairman. The council may provide rules for reimbursement of members' expenses while on official business of the council, but such reimbursement shall in no case exceed the provisions of the Per Diem and Mileage Act [10-8-1 to 10-8-8 NMSA 1978]. Council members shall receive no other compensation, perquisite or allowance.

**History:** Laws 1997, ch. 99, § 5 and Laws 1997, ch. 147, § 5.

#### **77-8A-6. Duties; powers.**

A. The council shall:

- (1) conduct marketing programs, including promotion, education and research, promoting sheep and haired goat products;
- (2) submit to the director a detailed annual budget for the council on a fiscal-year basis and provide a copy of the budget upon request to any person who has paid an assessment or made a contribution under the New Mexico Sheep and Goat Act;
- (3) bond officers and employees of the council who receive and disburse council funds;

(4) keep detailed and accurate records for all receipts and disbursements, have those records audited annually and keep the audit available for inspection in the council office;

(5) establish procedures for the adoption of regulations that will provide for input from producers;

(6) determine and publish each year the assessment rates to be collected by the board; and

(7) employ staff not to exceed three persons.

B. The council may:

(1) contract for scientific research to discover and improve the commercial value of sheep and haired goats and products thereof;

(2) disseminate information showing the value of sheep and haired goats and products for any purpose for which they may be found useful and profitable;

(3) fund programs to enhance the efficiencies of sheep and haired goat production;

(4) make grants to research agencies for financing studies or for the purchase or acquisition of facilities necessary to carry out the purposes of the council as authorized by the New Mexico Sheep and Goat Act;

(5) cooperate with any local, state or national organizations or agencies, whether created by law or voluntary, engaged in work or activities similar to that of the council, and enter into contracts with those organizations or agencies and expend funds in connection therewith for carrying on joint programs;

(6) study federal and state legislation with respect to tariffs, duties, reciprocal trade agreements, import quotas and other matters concerning the effect on the sheep and haired goat industry and represent and protect the interests of the industry with respect to any legislation or proposed legislation or executive action that may affect that industry;

(7) enter into contracts that it deems appropriate to the carrying out of the purposes of the council as authorized by the New Mexico Sheep and Goat Act;

(8) sue and be sued as a council without individual liability for acts of the council within the scope of the powers conferred upon it by the New Mexico Sheep and Goat Act;

(9) appoint subordinate officers and employees of the council and prescribe their duties and fix their compensation;

(10) adopt regulations for the exercise of its powers and duties. A copy of all council regulations shall be filed with the department; and

(11) cooperate with other state councils or agencies in the collection of assessments.

**History:** Laws 1997, ch. 99, § 6 and Laws 1997, ch. 147, § 6.

### **77-8A-7. Funding.**

In order to accomplish the purposes of the New Mexico Sheep and Goat Act, the council is empowered to:

A. receive any funds that may be returned to the New Mexico sheep and haired goat industry as its share of assessments collected by a national sheep promotion research and information board or any similar entity;

B. accept grants, donations, contributions or gifts from any source for expenditure for any purpose consistent with the powers and duties conferred on the council; and

C. receive any other funds that may be authorized by law.

**History:** Laws 1997, ch. 99, § 7 and Laws 1997, ch. 147, § 7.

### **77-8A-8. Assessments.**

There is levied and imposed upon all sheep and haired goats involved in a transfer of ownership in the state an assessment to be called the "council assessment". The council assessment is to be fixed by the council at a rate not more than seventy-five cents (\$.75) per head. The board shall collect this council assessment at the same time and in the same manner as the fee charged for the state inspection required upon the movement of those sheep and haired goats. The board shall not deliver the certificate of inspection or permit the sheep or haired goats to move until all fees have been paid. The proceeds of the council assessment shall be remitted by the board to the council at the end of each month along with information that will allow the council to make necessary refunds. At the request of the board, the council shall reimburse the board for the reasonable and necessary expenses incurred for such collections and information not to exceed four percent of collections on those sheep and haired goats involved in a transfer of ownership.

**History:** Laws 1997, ch. 99, § 8 and Laws 1997, ch. 147, § 8.

### **77-8A-9. Refunds.**

Any person who has paid a council assessment is entitled to a refund of the amount paid by making written application for the refund to the council. The application form shall be returned within thirty days after the inspection was made giving rise to the council assessment and shall contain enough detail to enable the council to find the record of payment. Refunds shall be made within thirty days of the date of the application unless the proceeds and the necessary information have not been received by the council, in which case the refund shall be made within fifteen days after receipt of the proceeds and necessary information. The form shall be provided by the board at the time of inspection.

**History:** Laws 1997, ch. 99, § 9 and Laws 1997, ch. 147, § 9.

### **77-8A-10. Disposition of funds.**

A. All funds received by the council shall be received and disbursed directly by the council. Such funds shall be audited in accordance with the provisions of the Audit Act [12-6-1 to 12-6-14 NMSA 1978]. The council is not required to submit vouchers, purchase orders or contracts to the department of finance and administration as otherwise required by Section 6-5-3 NMSA 1978.

B. The council shall issue warrants against funds of the council in payment of its lawful obligations. The council shall provide its own warrants, purchase orders and contract forms as well as other supplies and equipment. All warrants shall be signed by a council member and one other person designated by the council.

C. The council shall designate banks where its funds are to be deposited, provided such banks have been qualified as depository banks for state funds.

**History:** Laws 1997, ch. 99, § 10 and Laws 1997, ch. 147, § 10.

### **77-8A-11. Procurement Code; Personnel Act; exemptions; Tort Claims Act.**

The council is exempt from the provisions of the Procurement Code and the Personnel Act. The council members and employees shall be subject to the Tort Claims Act [41-4-1 to 41-4-27 NMSA 1978] and shall be provided all insurance and self-insurance coverage provided by the risk management division of the general services department.

**History:** Laws 1997, ch. 99, § 11 and Laws 1997, ch. 147, § 11.

## **ARTICLE 9**

### **Brands, Ownership, Transportation and Sale of Animals**

## **77-9-1. Repealed.**

### **77-9-1.1. Repealed.**

**History:** Laws 1999, ch. 282, § 46; repealed by Laws 2015, ch. 22, § 3.

## **77-9-2. [Earmarks; cutting; penalty.]**

Any person, firm or corporation of this state may adopt and use an earmark, and such earmark shall be taken in evidence in connection with owner's recorded brand in all suits at law or in equity in which the title to stock is involved. Such earmark shall be made by cutting and shaping the ear or ears of the animal so marked, but in no case shall the person so marking the animal cut off more than one-half of the ear so marked, neither shall anyone mark by cutting an ear on both sides to a point. Any person, firm or corporation who violates this section shall be guilty of a petty misdemeanor.

**History:** Laws 1884, ch. 47, § 3; C.L. 1884, § 56; C.L. 1897, § 66; Code 1915, § 116; C.S. 1929, § 4-1402; 1941 Comp., § 49-902; 1953 Comp., § 47-9-2; Laws 1965, ch. 4, § 1.

## **77-9-3. Necessity of brand; rebranding required; exceptions.**

A. A person who owns livestock shall have and adopt a brand for them. The brand shall be applied with a hot iron on each animal except registered livestock that are properly identified by a legible tattoo and whose owner has been issued a certificate of brand exemption for the owner's herd by the board. Each brand shall be recorded in the office of the board.

B. Goats or sheep are not required to be branded with a hot iron. Goats or sheep may be identified by a legible tattoo, paint brand or other device as approved by the board.

C. Unbranded livestock, except offspring with a branded mother or offspring with a mother properly identified as provided in Subsection G of this section, shall be subject to seizure by a peace officer or livestock inspector and shall be handled and disposed of in the same manner as is provided for the handling and disposal of estrays.

D. Livestock that are purchased shall be rebranded by the new owner with the new owner's recorded brand within thirty days, except as provided in Section 77-9-4 NMSA 1978.

E. Subsection A of this section shall not apply to a person owning horses, mules or asses who has been issued a transportation permit as provided in Section 77-9-42 NMSA 1978 or who has a registration certificate for an animal from a recognized breed association or to any person owning horses, mules or asses that have been identified

by a freeze mark or a freeze brand recorded with the board. Freeze branding or freeze mark identification requires an iron, first submerged in a bath of liquid nitrogen, to be applied on each animal, resulting in a permanent loss of color in the hair or cessation of hair growth where the brand or mark has been applied.

F. This section does not apply to bison, swine, poultry, ratites, ostriches, emus, rheas, camelids and farmed cervidae.

G. This section does not apply to a person who owns cattle in confinement at a dairy or feedlot and who has elected to identify the cattle by an alternative means approved by the board for cattle held in those facilities. If cattle held in confinement and identified in accordance with this subsection are removed from confinement and otherwise held in the state, the provisions of Subsection A of this section shall be met prior to removal, unless the cattle are being delivered to an approved auction.

**History:** Laws 1895, ch. 6, § 1; C.L. 1897, § 106; Code 1915, § 117; C.S. 1929, § 4-1403; Laws 1941, ch. 40, § 1; 1941 Comp., § 49-903; Laws 1951, ch. 67, § 1; 1953 Comp., § 47-9-3; Laws 1975, ch. 139, § 2; 1985, ch. 60, § 1; 1993, ch. 248, § 43; 1999, ch. 282, § 47; 2015, ch. 22, § 2.

#### **77-9-4. Penalty for failure to brand or rebrand; certain sales prohibited.**

A. All livestock required to be branded pursuant to the provisions of Section 77-9-3 NMSA 1978 shall bear the identical and complete brand recorded in the name of the present owner with the board or, in the alternative, the livestock shall bear the identical and complete brand of a former owner as recorded with the board, in which case, the livestock shall be accompanied by a bill of sale from the former owner to the person claiming to be the present owner, which bill of sale meets the requirements of Section 77-9-22 NMSA 1978.

B. The bill of sale shall contain a written statement by the former owner granting permission to the present owner to use the recorded brand appearing on the livestock, listed in the bill of sale and filed with the board; otherwise the livestock shall be rebranded within thirty days from the date of purchase.

C. A person shall not sell, buy or receive any livestock in the state unless the livestock is branded or has other means of identification acceptable to the board except livestock directly imported from another state. Except as provided in Section 77-9-16 NMSA 1978, as recompiled [77-2-7.9 NMSA 1978], all livestock shall be branded with a New Mexico brand within thirty days of entry into the state.

D. A person who violates the provisions of either Section 77-9-3 NMSA 1978 or this section is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with Section 31-19-1 NMSA 1978 for each head.



**History:** 1953 Comp., § 47-9-3.1, enacted by Laws 1961, ch. 4, § 1; 1975, ch. 139, § 3; 1993, ch. 248, § 44; 1999, ch. 282, § 48.

### **77-9-5. Brands of livestock; recording; evidence of ownership.**

No brands of livestock except those recorded pursuant to the provisions of The Livestock Code [Chapter 77, Articles 2 to 18 NMSA 1978] and are peeled shall be recognized in law as evidence of ownership of the livestock upon which the brand is used unless the owner has other means of identification, including freeze brands and freeze mark identification, that is recognized as evidence of ownership for horses, mules or asses.

**History:** Laws 1895, ch. 6, § 2; C.L. 1897, § 107; Code 1915, § 118; C.S. 1929, § 4-1404; 1941 Comp., § 49-904; 1953 Comp., § 47-9-4; Laws 1975, ch. 50, § 1; 1985, ch. 60, § 2; 1999, ch. 282, § 49.

### **77-9-6 to 77-9-20. Repealed and Recompiled.**

### **77-9-21. Bills of sale; necessity and presumptions; definition of livestock.**

A. No person shall buy, receive, sell, dispose of or have in his possession any livestock in this state unless the person selling or disposing of such livestock gives and the person buying or receiving such livestock takes a written bill of sale giving the number, kind, marks and brand of each animal sold which meets the requirements of Section 77-9-22 NMSA 1978.

B. The possession of livestock without having a written bill of sale meeting the requirements of Section 77-9-22 NMSA 1978 is prima facie evidence of illegal possession against any person charged with theft, unlawful possession, handling, driving or killing any livestock.

**History:** 1953 Comp., § 47-9-19, enacted by Laws 1971, ch. 196, § 1; 1993, ch. 248, § 55.

### **77-9-22. Bills of sale; requirements; evidence of larceny.**

A. A duly executed bill of sale is an instrument in writing by which the owner or his authorized agent transfers to the buyer the title to livestock described in the bill of sale and guarantees to defend the title against all lawful claims. It shall fully describe in detail the livestock, and such description shall include marks, brands and all other identification.

B. The bill of sale shall be executed the day of the transaction.

C. A purchase sheet properly executed by a licensed livestock auction market constitutes a valid bill of sale.

D. A registration certificate issued by a recognized pure-bred association, properly identifying the animal and properly acknowledged by the secretary of the association, may be used as proof of ownership.

E. An inspection certificate executed as a bill of sale and certified by an inspector may be used as proof of ownership.

F. The possession by any person of livestock having a brand not his recorded brand unless he has a bill of sale or authority in writing to possess or sell the livestock shall be taken as prima facie evidence that he committed larceny of the livestock except in instances where stray or injured animals are inadvertently impounded and shall be sufficient for his conviction of larceny unless the evidence shows his innocence.

**History:** 1953 Comp., § 47-9-19.1, enacted by Laws 1971, ch. 196, § 2; 1999, ch. 282, § 50.

### **77-9-23. Bill of sale of livestock; duty to exhibit; violation; penalty.**

A. A person who has purchased or received or has in his possession any livestock either for himself or another shall exhibit the bill of sale for the livestock at the reasonable request of an inspector or other peace officer. A person who fails to produce the bill of sale required in Section 77-9-21 NMSA 1978 or who is unable to exhibit other written evidence of ownership or legal possession is guilty of a misdemeanor and shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978.

B. A person who has purchased or received or has in his possession any livestock either for himself or another and who cannot produce proof of ownership as required by Subsection A of this section shall have the livestock impounded. If sufficient proof of ownership has not been established to the satisfaction of the board within fifteen days of the impoundment, the impounded livestock will be handled and disposed of in the same manner as provided for the handling and disposal of estrays.

**History:** Laws 1884, ch. 47, § 13; C.L. 1884, § 66; C.L. 1897, § 77; Code 1915, § 44; C.S. 1929, § 4-318; 1941 Comp., § 49-921; 1953 Comp., § 47-9-20; Laws 1963, ch. 252, § 1; 1971, ch. 196, § 3; 1975, ch. 139, § 5; 1999, ch. 282, § 51.

### **77-9-24. [Failure to exhibit; knowledge, intent, purpose and motive to be presumed.]**

The provisions of the last two sections shall be liberally construed in favor of the people, and in order to convict of any offense made punishable in said sections it shall not be necessary for the prosecution to prove knowledge, intent, purpose or motive on the part of the accused, but such knowledge, intent, purpose and motive may be

presumed when the wrongful act of the accused has been shown, and shall justify a conviction, unless the testimony in the case shall satisfactorily show the good faith and innocent purpose of the accused.

**History:** Laws 1884, ch. 47, § 14; C.L. 1884, § 67; C.L. 1897, § 78; Code 1915, § 45; C.S. 1929, § 4-319; 1941 Comp., § 49-922; 1953 Comp., § 47-9-21.

### **77-9-25. Repealed.**

### **77-9-26. Sale by person not brand owner; bill of sale.**

A person in this state who sells, transfers or delivers to another person in this state any livestock that is not branded or marked with the brand or mark of the person selling, transferring or delivering the livestock shall deliver to the person buying or receiving the livestock a bill of sale showing from whom the livestock was received as provided in Section 77-9-22 NMSA 1978.

**History:** Laws 1921, ch. 159, § 1; C.S. 1929, § 4-321; 1941 Comp., § 49-924; 1953 Comp., § 47-9-23; Laws 1993, ch. 248, § 57; 1999, ch. 282, § 52.

### **77-9-27. Violation; penalty.**

A person who violates the provisions of Section 77-9-26 NMSA 1978 is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978 for each head in offense.

**History:** Laws 1921, ch. 159, § 2; C.S. 1929, § 4-322; 1941 Comp., § 49-925; 1953 Comp., § 47-9-24; Laws 1993, ch. 248, § 58; 1999, ch. 282, § 53.

### **77-9-28. Importation of livestock; permit required; penalty.**

A. A person who brings livestock into this state by any manner or causing them to be brought in shall, before doing so, obtain a permit from the board or its authorized representative. The permit shall contain a list of all the requirements of the board to be complied with before the livestock can be brought into the state and shall also stipulate any requirements of further tests of the livestock for disease after the livestock are within the state if required by the board. The permit shall accompany the livestock at the time they enter the state, and the requirements set forth in the permit as to tests for diseases or otherwise shall be complied with in every particular before the livestock are permitted to enter. The owner or his agent shall make application to the proper inspector to inspect the imported livestock. The imported livestock shall not be commingled or released to pasture without inspection, except as authorized by the inspector.

B. No prior permits are required for livestock transported directly to international import receiving facilities that are inspected for health of livestock contained in the facilities by the United States department of agriculture or other agency of the United States. Livestock entering at these facilities from a foreign country shall be inspected by an inspector.

C. A person who violates the provisions of this section is guilty of a misdemeanor and upon conviction shall be punished in accordance with the provisions of Section 31-19-1 NMSA 1978 for each head in offense.

**History:** 1941 Comp., § 49-955, enacted by Laws 1943, ch. 11, § 1; 1951, ch. 43, § 1; 1953 Comp., § 47-9-25; Laws 1963, ch. 252, § 2; 1993, ch. 248, § 59; 1999, ch. 282, § 54.

### **77-9-29. Inspection rules.**

In the exercise of the powers and performance of the duties conferred and prescribed by Sections 77-9-30 through 77-9-36 NMSA 1978 [repealed], the board shall make all necessary rules respecting the inspection of livestock intended for shipment or to be driven from a district or beyond the limits of this state and also respecting the inspection of hides and slaughterhouses in this state.

**History:** Laws 1891, ch. 34, § 2; C.L. 1897, § 208; Code 1915, § 143; C.S. 1929, § 4-1429; 1941 Comp., § 49-926; 1953 Comp., § 47-9-26; Laws 1993, ch. 248, § 60; 1999, ch. 282, § 55.

### **77-9-30. Exported livestock; inspection of brands and ear marks; record.**

The board shall cause the brands and ear marks upon livestock shipped or driven from a district or out of this state to be inspected and a true and correct record of the result of such inspections to be kept in the office of the director for three years. The record shall set forth the date of the inspection; the place where and the person by whom made; the name and current address of the owner, shipper or claimant of the livestock inspected or the names and current addresses of all persons in charge of the livestock at the time of the inspection; the destination of the livestock; a list of all brands and ear marks upon the livestock inspected; and the number and classification of the livestock.

**History:** Laws 1891, ch. 34, § 3; C.L. 1897, § 209; Code 1915, § 144; C.S. 1929, § 4-1430; 1941 Comp., § 49-927; 1953 Comp., § 47-9-27; Laws 1993, ch. 248, § 61; 1999, ch. 282, § 56.

### **77-9-31. Export livestock to be inspected; penalties.**

A. A person shipping or driving or receiving for shipment or driving any livestock from a district or out of this state shall hold the livestock for inspection as provided by law, and it is unlawful for any person to ship, drive or in any manner remove beyond the boundaries of the district or this state any livestock until they have been inspected except as provided in Section 77-9-42 NMSA 1978.

B. A person who knowingly ships, drives or receives for shipment or driving livestock from one district to another without an inspection is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978.

C. A person who knowingly ships or drives or receives for shipment or driving livestock out of state without an inspection is guilty of a fourth degree felony and upon conviction shall be sentenced in accordance with the provisions of Section 31-18-15 NMSA 1978.

**History:** Laws 1891, ch. 34, § 4; C.L. 1897, § 210; Code 1915, § 145; C.S. 1929, § 4-1431; 1941 Comp., § 49-928; 1953 Comp., § 47-9-28; Laws 1993, ch. 248, § 62; 1999, ch. 282, § 57.

### **77-9-32. Inspection of livestock for export; application; place; payment for delay.**

A person or his agent having in his charge livestock destined for transportation or to be driven beyond the limits of the district or out of this state shall make application to the proper inspector to inspect the livestock, stating in the application the time the livestock will be ready for inspection. An inspector shall inspect the livestock at a location to be designated by the board, make the record and give the certificate required by law to the owner of the livestock; provided that in the case of livestock transported out of this state, the place of inspection shall be at some stockyards or other convenient place near the proposed point of shipment of the livestock from the state. If the owner or person in charge of the livestock causes any unreasonable delay or loss of time to an inspector, the owner or person in charge of the livestock shall pay the expenses and salary of the inspector during the delay or loss of time.

**History:** Laws 1891, ch. 34, § 6; C.L. 1897, § 212; Code 1915, § 146; C.S. 1929, § 4-1432; 1941 Comp., § 49-929; 1953 Comp., § 47-9-29; Laws 1969, ch. 174, § 1; 1999, ch. 282, § 58.

### **77-9-33. Inspection of exported livestock; report; inspection of slaughterhouses; penalty.**

Every inspector shall be an inspector of brands and ear marks and also an inspector of hides and slaughterhouses, and it is the duty of the inspectors to inspect the brands and ear marks of all livestock transported or driven from a district or out of this state and to make a sworn report to the director of the result of such inspection at least once

every thirty days and more often if, in the opinion of the board, it is necessary. Every slaughterhouse in this state shall be carefully inspected by the inspectors, and all hides found in slaughterhouses shall be carefully compared with the records of the slaughterhouses and a report in writing setting forth the number of livestock killed at the slaughterhouse since the last inspection, the names of the persons for whom each of the livestock were slaughtered, the brands and marks upon each hide and any information that may be obtained touching the violation by the owner of any slaughterhouse, or any other person, of any of the provisions of Sections 77-17-9 and 77-17-10 NMSA 1978. For the purpose of making an inspection, an inspector has the right to enter in the day or night any slaughterhouse or other place where livestock are killed in this state and to carefully examine the premises and all books and records required by law to be kept on the premises and to compare the hides found with the records. A person who hinders or obstructs or attempts to hinder or obstruct an inspector in the performance of any of the duties required of him by law is guilty of a misdemeanor and on conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978 for each offense.

**History:** Laws 1891, ch. 34, § 7; C.L. 1897, § 213; Laws 1909, ch. 75, § 4; Code 1915, § 147; C.S. 1929, § 4-1433; 1941 Comp., § 49-930; 1953 Comp., § 47-9-30; Laws 1993, ch. 248, § 63; 1999, ch. 282, § 59; 2001, ch. 8, § 4; 2001, ch. 341, § 4.

#### **77-9-34. Repealed.**

#### **77-9-35. Offense by inspectors; penalty.**

Any inspector employed by the board who knowingly makes any false certificate or who knowingly swears falsely as to the truth of any report made by him to the executive director of the board or who accepts any bribe or compensation for the performance or failure to perform any of the duties prescribed by law, except such compensation as may be paid him by the board, shall upon conviction thereof be fined in any sum not exceeding one thousand dollars (\$1,000) or imprisoned in the state penitentiary not exceeding five years at the discretion of the court.

**History:** Laws 1891, ch. 34, § 10; C.L. 1897, § 216; Code 1915, § 149; C.S. 1929, § 4-1435; 1941 Comp., § 49-932; 1953 Comp., § 47-9-32; Laws 1993, ch. 248, § 64.

#### **77-9-36, 77-9-37. Repealed.**

#### **77-9-38. Inspection fees; lien; record.**

There shall be a fee for the inspection of livestock to be fixed by the board not to exceed the amount prescribed by law for each inspection request, and the fee shall be a lien upon the livestock of the owner until paid. Each inspector shall keep a complete record of all livestock inspected by him, listing all brands and marks and the names of the shippers, and a copy of the record shall be preserved by the board.

**History:** Laws 1899, ch. 53, § 2; Code 1915, § 152; C.S. 1929, § 4-1438; Laws 1933, ch. 53, § 14; 1941 Comp., § 49-935; Laws 1951, ch. 31, § 1; 1953 Comp., § 47-9-35; Laws 1959, ch. 249, § 3; 1973, ch. 234, § 1; 1981, ch. 357, § 9; 1999, ch. 282, § 60.

### **77-9-39. Repealed.**

### **77-9-40. Exporting of livestock without brand of shipper or bill of sale; inspection; definition of estrays.**

A. For the purposes of this section, an estray is any livestock being driven or shipped from a district or from this state that is not properly identified as required by The Livestock Code [Chapter 77, Articles 2 to 18 NMSA 1978]; or not accompanied by a duly executed authority in writing by the owner of the recorded brand on the livestock authorizing the driving and handling of the livestock by the person in possession of the livestock.

B. If an inspector finds in or with the livestock he is inspecting an estray, he may seize and sequester the estray and hold and dispose of it in the manner provided by law for the disposition of unclaimed livestock by inspectors.

**History:** Laws 1895, ch. 6, § 16; C.L. 1897, § 120; Code 1915, § 130; C.S. 1929, § 4-1416; 1941 Comp., § 49-937; 1953 Comp., § 47-9-37; Laws 1993, ch. 248, § 66; 1999, ch. 282, § 61.

### **77-9-41. Transportation of horses, mules, asses, cattle, sheep or goats or carcasses thereof; inspection certificate.**

It shall be unlawful for any person, firm or corporation to move, transport or cause to be transported from the state of New Mexico to any point beyond the limits thereof or within the state except as provided under Section 77-9-42 NMSA 1978, any horses, mules, asses, cattle, sheep or goats, or the carcasses thereof, by driving or in any motor or other vehicle or conveyance, unless such animal, animals or carcasses shall first have been inspected by an inspector of the New Mexico livestock board and unless, upon satisfactory showing of the ownership of said animals or carcasses, said inspector shall have issued inspection certificates in the form to be prescribed by the New Mexico livestock board and unless such certificate shall at all times accompany the animals or carcasses so being driven or transported in such motor or other vehicle; provided that no inspection shall be required where the transportation or movement from one point to another within the state is entirely upon lands exclusively within the control of the party moving or transporting or procuring the transporting of such animals or carcasses or is done under the provisions of Section 77-9-42 NMSA 1978 or when such transportation is authorized by the board to a location within the state.

**History:** Laws 1929, ch. 87, § 1; C.S. 1929, § 4-2101; 1941 Comp., § 49-939; Laws 1953, ch. 88, § 1; 1953 Comp., § 47-9-38; Laws 1969, ch. 174, § 3.

## **77-9-42. Transportation permits for horses, mules and asses; brand and health certificate good for length of time of ownership.**

A. A person who owns horses, mules or asses and desires to transport them within the state for a purpose other than their sale or trade may, upon request to an inspector, be issued an owner's transportation permit in lieu of the required brand certificate for each horse, mule or ass to be transported.

B. The owner's transportation permit issued in lieu of a brand certificate is valid as long as the horse, mule or ass described in the certificate remains under the ownership of the person to whom the permit was issued.

C. The owner's transportation permit or the brand certificate shall accompany the animal for which it was issued at all times while the animal is in transit, and each shall identify the horse, mule or ass by brand, color, markings, sex, age and, where applicable, by registration number, tattoo or other mark as provided by rules of the board.

D. There shall be a fee in an amount set by the board for each owner's transportation permit.

**History:** 1953 Comp., § 47-9-38.1, enacted by Laws 1969, ch. 174, § 4; 1973, ch. 234, § 2; 1981, ch. 357, § 10; 1993, ch. 248, § 67; 1999, ch. 282, § 62.

## **77-9-43. Notice of transport; inspection date and place.**

Before a person transports any livestock or carcasses from a district or out of state, the person shall notify the nearest inspector that it is desired that the livestock or carcasses be inspected, fixing the date, place and time of the inspection. The person requesting the inspection shall give a reasonable time prior to the proposed shipment date.

**History:** Laws 1929, ch. 87, § 2; C.S. 1929, § 4-2102; 1941 Comp., § 49-940; 1953 Comp., § 47-9-39; Laws 1999, ch. 282, § 63.

## **77-9-44. Hides and pelts; exhibiting, tagging and marking.**

The hides or pelts from all carcasses shall be exhibited to the inspector at the time of the inspection required under Sections 77-9-41 and 77-9-43 NMSA 1978, and the inspector, in addition to furnishing the certificate provided for in Section 77-9-41 NMSA 1978, shall tag or mark the carcasses and hides or pelts in a manner to be designated by the board as evidence that the hides or pelts have been inspected.

**History:** Laws 1929, ch. 87, § 3; C.S. 1929, § 4-2103; 1941 Comp., § 49-941; 1953 Comp., § 47-9-40; Laws 1993, ch. 248, § 68.



### **77-9-45. Ownership; possession; transportation; seizure; disposition of livestock; refusal of certificate.**

If any duly authorized inspector should find any livestock or carcasses in the possession of any person, firm or corporation for use, sale or transporting by any means, and said person, firm or corporation in charge of said livestock or carcasses is not in possession of a bill of sale, duly acknowledged, or cannot furnish other satisfactory proof of lawful ownership or said inspector has good reason to believe that said livestock or carcasses, are stolen, said inspector shall refuse to issue a certificate authorizing the transportation of said livestock or carcasses, and shall seize and take possession of same.

**History:** Laws 1929, ch. 87, § 4; C.S. 1929, § 4-2104; 1941 Comp., § 49-942; 1953 Comp., § 47-9-41; Laws 1965, ch. 8, § 1.

### **77-9-46. [Officers may stop vehicles; failure to have certificate; arrest and seizure.]**

Any duly authorized inspector or peace officer of any county in said state shall be authorized to stop any motor or other vehicle transporting livestock or the carcasses thereof in their respective counties, and demand from the person or persons operating said motor or other vehicle to show the certificate provided for and issued under the terms of Section 1 [77-9-41 NMSA 1978] of this act; and should any person or persons transporting said livestock or the carcasses thereof be unable to exhibit to such inspector or peace officer said certificate, said inspector or officer is authorized and empowered to arrest, without warrant, any person or persons operating said motor or other vehicle and take possession of same and the livestock or carcasses therein, and shall retain such possession until the person or persons operating such motor or other vehicle can produce satisfactory evidence that he or they, or the person or persons, firm or corporation for whom the same is being transported, is the lawful owner thereof, or until such livestock or carcasses are disposed of as hereinafter provided.

**History:** Laws 1929, ch. 87, § 5; C.S. 1929, § 4-2105; 1941 Comp., § 49-943; 1953 Comp., § 47-9-42.

### **77-9-47, 77-9-48. Repealed.**

### **77-9-49. Penalty.**

Any person, firm or corporation violating any provision of Sections 77-9-41 through 77-9-50 NMSA 1978 is guilty of a misdemeanor and shall be punished as prescribed by law.

**History:** Laws 1929, ch. 87, § 8; C.S. 1929, § 4-2108; 1941 Comp., § 49-946; 1953 Comp., § 47-9-45; Laws 1963, ch. 252, § 3; 1993, ch. 248, § 70.

## **77-9-50. Repealed.**

## **77-9-51. [Suspected transportation of stolen livestock; search of vehicles; requiring proof of ownership; arrest; seizure.]**

Any duly authorized inspector or peace officer of any county in this state is hereby authorized to stop and search, without warrant, any motor or other vehicle which they may have reason to believe is transporting stolen livestock or the carcasses thereof, in their respective counties, and if any be found, demand from the person or persons operating said motor or other vehicle, that they produce proof of ownership, and should any person or persons transporting said livestock or the carcasses thereof be unable to produce proof of ownership to such inspector or peace officer, said inspector or officer is hereby authorized and empowered to arrest, without warrant, any person or persons operating said motor or other vehicle and take possession of the same and the livestock or carcasses therein, and shall retain such possession until the person or persons operating such motor or other vehicle can produce satisfactory evidence that he or they, or the person or persons, firm or corporation for whom the same is being transported, is the lawful owner of such livestock or the carcasses, or until such livestock or carcasses are disposed of as hereinafter provided.

**History:** Laws 1933, ch. 43, § 1; 1941 Comp., § 49-948; 1953 Comp., § 47-9-47.

## **77-9-52, 77-9-53. Repealed.**

## **77-9-54. Transportation of hides.**

A. It is unlawful for any person to transport or cause to be transported from a district or out of this state any hides that have not been inspected by an inspector and tagged or marked as prescribed by rule of the board. The board may provide by rule for collection of an inspection fee not to exceed the amount prescribed by law, and the fee is a lien upon the hides inspected until paid.

B. Each inspector shall keep a complete record of all inspections made by him and immediately forward to the director on blanks furnished him for that purpose, a complete report of each inspection, giving the names of the purchaser and shipper of the hides and all the brands on the hides. The report shall be preserved by the director as records of his office.

**History:** Laws 1901, ch. 45, § 3; Code 1915, § 155; Laws 1929, ch. 104, § 1; C.S. 1929, § 4-1441; Laws 1933, ch. 53, § 17; 1941 Comp., § 49-951; 1953 Comp., § 47-9-50; Laws 1963, ch. 252, § 4; 1973, ch. 234, § 3; 1977, ch. 142, § 1; 1981, ch. 357, § 11; 1999, ch. 282, § 64.

## **77-9-55. [Inspection of hides; butchers; offenses; penalty.]**

Any person, firm or corporation, common carrier, railroad company or agent thereof, violating any of the provisions of Sections 77-9-54 and 25-4-1 NMSA 1978, or refusing to permit the inspection of any hides as therein provided, shall upon conviction thereof, be deemed guilty of a misdemeanor and shall be fined in any sum not exceeding one thousand dollars [(\$1,000)] for each and every such violation.

**History:** Laws 1901, ch. 45, § 4; Code 1915, § 156; C.S. 1929, § 4-1442; 1941 Comp., § 49-952; 1953 Comp., § 47-9-51.

### **77-9-56. Hide purchases; bill of sale; contents; penalty.**

A person in this state who purchases a hide from livestock is required to secure from the person from whom the hide is purchased, at the time of purchase, a bill of sale showing the brands and the marks, if any, on the hide. A person who violates the provisions of this section is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978 for each offense.

**History:** Laws 1921, ch. 26, § 1; C.S. 1929, § 4-1443; 1941 Comp., § 49-953; 1953 Comp., § 47-9-52; Laws 1999, ch. 282, § 65.

### **77-9-57. Magistrate jurisdiction.**

Magistrates are given jurisdiction over all persons, firms or corporations charged with a violation of The Livestock Code [Chapter 77, Articles 2 to 18 NMSA 1978].

**History:** Laws 1921, ch. 26, § 2; C.S. 1929, § 4-1444; 1941 Comp., § 49-954; 1953 Comp., § 47-9-53; Laws 1993, ch. 248, § 71.

### **77-9-58 to 77-9-63. Recompiled and Repealed.**

## **ARTICLE 9A**

### **Cattle and Sheep Rest Stations**

#### **77-9A-1. Interstate cattle or sheep transportation; cattle or sheep rest stations.**

It is unlawful for any person to unload cattle or sheep in interstate transit by truck for feed, rest and water except at cattle or sheep rest stations licensed by the board except in emergency situations. In emergency situations, cattle or sheep in transit shall be inspected by an inspector before being reloaded.

**History:** 1953 Comp., § 47-9-54, enacted by Laws 1961, ch. 3, § 1; 1993, ch. 248, § 72; 1978 Comp., § 77-9-58 recompiled and amended as 1978 Comp., § 77-9A-1 by Laws 1999, ch. 282, § 66.

### **77-9A-2. Cattle or sheep rest stations; licensing.**

The board shall license all cattle and sheep rest stations, which shall meet minimum rules of the board, and shall collect a license fee set by the board for each station licensed. No applicant shall be licensed until he has posted a bond in a form and amount approved by the board covering the faithful compliance by the licensee with all laws and rules of the board pertaining to cattle or sheep rest stations.

**History:** 1953 Comp., § 47-9-55, enacted by Laws 1961, ch. 3, § 2; 1993, ch. 248, § 73; 1978 Comp., § 77-9-59, recompiled and amended as 1978 Comp., § 77-9A-2 by Laws 1999, ch. 282, § 67.

### **77-9A-3. Rest stations; rules.**

The board may prescribe rules covering the operation of rest stations for cattle or sheep in transit by truck.

**History:** 1953 Comp., § 47-9-56, enacted by Laws 1961, ch. 3, § 3; 1993, ch. 248, § 74; 1978 Comp., § 77-9-60, recompiled and amended as 1978 Comp., § 77-9A-3 by Laws 1999, ch. 282, § 68.

### **77-9A-4. Violations; penalty.**

A person who violates any of the provisions of Chapter 77, Article 9A NMSA 1978 or any rule of the board pertaining to rest stations is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978.

**History:** 1953 Comp., § 47-9-57, enacted by Laws 1961, ch. 3, § 4; 1978 Comp., § 77-9-61, recompiled and amended as 1978 Comp., § 77-9A-4 by Laws 1999, ch. 282, § 69.

### **77-9A-5. Unloading livestock for feed, rest and water; dumping carcasses; penalty.**

A. All livestock that has been confined to a truck for a continuous period of twenty-four hours without feed, rest and water shall be unloaded at the nearest licensed cattle or sheep rest station or other facility providing feed and water for livestock. The livestock shall receive adequate feed and water and a minimum of five hours rest before reloading.

B. A livestock inspector or other peace officer may require a person moving livestock within the state by truck to unload the livestock for feed, rest and water when the logbook of the operator indicates the livestock has been confined for twenty-four hours. If a livestock inspector determines a truck moving livestock to be unsafe or overloaded or if the conditions for the livestock are determined to be unsafe, the livestock inspector shall have the authority to remedy the situation.

C. All expenses incurred in compliance with this section are the responsibility of the livestock owner or his agent.

D. A person shall not dispose of carcasses along the public streets, roads or highways of this state. A person who violates the provisions of this subsection is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978.

**History:** 1953 Comp., § 47-9-59, enacted by Laws 1969, ch. 124, § 2; 1991, ch. 16, § 1; 1978 Comp., § 77-9-63, recompiled and amended as 1978 Comp., § 77-9A-5 by Laws 1999, ch. 282, § 70.

## **ARTICLE 10**

### **Livestock Auction Markets**

#### **77-10-1. Definitions.**

As used in Chapter 77, Article 10 NMSA 1978:

A. "livestock auction market" means a place, establishment or facility conducted or operated for compensation or profit as a public livestock market consisting of pens or other enclosures, barns, stables, sheds and their appurtenances, including saddle and work stock, and vehicles used in connection therewith or in the operation thereof where livestock not owned by the operator for at least three months next preceding the receipt thereof is received, held or kept for any purpose other than:

- (1) immediate shipment or immediate slaughter;
- (2) grazing, feeding or breeding; or
- (3) for the sale and exchange of breeding stock by a bona fide livestock association; and

B. "operator" means a person in control of the management or operation of a livestock auction market.

**History:** Laws 1937, ch. 59, § 1; 1941 Comp., § 49-1001; 1953 Comp., § 47-10-1; Laws 1969, ch. 175, § 1; 1993, ch. 248, § 75; 1999, ch. 282, § 71.

## **77-10-2. Necessity of license; application; fee; bond; cancellation of license; copies.**

A. It is unlawful for a person to operate a livestock auction market in this state unless he is the holder of an unexpired, uncanceled license issued by the board.

B. An application to operate a livestock auction market shall set forth:

- (1) the name and address of the applicant;
  - (2) the location of the livestock auction market for which application is made;
- and
- (3) a description of the facilities afforded by the livestock auction market.

C. The application shall be accompanied by the payment of a license fee set by the board not to exceed the amount prescribed by law.

D. The applicant shall file with the packers and stockyards division of the United States department of agriculture a bond in the penal sum as prescribed by the packers and stockyards division and approved by the board and conditioned that the principal shall comply with the terms of the surety and with all of the terms and conditions of Chapter 77, Article 10 NMSA 1978, with some surety company authorized to do business in this state.

E. If the applicant satisfies the conditions of application, the board shall issue a license good for one year to operate the livestock auction market at the location specified in the application.

F. A license issued in accordance with this section may be canceled by the board for violation of Chapter 77, Article 10 NMSA 1978 by the licensee, and the board may refuse to issue a license to a person whose previous license has been canceled or to any firm, association or corporation of which he is a member or by which he is employed.

G. It is unlawful for an operator to employ a person whose license was canceled by the board or to operate a livestock auction market in which that person has direct or indirect interest.

H. The bond required by this section shall be for the benefit of a person damaged by a breach of the condition of the bond, and the person damaged shall be entitled to bring an action on the bond in his own name. The board shall furnish a certified copy of the bond to a person who applies for a copy on payment of the fee set by the board for copy services.

**History:** Laws 1937, ch. 59, § 2; 1941 Comp., § 49-1002; 1953 Comp., § 47-10-2; Laws 1969, ch. 175, § 2; 1999, ch. 282, § 72.

### **77-10-3. Duties of licensees.**

The operator shall:

A. keep posted and on display in a conspicuous place at the livestock auction market an unexpired, uncanceled license issued by the board as provided in Section 77-10-2 NMSA 1978;

B. keep the livestock auction market clean and sanitary and, whenever required by the board or a veterinarian authorized by the board, shall disinfect the livestock auction market or any part thereof and shall procure to be administered preventive or curative treatment of livestock in the possession of the operator, all under the supervision and direction of the board or its authorized veterinarian and without expense to the board;

C. allow the board and its members and officials and its inspectors and authorized veterinarians to have convenient access to the livestock auction market and its books and records or any livestock that may be in his possession at all reasonable times for the purpose of inspection;

D. post in a conspicuous place at the livestock auction market a schedule of all charges for services, accommodations and facilities that he holds himself out as ready, able and willing to furnish at the livestock auction market to owners of livestock and shall file a true copy of the schedule with the board. The schedule shall be the sole basis for all charges until a different schedule has been posted and filed;

E. immediately after the sale of any livestock at the livestock auction market, account and pay to the owner of the livestock the entire proceeds of the sale less his applicable scheduled charges;

F. make promptly after each sale and keep for a period of three years a complete record of the sale that contains a description of the livestock sold, the name of the owner and of the purchaser, the date of sale, the sale price and the amount and items of the operator's charges and open all such records to examination by the board or its inspector at any time on request;

G. be responsible for the wrongful acts or omissions of his agents and employees; and

H. comply with and conform to all lawful rules of the board and shall cooperate with the board in preventing the spread of diseases through the operation of the livestock auction market and in the suppression of livestock theft.

**History:** Laws 1937, ch. 59, § 3; 1941 Comp., § 49-1003; 1953 Comp., § 47-10-3; Laws 1999, ch. 282, § 73.

#### **77-10-4. Notice to board of receipt of livestock; contents; fees.**

Immediately on receipt of any livestock at the livestock auction market, the operator shall give written notice to the board in such form as the board may prescribe, stating the kind and number and description of the livestock received. At the same time, the operator shall collect and remit to the board or agent for the board the inspection fees prescribed by law for each head of livestock received. All money paid to the board shall be deposited to the proper board fund.

**History:** Laws 1937, ch. 59, § 4; 1941 Comp., § 49-1004; Laws 1951, ch. 167, § 1; 1953 Comp., § 47-10-4; Laws 1969, ch. 175, § 3; 1973, ch. 234, § 4; 1981, ch. 357, § 12; 1993, ch. 248, § 76; 1999, ch. 282, § 74.

#### **77-10-5. Livestock inspected by board inspector.**

All livestock received at a livestock auction market shall be inspected by an inspector as soon as practicable. The inspector shall satisfy himself as to the ownership of the livestock and the purpose for which it has been received. Before the removal of the livestock, it shall be again inspected as to ownership by an inspector, and the inspector shall conduct an inspection of the records documenting the receipt, sale or purchase of the livestock and may conduct a visual inspection of the livestock prior to issuing a certificate of inspection. The inspector shall issue his certificate of inspection and deliver one copy to the purchaser or his agent, one copy to the inspector at designation and forward the original to the board for filing.

**History:** Laws 1937, ch. 59, § 5; 1941 ch. 38, § 1; 1941 Comp., § 49-1005; 1953 Comp., § 47-10-5; Laws 1999, ch. 282, § 75.

#### **77-10-6. Repealed.**

#### **77-10-7. [Scales; inspection and certification.]**

All scales maintained by the operator shall be regularly inspected and certified as is required of scales used by merchants.

**History:** Laws 1937, ch. 59, § 7; 1941 Comp., § 49-1007; 1953 Comp., § 47-10-7.

#### **77-10-8. [Rules and regulations.]**

The board is hereby authorized to make and enforce rules and regulations by it deemed necessary or convenient to carry out the purpose and intent of this act [77-10-1 to 77-10-10 NMSA 1978].



**History:** Laws 1937, ch. 59, § 8; 1941 Comp., § 49-1008; 1953 Comp., § 47-10-8.

### **77-10-9. Livestock; owners bound by rules.**

Whenever an owner of livestock avails himself of the provisions of Chapter 77, Article 10 NMSA 1978, he is bound by the rules of the board as to health and ownership.

**History:** Laws 1937, ch. 59, § 81/2; 1941 Comp., § 49-1009; 1953 Comp., § 47-10-9; Laws 1993, ch. 248, § 77; 1999, ch. 282, § 76.

### **77-10-10. Violations; penalty.**

A person who violates Chapter 77, Article 10 NMSA 1978 or any rule of the board made pursuant to that article is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978, and each day's violation constitutes a separate offense.

**History:** Laws 1937, ch. 59, § 9; 1941 Comp., § 49-1010; 1953 Comp., § 47-10-10; Laws 1999, ch. 282, § 77.

## **ARTICLE 11 Herding**

### **77-11-1. [Driving herds through fenced lands; restrictions; penalty for violations.]**

Any person, persons, company or corporation, or their or either of their [sic] agents or employees, having charge of any herd of cattle, horses or other animals for the purpose of driving them from place to place through or over the fenced land of another shall, at least 24 hours before beginning such drive and passing through such land, obtain permission from the owner thereof, or his agent in charge, or if said land be leased, from the lessee thereof, or his agent in charge, of an intention to drive said herd across said inclosed lands, and during passage over said land shall carefully herd said animals to prevent mixture with other animals and the brands being driven, and shall before leaving such inclosure check the herd thoroughly and cut therefrom all animals other than the brands being driven; and any person, persons, company or corporation, or their agent, driving any herd other than in the owner's recorded brand shall have the authorization in writing of the person owning the brand of record to drive the same, and any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not more than \$500 or confined in the county jail not more than six months, or by both such fine and imprisonment.

**History:** Laws 1941, ch. 94, § 1; 1941 Comp., § 49-1201; 1953 Comp., § 47-12-1.

### **77-11-2. [Filing of partido or herding contracts required.]**

All contracts made by the owner of any animals, including horses, cattle, sheep and goats, with any other person, for the herding or caring for the same, for pay or on shares, or in any other manner except by absolute purchase, shall be filed in the office of the county clerk of the county or counties wherein said horses, cattle, sheep or goats are located or about to be removed.

**History:** Laws 1923, ch. 14, § 1; C.S. 1929, § 4-311; Laws 1939, ch. 60, § 1; 1941 Comp., § 49-1202; 1953 Comp., § 47-12-2.

### **77-11-3. [Method of filing contracts.]**

Partido and herding contracts shall be filed in the manner now or hereafter provided by law for filing chattel mortgages.

**History:** Laws 1923, ch. 14, § 2; C.S. 1929, § 4-312; Laws 1939, ch. 60, § 2; 1941 Comp., § 49-1203; 1953, Comp., § 47-12-3.

### **77-11-4. [Effect of filing contract.]**

Every such partido or herding contract filed in accordance with the provisions of this act [77-11-2 to 77-11-5, 77-11-7 NMSA 1978] shall have the full force and effect given to the recording of an instrument affecting real estate.

**History:** Laws 1923, ch. 14, § 4; C.S. 1929, § 4-314; Laws 1939, ch. 60, § 3; 1941 Comp., § 49-1204; 1953 Comp., § 47-12-4.

### **77-11-5. [Effect of failure to file contracts.]**

The failure to file any such partido or herding contract, as hereinbefore in this act [77-11-2 to 77-11-4 NMSA 1978] provided, shall render the same void as to subsequent mortgages [mortgagees] in good faith, purchasers for value without notice and subsequent judgment or attaching creditors without notice, from the date of the entry of such judgment or the levy of such attachment; as against trustees in bankruptcy, receivers from the date of filing the order of appointment and assignees for the benefit of creditors from the date of the recording of the assignment.

**History:** Laws 1923, ch. 14, § 5; C.S. 1929, § 4-315; Laws 1939, ch. 60, § 4; 1941 Comp., § 49-1205; 1953 Comp., § 47-12-5.

### **77-11-6. [Contracts previously filed; effect.]**

All such partido or herding contracts which have heretofore been filed in accordance with the law covering the filing of chattel mortgages in force and effect at the time of such filing shall by such filing be considered as effective notice thereof to all persons, and such filing thereof shall have the full force and effect given to the recording of an instrument affecting real estate; provided, however, that nothing herein shall be considered to mean that the recording or filing of such contracts in any other manner required or permitted by law is to any extent ineffective.

**History:** Laws 1939, ch. 60, § 5; 1941 Comp., § 49-1206; 1953 Comp., § 47-12-6.

### **77-11-7. Partido and herding contracts; rights of person in possession.**

When anyone has or shall receive from the owner thereof any horses, cattle, sheep or goats under written contract, for the herding or caring for the same for pay or on shares, or in any other manner, except by absolute purchase, such horses, cattle, sheep and goats, together with the increase and product thereof, at all times, and until the full completion of such contract according to the terms thereof, shall be and remain the property of the said owner or owners so letting them out to be herded or cared for; and the person or persons so receiving the same for such purpose shall have no authority or right to sell, transfer, mortgage or dispose of the same, or any part thereof, in any manner whatever, without the express consent in writing of the owner or owners thereof.

**History:** Laws 1882, ch. 67, § 2; C.L. 1884, § 78; C.L. 1897, § 96; Code 1915, § 42; Laws 1923, ch. 14, § 6; C.S. 1929, § 4-316; 1941 Comp., § 49-1207; 1953 Comp., § 47-12-7.

### **77-11-8. [Bulls required with herd; penalty for noncompliance; "pedigree bull" defined.]**

Hereafter it shall be unlawful for any person or persons, company or corporation to turn loose upon any common or public range in this state any she or female cattle unspayed and over the age of nine months without at the same time turning loose and keeping herded with the same, at the rate of at least one good bull, not less than nine months nor more than eight years old, of at least one-half pedigree stock, to every twenty head of such she or female cattle; and any person or persons, company or corporation, violating the provisions of this section shall, upon conviction thereof, be punished by a fine of not less than twenty-five [(\$25.00)] nor more than five hundred dollars [(\$500)], and be liable to the person or persons injured or damaged by such violation in an action at law for the amount of the injury or damage sustained: provided, further, that the words, "pedigree bull," shall not be construed to mean a Texas or Mexican bull.

**History:** Laws 1891, ch. 37, § 2; C.L. 1897, § 73; Code 1915, § 48; C.S. 1929, § 4-324; 1941 Comp., § 49-1208; 1953 Comp., § 47-12-8.

### **77-11-9. [Stray bulls in herd; rights of owner.]**

Whenever dangerous bulls of bad breed are found in any herd and remain there doing damage to the owner of said herd for the term of fifteen days, driving off or horning his own bulls, it shall be lawful for the owner or person in charge of said herd to geld any such dangerous, vicious, or low grade bull in order to avoid the damage which might be required from the owner of said herd: provided, that if the owner of said bull or bulls above mentioned is known, and it is within the power of the owner or herder of said herd, he shall notify the owner of said bull or bulls to take out or separate the same in order to avoid such damage.

**History:** Laws 1882, ch. 66, § 11; C.L. 1884, § 119; C.L. 1897, § 180; Code 1915, § 47; C.S. 1929, § 4-323; 1941 Comp., § 49-1209; 1953 Comp., § 47-12-9.

## **ARTICLE 12**

### **Herd Law Districts**

#### **77-12-1. ["Person" defined.]**

Whenever the word "person" is used in this act [77-12-1 to 77-12-12 NMSA 1978], it shall include persons, firms and corporations.

**History:** Laws 1923, ch. 68, § 1; C.S. 1929, § 4-401; 1941 Comp., § 49-1301; 1953 Comp., § 47-13-1.

#### **77-12-2. [Petition for herd law district, contents and filing; hearing; publication of notice; conduct; order; publication; exception.]**

Whenever persons who own or hold under lease or contract of purchase a majority of the acres of contiguous tracts of land, aggregating not less than three thousand eight hundred and forty acres, shall file with the board of county commissioners of the county in which such lands or a major portion thereof, are situated, a petition in writing signed and acknowledged in the same manner as conveyances of deeds to real estate, and accurately defining such tracts of land and setting forth the correct acreage of each tract, requesting such board to declare such tracts of land a herd law district, said board of county commissioners shall, at the next regular or special meeting of said board, enter an order fixing the time and place, not less than twenty nor more than thirty days from the date of such regular or special meeting, for a hearing on said petition. The clerk of such board shall give notice of the time and place of such hearing by publishing a notice thereof in two successive issues of a legal newspaper of general circulation published nearest to the said proposed district. The last publication shall be not less than ten days prior to the date of said hearing. At the time and place fixed for said hearing said board of county commissioners shall hear said petition, and if it finds the same is duly signed and acknowledged as herein provided, by persons who are owners, lessees or contract purchase holders, of a majority of the acres of lands within said

proposed districts and otherwise complies with the provisions of this act, it shall enter an order declaring that all of said tracts of land embraced in said proposed district, from and after thirty days from the date of said order, shall be a herd law district within the meaning of this act [77-12-1 to 77-12-12 NMSA 1978], and shall cause a notice thereof, accurately defining the boundaries of said district, and stating that said district from and after the expiration of thirty days from the date of said order shall be a herd law district within the meaning of this act, to be published in two consecutive issues of the same newspaper as the notice of said hearing. The last of such publications shall be not less than ten days prior to the date said order shall take effect. Provided, however, that no such herd law district shall be created unless at least one-fourth of the land embraced therein is being used for agricultural purposes.

**History:** Laws 1923, ch. 68, § 2; C.S. 1929, § 4-402; Laws 1933, ch. 92, § 1; 1941 Comp., § 49-1302; 1953 Comp., § 47-13-2.

### **77-12-3. [Parts of lands not to be included without consent.]**

Such district shall not include any part of the contiguous land held by any person as owner, lessee or contract purchaser, unless it shall include the whole of all such lands of such person, except where such person shall expressly consent thereto by signing and acknowledging said petition.

**History:** Laws 1923, ch. 68, § 3; C.S. 1929, § 4-403; 1941 Comp., § 49-1303; 1953 Comp., § 47-13-3.

### **77-12-4. [Publications; language.]**

The publications required by this act [77-12-1 to 77-12-12 NMSA 1978] shall be made in English or Spanish or both in the discretion of the board of county commissioners. The board of county commissioners at the time of entering the orders herein provided for shall enter an order directing the language or languages in which such publication shall be made.

**History:** Laws 1923, ch. 68, § 4; C.S. 1929, § 4-404; 1941 Comp., § 49-1304; 1953 Comp., § 47-13-4.

### **77-12-5. [Trespassing in district; damages; lien on brand.]**

From and after the date said order takes effect, when any trespassing shall have been done by any cattle, horses, sheep, goats, hogs or other livestock, upon the land or property within said district, whether such land or property is enclosed with a legal fence or not, the person who is the owner, lessee or contract purchase holder of such land or property, may recover any damages he may sustain by reason thereof in any court of competent jurisdiction, and the person so damaged is hereby given a lien on all livestock of the same kind or brand belonging to the owner of such trespassing animals or livestock for the recovery of all damages and costs.

**History:** Laws 1923, ch. 68, § 5; C.S. 1929, § 4-405; 1941 Comp., § 49-1305; 1953 Comp., § 47-13-5.

### **77-12-6. Distrain of livestock for damages.**

A person damaged by trespassing livestock may hold and distrain the trespassing livestock until the damages that he has suffered and the costs, including a reasonable amount set by the board per head per day for feeding and caring for the livestock during the time the livestock is so distrained, are paid or legally tendered. The person distraining the livestock shall give notice to the owner, if known or ascertainable, within forty-eight hours after distraint.

**History:** Laws 1923, ch. 68, § 6; C.S. 1929, § 4-406; 1941 Comp., § 49-1306; 1953 Comp., § 47-13-6; Laws 1999, ch. 282, § 78.

### **77-12-7. [Petition for dissolution of district; procedure.]**

Upon like petition requesting the dissolution of such district, and after the same notice and hearing as herein provided for the formation of such district, the board of county commissioners of the county in which such tracts of land or a major portion thereof are situated, shall enter an order dissolving such district.

**History:** Laws 1923, ch. 68, § 7; C.S. 1929, § 4-407; 1941 Comp., § 49-1307; 1953 Comp., § 47-13-7.

### **77-12-8. [Judicial notice of district proceedings.]**

The court shall take judicial notice of the filing of such petition, the granting of such order, the publication thereof and of the location, extent and description of the district set forth in such order and publication.

**History:** Laws 1923, ch. 68, § 8; C.S. 1929, § 4-408; 1941 Comp., § 49-1308; 1953 Comp., § 47-13-8.

### **77-12-9. [Fencing of exterior boundaries.]**

The owners, contract purchasers or lessees of lands, lying next to the exterior boundaries of any such herd law district, may construct a legal fence along the whole or any part of such exterior boundaries including the intersection with the roads which enter such districts, provided they construct automobile runways and cattle guards and gates in such fences where same cross such roads, according to plans and specifications approved by the state highway engineer and such runways, cattle guards and gates when so constructed, provided said gates are closed, shall not be construed to render such fence not a legal fence.

**History:** Laws 1923, ch. 68, § 9; C.S. 1929, § 4-409; 1941 Comp., § 49-1309; 1953 Comp., § 47-13-9.

### **77-12-10. Failure to close gate; penalty.**

A person who opens and fails to close a gate provided for in Section 77-12-9 NMSA 1978 is guilty of a misdemeanor and on conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978.

**History:** Laws 1923, ch. 68, § 10; C.S. 1929, § 4-410; 1941 Comp., § 49-1310; 1953 Comp., § 47-13-10; Laws 1999, ch. 282, § 79.

### **77-12-11. Livestock at large on herd law district road; penalty.**

An owner or holder of livestock described in Section 77-12-6 NMSA 1978 who permits livestock to run at large on a public road within a herd law district is guilty of a misdemeanor and on conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978.

**History:** Laws 1923, ch. 68, § 11; C.S. 1929, § 4-411; 1941 Comp., § 49-1311; 1953 Comp., § 47-13-11; Laws 1999, ch. 282, § 80.

### **77-12-12. [Application of act.]**

This act [77-12-1 to 77-12-12 NMSA 1978] shall not apply to territory within an incorporated city, town or village, nor shall it be construed to repeal, amend or in anywise affect the provisions of Chapter 88 of the Session Laws of 1919 [repealed], as amended by Chapter 70 of the Session Laws of 1921, but such owners, lessees and contract purchase holders within any organized irrigation district may take advantage of the provisions of this act.

**History:** Laws 1923, ch. 68, § 12; C.S. 1929, § 4-412; 1941 Comp., § 49-1312; 1953 Comp., § 47-13-12.

## **ARTICLE 13**

### **Estrays**

#### **77-13-1. Possession of estray unlawful.**

It shall be unlawful for any person, corporation or company or its employees or agents to take up any estray and retain possession of the estray except as provided in Chapter 77, Article 13 NMSA 1978.

**History:** Laws 1907, ch. 80, § 1; Code 1915, § 157; C.S. 1929, § 4-1501; 1941 Comp., § 49-1501; 1953 Comp., § 47-14-1; Laws 1975, ch. 45, § 1; 1993, ch. 248, § 78.

### **77-13-2. Impoundment of estray animals.**

A. A person shall not impound an estray except when the estray is found on property the person owns or controls. When a person impounds an estray, he shall, within five days of the impoundment, notify the director or an inspector of the impoundment.

B. A person having knowledge of an estray upon any public or private range, fenced or unfenced, may notify the director or an inspector, giving description of the estray, and upon instructions from the board or inspector the estray shall be turned over to an inspector for disposition as the board may direct according to law.

C. It is lawful for a person having knowledge of an estray grazing on public land, public highways or other lands used for grazing purposes in conjunction with public land and who has the prior approval of or is acting in cooperation with an agent of the board to impound and detain the estray for the purpose of ascertaining ownership by brand or other means of identification. The owner of the estray found to be in trespass shall be allowed forty-eight hours from receipt of notice of impoundment within which to claim the animal and make settlement for trespass damage. If the owner fails to claim the animal and effect a settlement for trespass damages within the time allowed, the estray detained shall be turned over to an inspector or other agent of the board for disposition in the same manner as provided for other estrays under Chapter 77, Article 13 NMSA 1978.

**History:** Laws 1907, ch. 80, § 2; Code 1915, § 158; C.S. 1929, § 4-1502; 1941 Comp., § 49-1502; Laws 1951, ch. 122, § 1; 1953 Comp., § 47-14-2; Laws 1977, ch. 165, § 1; 1999, ch. 282, § 81.

### **77-13-3. Examination of brand records; notice to owner; charge for care; limitation.**

Upon receiving notice of the impoundment of an estray the director shall make or cause to be made an examination of the brand records. If from this record the name of the owner or probable owner can be determined, the director shall notify the owner of the impoundment of the estray and, upon the owner proving to the satisfaction of the board that the estray is lawfully his, the board shall issue to him an order to receive the estray upon payment of any reasonable charges that may have been incurred in the care of the estray impounded.

**History:** Laws 1907, ch. 80, § 3; Code 1915, § 159, C.S. 1929, § 4-1503; 1941 Comp., § 49-1503; Laws 1953, ch. 18, § 1; 1953 Comp., § 47-14-3; Laws 1977, ch. 165, § 2; 1999, ch. 282, § 82.



#### **77-13-4. Owner unknown; publication and posting of notice.**

A. If the director is unable to determine from the records and description who is the owner or probable owner of an estray, the director shall publish at least once in some publication in general circulation in the county in which the estray animal was picked up, the publication to be designated by the board, a notice of the estray.

B. For an estray that is not an equine, the notice shall give a description of the animal, shall state when and where the animal was impounded and shall give notice that unless the animal is claimed by the legal owner within five days after the publication of the notice, the animal shall be sold by the board for the benefit of the owner when found.

C. For an estray that is an equine, the notice shall give a description of the equine and shall:

(1) state when and where the equine was impounded and shall give notice that, unless the equine is claimed by the legal owner within five days after publication of the notice, a registered equine rescue or retirement facility shall be given the right of first refusal to purchase the equine for an ownership transfer fee equal to all actual costs incurred by the impounding agency in caring for the equine while the equine was impounded; and

(2) give notice that if a registered equine rescue or retirement facility is unable or unwilling to purchase the equine, the board shall auction the equine through a sealed-bid process administered by the board and established in rule and that if the equine is not purchased through the sealed-bid process, the board may pursue an alternative placement for care with a last resort option to humanely euthanize the equine by a licensed veterinarian.

**History:** Laws 1907, ch. 80, § 4; Code 1915, § 160; Laws 1921, ch. 114, § 1; C.S. 1929, § 4-1504; Laws 1941, ch. 109, § 1; 1941 Comp., § 49-1504; Laws 1953, ch. 19, § 1; 1953 Comp., § 47-14-4; Laws 1977, ch. 165, § 3; 2023, ch. 45, § 7.

#### **77-13-5. Disposition of unclaimed estrays; bill of sale; effect; sale without advertisement; conditions.**

A. If an estray that is not an equine is not claimed within five days after publication of notice, it may be sold by the board through an inspector in such manner as the board may direct. The inspector making the sale shall give a bill of sale to the purchaser from the board, signed by the inspector. The bill of sale shall be legal evidence of the ownership of the livestock by the purchaser and shall be a legal title to the livestock. Where the director determines that it is impractical to publish notice, the estray may be sold immediately without notice. In such case, the board shall publish notice of the proceeds from the sale of the estray in the same manner and for the same length of

time as provided for the notice of the sale and shall hold and distribute the proceeds from the sale in the same manner as if the sale were made after notice.

B. If the estray is an equine and the equine is not claimed within five days after publication of notice:

(1) the board shall give a registered equine rescue or retirement facility the right of first refusal to purchase the equine for an ownership transfer fee;

(2) the ownership transfer fee shall be equal to all actual costs incurred by the impounding agency in caring for the equine while the equine was impounded;

(3) the board shall provide a bill of sale to the registered equine rescue or retirement facility that purchases the equine;

(4) the bill of sale shall be legal evidence of the ownership of the equine by the registered equine rescue or retirement facility and shall be legal title to the equine;

(5) if a registered equine rescue or retirement facility is unable or unwilling to purchase the equine, the board shall auction the equine through a sealed-bid process administered by the board and established in rule; and

(6) if the equine is not purchased through the sealed-bid process, the board may pursue an alternative placement for care with a last resort option to humanely euthanize the equine by a licensed veterinarian.

**History:** Laws 1907, ch. 80, § 5; Code 1915, § 161; Laws 1921, ch. 114, § 2; C.S. 1929, § 4-1505; Laws 1939, ch. 16, § 1; 1941 Comp., § 49-1505; 1953 Comp., § 47-14-5; Laws 1977, ch. 165, § 4; 1999, ch. 282, § 83; 2023, ch. 45, § 8.

### **77-13-6. Disposition of proceeds; record of sale; payments to owner.**

The inspector making the sale of an estray shall return the proceeds of the sale to the board. The board shall pay the expenses incurred in the impounding, publishing of notice and selling of the animal and place the balance in the fund of the board, making a record of the same showing the marks and brands and other means of identification of the livestock and giving the amount realized from the sale. The record shall be open to the inspection of the public. Should the lawful owner of an estray that has been sold be found within two years after the sale of the livestock, the net amount received from the sale of the estray less the sum prescribed by law for office handling fees shall be paid to the owner upon his proving ownership to the satisfaction of the board.

**History:** Laws 1907, ch. 80, § 6; Code 1915, § 162; C.S. 1929, § 4-1506; 1941 Comp., § 49-1506; 1953 Comp., § 47-14-6; Laws 1977, ch. 165, § 5; 1981, ch. 357, § 13; 1999, ch. 282, § 84.

### **77-13-7. Rights of impounder; charges; determination by board.**

Upon the impoundment of any stray animal or animals as provided in Section 77-13-2 NMSA 1978, the impounder shall be entitled to hold same lawfully until relieved of their custody by the New Mexico livestock board. Should a claimant for the animal or animals apply to the impounder for possession of the same, the impounder shall at once notify the New Mexico livestock board in writing of such application. Should the board be satisfied that the applicant is the lawful owner, it shall forthwith issue an order by the director authorizing the impounder to deliver said stray or strays to the owner, who may be required to pay any reasonable charges incurred by the impounder; provided, that in case of a controversy as to what shall constitute a reasonable charge, the New Mexico livestock board shall fix the amount, the time of service for which the impounder may claim remuneration, commencing on the date of notification made by the impounder to the New Mexico livestock board.

**History:** Laws 1907, ch. 80, § 7; Code 1915, § 163; C.S. 1929, § 4-1507; 1941 Comp., § 49-1507; 1953 Comp., § 47-14-7; Laws 1977, ch. 165, § 6.

### **77-13-8. Impounding stray; failure to notify board; penalty.**

It is unlawful for a person other than an inspector to impound or retain possession of an stray except as provided in Sections 77-13-2 and 77-13-7 NMSA 1978. A person who impounds an stray contrary to the provisions of Chapter 77, Article 13 NMSA 1978 is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978 for each offense.

**History:** Laws 1907, ch. 80, § 8; Code 1915, § 164; C.S. 1929, § 4-1508; 1941 Comp., § 49-1508; 1953 Comp., § 47-14-8; Laws 1977, ch. 165, § 7; 1999, ch. 282, § 85.

### **77-13-9. Escape or removal of stray; possessory right of person impounding.**

If any animal, after having been impounded by any person under the provisions of this article, shall escape or be taken from the possession or custody of such person before the same shall have been disposed of under the provisions of the [this] article, then such person or the New Mexico livestock board or its authorized inspector shall have the right to recover the animal wherever the same may be found, to be held until disposed of as provided for in this article.

**History:** Laws 1907, ch. 80, § 9; Code 1915, § 165; C.S. 1929, § 4-1509; 1941 Comp., § 49-1509; 1953 Comp., § 47-14-9; Laws 1977, ch. 165, § 8.

### **77-13-10. Rights of municipalities not affected.**

Nothing in this article shall amend, alter, change or interfere with the rights of any incorporated municipality in this state to prevent the running at large of any stock within the corporate limits of said municipality, and the impounding of the same as is now provided by law.

**History:** Laws 1907, ch. 80, § 11; Code 1915, § 167; C.S. 1929, § 4-1511; 1941 Comp., § 49-1510; 1953 Comp., § 47-14-10; Laws 1977, ch. 165, § 9.

## **ARTICLE 14**

### **Trespass and Running at Large**

#### **77-14-1. Repealed.**

#### **77-14-2. Definition.**

As used in Chapter 77, Article 14 NMSA 1978, "proper military authority" means the commanding officer or other person in charge of a military reservation or enclave.

**History:** 1953 Comp., § 47-15-1.1, enacted by Laws 1977, ch. 189, § 1; 1989, ch. 230, § 1; 1999, ch. 282, § 86.

#### **77-14-3. Trespass on lands.**

A. It is unlawful for a person or his agents or employees having charge of livestock to permit or allow the livestock to go upon the lands of others in this state for the purpose of grazing or watering upon any waters upon the lands without the permission of the owner or legal claimant or his agent. The provisions of this section shall not be construed to affect the obligation of a property owner to meet the requirements of Section 77-16-1 NMSA 1978 for fencing against such trespasses and shall apply not only to titled lands in this state but to any lands upon which a person may have a valid existing filing under the laws of the United States or any lands that may be leased by any person from the state.

B. A person or proper military authority who claims the benefits of the protection of this section shall carefully and conspicuously mark the line of his lands so that such mark may be easily seen by persons handling livestock and shall post a notice upon the land conspicuously, warning against trespassing or shall serve personal written notice giving description of the land by government surveys or by metes and bounds.

**History:** Laws 1901, ch. 28, § 1; 1901, ch. 75, § 1; Code 1915, § 39; C.S. 1929, § 4-309; 1941 Comp., § 49-1602; 1953 Comp., § 47-15-2; Laws 1989, ch. 230, § 2; 1999, ch. 282, § 87.

#### **77-14-4. Repealed.**

**History:** Laws 1909, ch. 146, § 1; Code 1915, § 35; C.S. 1929, § 4-305; Laws 1939, ch. 119, § 1; 1941 Comp., § 49-1603; 1953 Comp., § 47-15-3; Laws 1989, ch. 230, § 3; repealed by Laws 2017, ch. 129, § 2.

### **77-14-5. Repealed.**

**History:** Laws 1909, ch. 146, § 2; Code 1915, § 36; C.S. 1929, § 4-306; Laws 1939, ch. 119, § 2; 1941 Comp., § 49-1604; 1953 Comp., § 47-15-4; Laws 1989, ch. 230, § 4; repealed by Laws 2017, ch. 129, § 2.

### **77-14-6. Repealed.**

**History:** Laws 1909, ch. 146, § 3; Code 1915, § 37; C.S. 1929, § 4-307; Laws 1939, ch. 119, § 3; 1941 Comp., § 49-1605; 1953 Comp., § 47-15-5; Laws 1989, ch. 230, § 5; 2015, ch. 134, § 1; repealed by Laws 2017, ch. 129, § 2.

### **77-14-7. Livestock running at large; when unlawful; impounding; disposition; suit for damages.**

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

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

C. For livestock that is an equine, the sheriff, other peace officer, proper military authority or the board shall impound the equine running at large and give notice in some newspaper published in the county where the violation occurred of three days prior to the day of disposition. The notice shall include a description of the equine and state when and where the equine was impounded and that:

(1) unless the equine is redeemed by the legal owner within three days after publication of the notice, a registered equine rescue or retirement facility shall be given the right of first refusal to purchase the equine for an ownership transfer fee equal to all

actual costs incurred by the impounding agency in caring for the equine while the equine was impounded;

(2) if a registered equine rescue or retirement facility is unable or unwilling to purchase the equine, the board shall auction the equine through a sealed-bid process administered by the board and established in rule;

(3) if the equine is not purchased through the sealed-bid process, the board may pursue an alternative placement for care with a last resort option to humanely euthanize the equine by a licensed veterinarian; and

(4) any proceeds from the sale of an equine pursuant to this subsection shall be retained by the impounding authority to cover its expenses and costs, and the balance, if any, shall be paid to the general fund.

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

E. A person claiming damages for violation of the provisions of Subsection A of this section may file suit to recover damages as in other civil cases; provided that such damages, in the case of a violation involving a military reservation or enclave, shall include direct, indirect, incidental and consequential damages.

**History:** Laws 1909, ch. 146, § 4; Code 1915, § 38; C.S. 1929, § 4-308; Laws 1939, ch. 119, § 4; 1941 Comp., § 49-1606; 1953 Comp., § 47-15-6; Laws 1989, ch. 230, § 6; 1999, ch. 282, § 88; 2017, ch. 129, § 1; 2023, ch. 45, § 9.

### **77-14-8. Repealed.**

**History:** Laws 1919, ch. 88, § 1; 1921, ch. 70, § 1; C.S. 1929, § 4-701; 1941 Comp., § 49-1607; 1953 Comp., § 47-15-7; Laws 1999, ch. 282, § 89; repealed by Laws 2017, ch. 129, § 2.

### **77-14-9. Repealed.**

**History:** Laws 1919, ch. 88, § 2; C.S. 1929, § 4-702; 1941 Comp., § 49-1608; 1953 Comp., § 47-15-8; repealed by Laws 2017, ch. 129, § 2.

### **77-14-10. Repealed.**

**History:** Laws 1919, ch. 88, § 3; C.S. 1929, § 4-703; 1941 Comp., § 49-1609; 1953 Comp., § 47-15-9; repealed by Laws 2017, ch. 129, § 2.

### **77-14-11. Repealed.**

**History:** Laws 1919, ch. 88, § 4; C.S. 1929, § 4-704; 1941 Comp., § 49-1610; 1953 Comp., § 47-15-10; Laws 1999, ch. 282, § 90; repealed by Laws 2017, ch. 129, § 2.

### **77-14-12. Repealed.**

**History:** Laws 1919, ch. 88, § 5; C.S. 1929, § 4-705; 1941 Comp., § 49-1611; 1953 Comp., § 47-15-11; repealed by Laws 2017, ch. 129, § 2.

### **77-14-13. Repealed.**

**History:** Laws 1919, ch. 88, § 7; C.S. 1929, § 4-707; 1941 Comp., § 49-1613; 1953 Comp., § 47-15-13; repealed by Laws 2017, ch. 129, § 2.

### **77-14-14. Repealed.**

**History:** Laws 1919, ch. 88, § 8; C.S. 1929, § 4-708; 1941 Comp., § 49-1614; 1953 Comp., § 47-15-14; repealed by Laws 2017, ch. 129, § 2.

### **77-14-15. Repealed.**

**History:** Laws 1919, ch. 88, § 9; C.S. 1929, § 4-709; 1941 Comp., § 49-1615; 1953 Comp., § 47-15-15; repealed by Laws 2017, ch. 129, § 2.

### **77-14-16. Repealed.**

**History:** Laws 1919, ch. 88, § 10; C.S. 1929, § 4-710; 1941 Comp., § 49-1616; 1953 Comp., § 47-15-16; repealed by Laws 2017, ch. 129, § 2.

### **77-14-17. Repealed.**

**History:** Laws 1919, ch. 88, § 11; C.S. 1929, § 4-711; 1941 Comp., § 49-1617; 1953 Comp., § 47-15-17; repealed by Laws 2017, ch. 129, § 2.

### **77-14-18. Repealed.**

**History:** Laws 1919, ch. 88, § 12; C.S. 1929, § 4-712; 1941 Comp., § 49-1618; 1953 Comp., § 47-15-18; repealed by Laws 2017, ch. 129, § 2.

### **77-14-19. Repealed.**

**History:** Laws 1919, ch. 88, § 13; C.S. 1929, § 4-713; 1941 Comp., § 49-1619; 1953 Comp., § 47-15-19; repealed by Laws 2017, ch. 129, § 2.

### **77-14-20. Repealed.**

**History:** Laws 1919, ch. 88, § 14; C.S. 1929, § 4-714; 1941 Comp., § 49-1620; 1953 Comp., § 47-15-20; Laws 1999, ch. 282, § 91; repealed by Laws 2017, ch. 129, § 2.

### **77-14-21. Repealed.**

**History:** Laws 1919, ch. 88, § 15; C.S. 1929, § 4-715; 1941 Comp., § 49-1621; 1953 Comp., § 47-15-21; repealed by Laws 2017, ch. 129, § 2.

### **77-14-22. Repealed.**

**History:** Laws 1919, ch. 88, § 16; C.S. 1929, § 4-716; 1941 Comp., § 49-1622; 1953 Comp., § 47-15-22; Laws 1999, ch. 282, § 92; repealed by Laws 2017, ch. 129, § 2.

### **77-14-23. Repealed.**

**History:** Laws 1919, ch. 88, § 17; C.S. 1929, § 4-717; 1941 Comp., § 49-1623; 1953 Comp., § 47-15-23; repealed by Laws 2017, ch. 129, § 2.

### **77-14-24. Repealed.**

**History:** Laws 1919, ch. 88, § 18; C.S. 1929, § 4-718; 1941 Comp., § 49-1624; 1953 Comp., § 47-15-24; repealed by Laws 2017, ch. 129, § 2.

### **77-14-25. Repealed.**

**History:** Laws 1927, ch. 50, § 1; C.S. 1929, § 4-601; 1941 Comp., § 49-1625; 1953 Comp., § 47-15-25; repealed by Laws 1999, ch. 282, § 104.

### **77-14-26. Repealed.**

**History:** Laws 1927, ch. 50, § 2; C.S. 1929, § 4-602; 1941 Comp., § 49-1626; 1953 Comp., § 47-15-26; repealed by Laws 1999, ch. 282, § 104.

### **77-14-27. Repealed.**

Laws 1927, ch. 50, § 3; C.S. 1929, § 4-603; Laws 1939, ch. 18, § 1; 1941 Comp., § 49-1627; 1953 Comp., § 47-15-27; repealed by Laws 1999, ch. 282, § 104.

### **77-14-28. Repealed.**

Laws 1927, ch. 50, § 4; C.S. 1929, § 4-604; 1941 Comp., § 49-1628; 1953 Comp., § 47-15-28; repealed by Laws 1999, ch. 282, § 104.



### **77-14-29. Repealed.**

Laws 1927, ch. 50, § 5; C.S. 1929, § 4-605; 1941 Comp., § 49-1629; 1953 Comp., § 47-15-29; repealed by Laws 1999, ch. 282, § 104.

### **77-14-30. Repealed.**

Laws 1927, ch. 50, § 6; C.S. 1929, § 4-606; 1941 Comp., § 49-1630; 1953 Comp., § 47-15-30; repealed by Laws 1999, ch. 282, § 104.

### **77-14-31. Repealed.**

Laws 1927, ch. 50, § 7; C.S. 1929, § 4-607; 1941 Comp., § 49-1631; 1953 Comp., § 47-15-31; repealed by Laws 1999, ch. 282, § 104.

### **77-14-32. Repealed.**

Laws 1927, ch. 50, § 8; C.S. 1929, § 4-608; 1941 Comp., § 49-1632; 1953 Comp., § 47-15-32; repealed by Laws 1999, ch. 282, § 104.

### **77-14-33. Repealed.**

Laws 1927, ch. 50, § 9; C.S. 1929, § 4-609; 1941 Comp., § 49-1633; 1953 Comp., § 47-15-33; repealed by Laws 1999, ch. 282, § 104.

### **77-14-34. Repealed.**

Laws 1927, ch. 50, § 10; C.S. 1929, § 4-610; 1941 Comp., § 49-1634; 1953 Comp., § 47-15-34; repealed by Laws 1999, ch. 282, § 104.

### **77-14-35. Repealed.**

**History:** Laws 1901, ch. 54, § 1; Code 1915, § 40; C.S. 1929, § 4-310; 1941 Comp., § 49-1635; 1953 Comp., § 47-15-35; Laws 1957, ch. 34, § 1; 1999, ch. 282, § 93; repealed by Laws 2017, ch. 129, § 2.

### **77-14-36. Impoundment of trespass livestock.**

A. Any livestock found to be in trespass upon the lands of another or running at large upon any public highway that is fenced on both sides or running at large within the limits of any municipality, town or village, whether incorporated or not, or within a military reservation or enclave is subject to impoundment by an agent of the board. The place of impoundment shall be at the nearest or most convenient location from where the trespass occurred.

B. Any livestock impounded under the provisions of this section shall be released to the owner or the owner's representative upon the payment by the owner of a fee set by regulation of the board not to exceed amounts prescribed by law for impounding.

C. The board shall designate a custodian and a place of impoundment and allow a reasonable fee to be charged by the custodian of the impounded livestock; provided that in case of a controversy as to what constitutes a reasonable charge, the board shall set the amount of the charge.

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

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

**History:** 1953 Comp., § 47-15-35.1, enacted by Laws 1975, ch. 329, § 1; 1977, ch. 44, § 1; 1981, ch. 357, § 14; 1989, ch. 230, § 7; 2023, ch. 45, § 10.

### **77-14-37. Repealed.**

**History:** Laws 1921, ch. 76, § 1; C.S. 1929, § 4-341; 1941 Comp., § 49-1636; 1953 Comp., § 47-15-36; repealed by Laws 1999, ch. 282, § 104.

### **77-14-38. Repealed.**

**History:** Laws 1921, ch. 76, § 2; C.S. 1929, § 4-342; Laws 1933, ch. 29, § 1; 1941 Comp., § 49-1637; 1953 Comp., § 47-15-37; repealed by Laws 1999, ch. 282, § 104.

### **77-14-39. Repealed.**

**History:** Laws 1921, ch. 76, § 3; C.S. 1929, § 4-343; Laws 1933, ch. 29, § 2; 1941 Comp., § 49-1638; 1953 Comp., § 47-15-38; repealed by Laws 1999, ch. 282, § 104.

## **ARTICLE 15**

### **Predatory Wild Animals and Rodent Pests**

#### **77-15-1. [Cooperation with United States; appropriation.]**

That the state of New Mexico will cooperate with the bureau of biological survey of the United States, department of agriculture, in destroying predatory wild animals and

rodent pests in the interest of the protection of crops and livestock and the improvement of range conditions. The work of destroying such predatory wild animals and rodent pests [is] to be carried on under the direction of the bureau of biological survey. There is hereby appropriated for the eighth fiscal year and each year thereafter until otherwise provided by law, the sum of twenty-five thousand dollars [(\$25,000)] for paying the state's share of the cost of such operations as may be provided in the cooperative agreement hereinafter mentioned: provided, that not less than twenty-five thousand dollars [(\$25,000)] be furnished for such cooperative operations each year by the federal government.

**History:** Laws 1919, ch. 119, § 1; C.S. 1929, § 4-1301; 1941 Comp., § 49-1701; 1953 Comp., § 47-16-1.

## **77-15-2. [Agreement for cooperative work.]**

The president of the New Mexico college of agriculture and mechanic arts [New Mexico state university] is hereby authorized and directed to execute a cooperative agreement with the secretary of agriculture or the bureau of biological survey, for carrying on such cooperative work in such manner and under such regulations as may be stated in said agreement.

**History:** Laws 1919, ch. 119, § 2; C.S. 1929, § 4-1302; 1941 Comp., § 49-1702; 1953 Comp., § 47-16-2.

### **77-15-2.1. State-managed predator control program continued; creation of permanent state-managed rodent pest control program.**

The state-managed predator control program, authorized by Subsection K of Section 4 of Chapter 155 of Laws 1980, is continued on a permanent basis and a permanent state-managed rodent pest control program is established within the New Mexico department of agriculture, subject to the availability of funds.

**History:** Laws 1981, ch. 20, § 1.

### **77-15-3. Apportionment of appropriation; sale of furs and specimens; bounty.**

The funds hereby appropriated shall be apportioned for predatory animal destruction and rodent pest repression in such amounts as may be stated in such agreement or in the absence of such agreement as may be determined by the president of New Mexico state university, who shall forward a certificate of such apportionment to the department of finance and administration and a duplicate thereof to the state treasurer, who shall thereupon credit the funds available for the said appropriations to the predatory animal fund and the rodent pest repression fund respectively as stated in said certificate. Said funds shall be expended in amounts as authorized by said president and disbursed by

warrants issued by the secretary of finance and administration upon itemized vouchers or payrolls certified by the predatory animal inspector of the bureau of biological survey or by the state rodent inspector or the assistant of the biological survey in charge of rodent pest repression, respectively.

All furs, skins and specimens taken by hunters or trappers paid from the state funds shall be sold upon sealed bids, after advertisement as may be prescribed by the president of said university, and the proceeds of such sales shall be paid to the state treasurer to be credited and added to said predatory animal fund; provided, that any specimens so taken may be presented free of charge to the New Mexico museum or any state institution.

No bounty shall be collected from any county for animals taken by hunters or trappers operating under such agreements, and scalps of animals so taken shall be destroyed or cancelled or marked in such manner that they cannot be used by any other person for collecting of bounty.

**History:** Laws 1919, ch. 119, § 3; C.S. 1929, § 4-1303; 1941 Comp., § 49-1703; 1953 Comp., § 47-16-3; Laws 1977, ch. 247, § 158.

#### **77-15-4. [Payment of cost of rodent pest repression.]**

On lands which are a part of any national forest, Indian reservation or other national reserve, rodent pest repression is to be carried on at the expense of the federal government. On state lands leased or sold under contract for which the purchaser has not yet obtained the title, rodent pest repression is to be prosecuted on a cooperative basis with such lessee or purchaser on such terms as may be agreed upon. All leases hereafter issued for state lands, and all contracts hereafter made for the sale of the state lands, shall provide that the lessee or purchaser shall be obligated to destroy the rodent pests upon such lands and upon failure to do so to pay the cost of rodent pest repression upon such lands by the state rodent force or the cooperative force provided for by this act [77-15-1 to 77-15-5 NMSA 1978], which cost shall not exceed ten cents [(\$.10)] per acre for the infested areas of such lands.

Upon public lands of the United States or of the state, not included in reservations or covered by lease or contract, rodent pest repression shall be carried on and paid for out of the state and federal cooperative funds available as hereinbefore mentioned.

Upon privately owned lands rodent pest repression under this act shall be based on voluntary cooperation of owners, lessees or occupants; poison materials or prepared poison grain to be supplied to such cooperators at actual cost, payable to the state of New Mexico, and the moneys so received shall revert and be added to the said rodent pest fund.

Landowners may arrange with the state rodent inspector or assistant of the biological survey in charge of rodent pest repression in any part of the state for the

destruction of rodents on their lands, under written agreement; provided, that the state shall be reimbursed for the actual cost of such treatment to be paid into the state treasury within thirty days after the presentation of the itemized account therefor by the foreman or person in charge of such work; and if not so paid such amount shall be a lien upon the said land. Provided, the amount of such lien shall not exceed ten cents [(\$.10)] per acre for the infested areas treated.

**History:** Laws 1919, ch. 119, § 4; C.S. 1929, § 4-1304; 1941 Comp., § 49-1704; 1953 Comp., § 47-16-4.

### **77-15-5. [State rodent inspector; salary; destruction of prairie dogs; cost; interfering with inspector; penalty.]**

A state rodent inspector shall be appointed by the president of the New Mexico college of agriculture and mechanic arts [New Mexico state university], such appointment to be made from a list of names furnished by the bureau of biological survey; said state rodent inspector shall be at all times subject to and under the direction of the bureau of biological survey. He shall be paid a salary not exceeding one hundred fifty dollars [(\$150)] per month and actual and necessary traveling expenses while performing the duties of his office; such salary and expenses to be paid out of said rodent pest fund in the manner provided in Section 3 [77-15-3 NMSA 1978] of this act.

In case any owner of land infested by prairie dogs shall fail, after written notice from the state rodent inspector served upon such owner in person or mailed to his last known post-office address, to destroy the prairie dogs in such infested areas or to enter into a cooperative agreement as provided by the preceding section to have the same destroyed, or in case the owner is unknown to the county assessor, it shall be the duty of the state rodent inspector, or some member of the cooperative force designated by him, and such inspector or member of said force is hereby authorized, to enter upon said lands and to destroy the prairie dogs therein at the expense of the owner of said lands; which expense shall be a lien upon said lands; provided, that such expense chargeable to the owner or against land of unknown owners shall not exceed ten cents [(\$.10)] per acre for the infested areas; provided further, that in case any tract of land not exceeding one hundred and sixty acres actually owned and occupied as a home by a citizen of this state is infested with prairie dogs and such owner can show to the satisfaction of the state rodent inspector or assistant in charge of the work that he or she is financially unable to pay the cost of destroying the prairie dogs therein, such cost shall be borne by the state and paid out of the rodent pest repression fund.

The state rodent inspector, or the person so designated by him, shall keep an itemized account of the actual expense of materials and labor and necessary traveling or other expense in connection with destroying the rodent pests upon any such lands under such cooperative agreement, or of destroying such prairie dogs in the absence of such agreement, and if the owner shall fail to pay the same within thirty days after notice to him in person or by mail to his last known post-office address, the amount of such costs and expenses, not exceeding ten cents [(\$.10)] per acre, shall be certified to

the county assessor of the county in which such lands are situate, together with an accurate description of the land by government subdivisions or other descriptions sufficient to identify the same, and a statement of the number of acres of said land so infested and treated. It shall be the duty of the county commissioners of said county at the time and in the manner for levying other taxes, to make a special levy upon the lands so described sufficient to pay the amount of such costs and expenses, not exceeding ten cents [ (\$.10) ] per acre, of such infested land, together with a penalty of five percent and interest at the rate of one per centum per month from the date of such certificate, which tax shall be entered upon the assessment roll assessed against the owner of said lands, or assessed to unknown owners, as the case may be, and shall be collected at the time and in the manner provided for the collection of other taxes upon said tax roll, and transmitted to the state treasurer without the deduction of any percentage thereof and credited to the state rodent pest fund.

Should there be any land infested with prairie dogs in any county, the owner of which land is unknown, and such land is assessed in such county against unknown owners upon the tax roll for the then current year, it shall be the duty of the state rodent inspector to cause the prairie dogs therein to be destroyed, and the expense thereof, not exceeding ten cents [ (\$.10) ] per acre of infested areas, shall be certified to the county commissioners, levied upon said land and assessed, collected and paid into the state treasury to the credit of the rodent fund as hereinbefore provided.

Any person who shall interfere with the said rodent inspector in the discharge of his duties as herein provided shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than one hundred [ (\$100) ] nor more than five hundred dollars [ (\$500) ] for each offense; provided, that in case of any small tract of land not exceeding one hundred and sixty acres in extent, actually occupied as a home by any resident of the state of New Mexico, who is able to show to the satisfaction of the state rodent inspector or assistant of the biological survey, in charge of said work, that he or she is not financially able to pay the costs of clearing said land of the prairie dogs therein, such cost shall be borne by the state and paid out of said rodent pest repression fund.

**History:** Laws 1919, ch. 119, § 5; C.S. 1929, § 4-1305; 1941 Comp., § 49-1705; 1953 Comp., § 47-16-5.

### **77-15-6. Short title.**

This act [77-15-6 to 77-15-14 NMSA 1978] may be cited as the "County Predatory Control Act."

**History:** 1953 Comp., § 47-16-6, enacted by Laws 1965, ch. 92, § 1.

### **77-15-7. Purpose of predator control program; method of establishment.**

Predator control programs shall be established in any county by the board of county commissioners upon receipt of a valid petition for that purpose. The predator control program shall be for the protection of sheep and goats, or cattle, or both groups of animals, against predators, for one-, two-, three-, four- or five-year periods.

**History:** 1953 Comp., § 47-16-7, enacted by Laws 1965, ch. 92, § 2.

### **77-15-8. Petitions; signatures required.**

The petitions for the establishment of a predator control program shall be valid for a program for the protection of sheep and goats, if in the proper form and signed by the owners of at least fifty-one percent of the sheep and goats listed on the tax rolls in the county, and shall be valid for a program for the protection of cattle if in the proper form and signed by the owners of fifty-one percent of the cattle listed on the tax rolls in the county. If a signer of the petition owns both cattle and sheep and goats, and wishes to sign the petition for the limited purpose of cattle, or for the limited purposes of sheep and goats he may do so by indicating after his signature "sheep and goats only" or "cattle only" as the case may be, in the column headed "Limitation." If there is no qualification and the signer owns both classes of animals, the signature shall be valid for both predator control programs. If the livestock are assessed under a partnership or firm name, the signer shall list the name under which assessed. The petition shall state a maximum rate of assessment.

**History:** 1953 Comp., § 47-16-8, enacted by Laws 1965, ch. 92, § 3.

### **77-15-9. Form of petitions.**

The petitions shall be in substantially the following form:

#### PETITION FOR COUNTY PREDATOR CONTROL PROGRAM

To the Board of County Commissioners of \_\_\_\_\_ (name of county)  
New Mexico:

The undersigned, owners of at least fifty-one percent of the sheep and goats, and fifty-one percent of the cattle (or either, as the case may be) on the tax rolls of \_\_\_\_\_ (name of county) county, New Mexico, hereby petition the board of county commissioners to establish a county predator control program as authorized by \_\_\_\_\_ (cite applicable law) to last for a period of \_\_\_\_\_ years from the date of the establishment of the program. This program shall be financed by a mill levy on the appropriate kind of livestock in this county at a rate not to exceed \_\_\_\_\_ (\$ ) per head.

We further petition the board of county commissioners to appoint the following five livestock owners, residents of this county, to serve as the county predator control board:

1. \_\_\_\_\_ 3. \_\_\_\_\_

2. \_\_\_\_\_ 4. \_\_\_\_\_

5. \_\_\_\_\_

Date Signed	Signature	Address	Name under which assessed	Limitation (if any)
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

The petitions may consist of as many sheets of paper as needed, as long as each sheet is headed as provided in this section.

**History:** 1953 Comp., § 47-16-9, enacted by Laws 1965, ch. 92, § 4.

**77-15-10. Filing of petition; verification by board of county commissioners; creation of program; creation of predator control board.**

The petitions shall be filed on or before the first Monday in August in any year at a regularly scheduled meeting of the board of county commissioners. After examination of the petition, if the board finds the petition in order and properly signed by the owners of at least fifty-one percent of the sheep and goats, and by the owners of at least fifty-one percent of the cattle, the board shall declare a county predator control program established for both classes of animals for the period specified in the petition. If the petition is signed by the owners of fifty-one percent of either class but not both classes, the board shall declare a county predator program established for that class of animal for which the petition contains the required signatures for the period specified in the petition. The board shall further appoint the persons designated on the petition as the county predator control board, to serve for the period of the county predator control program. The predator control program established shall commence on January 1 following the establishment of the program, and shall continue for the term specified on the petition. If any funds remain after the termination of the program, these funds shall be refunded to each livestock owner assessed under the County Predator Control Act [77-15-6 to 77-15-14 NMSA 1978] in the proportion that the number of head of his livestock protected and assessed under the act at the date of termination of the program bears to the total number of head of livestock protected and assessed under that county program at the date of termination. Any pelts collected shall be sold and the proceeds placed in the county predator control fund.

**History:** 1953 Comp., § 47-16-10, enacted by Laws 1965, ch. 92, § 5.



## **77-15-11. Special levy.**

A. Upon the establishment of a county predator control program, the board of county commissioners shall order a special levy of a tax in the form of a mill levy that will produce not more than the rate limitation set on the petition and not more than one dollar (\$1.00) per head on all animals in the county to be protected under the county predator control program. This special levy shall be over and above any other special levies and shall not be construed to be within the constitutional twenty-mill limitation. The proceeds of this special levy shall be deposited with the county treasurer for expenditure upon order of the county predator control board and shall be spent, during the existence of the program, solely for predator control.

B. The amount of the levy shall be stated on the petition, and the county predator control board shall certify it to the board of county commissioners on or before the first Monday in August following its appointment. The special levy shall be assessed, levied and collected as other taxes in the county and at the expense of the county.

C. The owners of fifty-one percent of the animals assessed under the County Predator Control Act [77-15-6 to 77-15-14 NMSA 1978] may require a change in the amount of the levy within the statutory limit by petitioning the county predator control board on or before the first Monday of July of any year.

D. Any owner of dairy animals or of feedlot animals being fattened on full feed for slaughter and which animals are included in the animals on the tax rolls for this special assessment may have these animals excluded from the special assessment by filing a certified statement containing the description and count of the animals with the board of county commissioners prior to September 1 of the year in which the tax is assessed.

**History:** 1953 Comp., § 47-16-11, enacted by Laws 1965, ch. 92, § 6; 2005, ch. 233, § 1.

## **77-15-12. Abolition or continuation of program.**

The owners of fifty-one percent of the animals covered by a county predator control program can abolish the program in any year by a petition to the county commissioners on or before the first Monday of August of any year in the same manner as the program was created.

If it is desired to continue a program past the date set for its termination, it must be done by the same type of petition by which the program was initiated, and must be filed by the first Monday of August of the year preceding the termination date.

**History:** 1953 Comp., § 47-16-12, enacted by Laws 1965, ch. 92, § 7.

## **77-15-13. Powers of county predator control board.**

The county predator control board shall expend the moneys collected under the County Predator Control Act [77-15-6 to 77-15-14 NMSA 1978] for a predator control program for the county. The board may do so by establishing a separate predator control program or by contracting with other federal or state agencies or with agencies of other counties.

**History:** 1953 Comp., § 47-16-13, enacted by Laws 1965, ch. 92, § 8.

### **77-15-14. Program in addition to all other programs.**

The county predator control program established under this County Predator Control Act [77-15-6 to 77-15-14 NMSA 1978] shall be in addition to other state and federal programs, and shall not be construed to be in lieu of those programs.

**History:** 1953 Comp., § 47-16-14, enacted by Laws 1965, ch. 92, § 9.

## **ARTICLE 16 Fences**

### **77-16-1. [Necessity for fence.]**

Every gardener, farmer, planter or other person having lands or crops that would be injured by trespassing animals, shall make a sufficient fence about his land in cultivation, or other lands that may be so injured, the same to correspond with the requirements of the laws of this state prescribing and defining a legal fence.

**History:** Laws 1909, ch. 70, § 1; Code 1915, § 2340; C.S. 1929, § 50-101; 1941 Comp., § 49-1801; 1953 Comp., § 47-17-1.

### **77-16-2. Definition.**

As used in Article 16 of Chapter 77 [NMSA 1978], "livestock" shall include domestic animals such as cattle, horses, sheep, hogs, goats and buffaloes.

**History:** 1953 Comp., § 47-17-1.1, enacted by Laws 1977, ch. 189, § 2.

### **77-16-3. [Damages on fenced lands; right of action; lien on animals.]**

When any trespassing shall have been done by any cattle, horses, sheep, goats, hogs or other livestock upon the cultivated or enclosed ground of any other person, when the same is fenced as provided by Section 77-16-1 NMSA 1978, but not otherwise, such person may recover any damage that he may sustain by reason thereof by suit in any court having jurisdiction and a person so damaged is hereby given a lien

on all livestock of the same kind and brand, belonging to the owner of such trespassing animal or animals for security of his damages and costs; but in no case shall he have such lien nor shall he be entitled to recover any damages, under any circumstances, for such trespass, unless he has such lands and crops enclosed by a legal fence as provided by the preceding section [77-16-1 NMSA 1978].

**History:** Laws 1909, ch. 70, § 2; Code 1915, § 2341; C.S. 1929, § 50-102; 1941 Comp., § 49-1802; 1953 Comp., § 47-17-2.

#### **77-16-4. [Barbed wire fence; specifications.]**

When fences are constructed of barbed wire and posts they shall be built substantially as follows: posts set firmly in the ground and [and] projecting above the ground not less than four feet, said posts to be not less than two inches in diameter at the smaller end, and to be set not over thirty-three feet apart; four barbed wires to be strung firmly and securely fastened to said posts, the bottom wire to be placed approximately twelve inches from the ground, the second wire to be approximately twelve inches above the bottom wire, the third wire to be approximately twelve inches above the second wire and the fourth wire to be approximately twelve inches above the third wire; and between each two posts there shall be placed approximately equidistant apart three stays to be securely fastened to said wires for the purpose of holding the wires in position. Any four-wire fence greater or equivalent to said fence in strength and resisting power shall be considered a legal fence.

**History:** Laws 1909, ch. 13, § 1; Code 1915, § 2342; Laws 1923, ch. 94, § 1; C.S. 1929, § 50-103; 1941 Comp., § 49-1803; 1953 Comp., § 47-17-3.

#### **77-16-5. [Applicability of act.]**

This act [77-16-4, 77-16-5 NMSA 1978] shall not apply to territory within an incorporated city, town or village nor shall it be construed to repeal, amend or in anywise affect the provisions of Chapter 88 of the Session Laws of 1919, as amended by Chapter 70 of the Session Laws of 1921 [repealed].

**History:** Laws 1923, ch. 94, § 2; C.S. 1929, § 50-104; 1941 Comp., § 49-1804; 1953 Comp., § 47-17-4.

#### **77-16-6. [Board fence; specifications.]**

When the fence is constructed of lumber and posts the boards shall be at least one inch thick and six inches wide with posts as described in the preceding section [77-16-4 NMSA 1978] not over eight feet apart and firmly set in the ground as described in said section. The boards [are] to be firmly nailed to the posts. The space between the boards [is] not to be more than six inches.

**History:** Laws 1909, ch. 13, § 2; Code 1915, § 2343; C.S. 1929, § 50-105; 1941 Comp., § 49-1805; 1953 Comp., § 47-17-5.

### **77-16-7. [Pole and post fence; specifications.]**

When the fence is constructed of poles and posts the posts shall not be more than twelve feet apart and of the same size and set in the ground as described in Section 77-16-4 NMSA 1978. The poles [are] to be at least two inches in diameter at the smaller end and [are] to be at least four in number firmly fastened to the posts with nails or wire, the top pole at least four feet from the ground and the bottom pole not more than one foot from the ground and the poles [are] not to be more than one foot apart.

**History:** Laws 1909, ch. 13, § 3; Code 1915, § 2344; C.S. 1929, § 50-106; 1941 Comp., § 49-1806; 1953 Comp., § 47-17-6.

### **77-16-8. [Stone, adobe or woven wire fence; specifications.]**

When the fence is constructed of stone, adobe, woven wire or any other material it shall be at least four feet in height and equal in strength to the fence described in Section 77-16-4 NMSA 1978.

**History:** Laws 1909, ch. 13, § 4; Code 1915, § 2345; C.S. 1929, § 50-107; 1941 Comp., § 49-1807; 1953 Comp., § 47-17-7.

### **77-16-9. [Legal protection of fences against damage or destruction.]**

All fences shall be considered as under the care and protection of the law, for damages done, or destruction committed thereon.

**History:** Laws 1869, ch. 20, § 1; C.L. 1884, § 1272; C.L. 1897, § 1814; Code 1915, § 2347; C.S. 1929, § 50-109; 1941 Comp., § 49-1808; 1953 Comp., § 47-17-8.

### **77-16-10. Injuring fence.**

Any person who is found guilty of wilfully cutting or otherwise destroying a fence or any part thereof is guilty of a petty misdemeanor.

**History:** Laws 1869, ch. 20, § 2; C.L. 1884, § 1273; C.L. 1897, § 1815; Code 1915, § 2348; C.S. 1929, § 50-110; 1941 Comp., § 49-1809; 1953 Comp., § 47-17-9; Laws 1981, ch. 365, § 1.

### **77-16-11. [Injuries by animals; liability; minors.]**

When any animal, of whatsoever class or species it may be, [shall] break, obstruct or injure any rail, post, stake or any material of which a fence is constructed, the owner of

such animal shall be compelled to pay the damages occasioned to the owner of the fence, according to the damages sustained and suffered: provided, that if any animal be taken near any fence, and it shall result in his injuring it, then the person who ordered the animal to be placed there shall pay the damage, and if the herder who has the care of the animal, shall take them there without order from the owner of them, in such case, the father, mother or guardian of him who drove the animals there, if the herder be a minor, shall pay the damages, and if he be of age, he himself shall pay it when he does it without the express order of the owner.

**History:** Laws 1869, ch. 20, § 3; C.L. 1884, § 1274; C.L. 1897, § 1819; Code 1915, § 2352; C.S. 1929, § 50-114; 1941 Comp., § 49-1810; 1953 Comp., § 47-17-10.

### **77-16-12. [Damages for injuries.]**

The person who shall violate the provisions of Section 77-16-11 NMSA 1978 shall be obliged at the time of his punishment, to indemnify the owner of any fence, for the damage that has followed therefrom, for the repairing of his fence, valued according to the gravity of the offense.

**History:** Laws 1869, ch. 20, § 4; C.L. 1884, § 1275; C.L. 1897, § 1820; Code 1915, § 2353; C.S. 1929, § 50-115; 1941 Comp., § 49-1811; 1953 Comp., § 47-17-11.

### **77-16-13. [Opening private fence to use road prohibited.]**

That it shall be illegal for any person or persons in the state of New Mexico, to open any fence or fences of any private individual or individuals, for the purpose of using the road, or roads, passing through the private property of any person or persons.

**History:** Laws 1897, ch. 39, § 1; C.L. 1897, § 1825; Code 1915, § 2354; C.S. 1929, § 50-116; 1941 Comp., § 49-1812; 1953 Comp., § 47-17-12.

### **77-16-14. [Failure to close gate; liability for damages.]**

That any person, or persons, who open the gate of any fence, or fences, of any person or persons, the same being private property, for the purpose of passing as aforesaid, [and] shall neglect to close the gate of any fence or fences after having opened the same, shall be subject to and responsible for the damage to the land, crop or grass of the owner, or owners, of such land, through such neglect; and such damage shall be appraised as provided by law.

**History:** Laws 1897, ch. 39, § 2; C.L. 1897, § 1826; Code 1915, § 2355; C.S. 1929, § 50-117; 1941 Comp., § 49-1813; 1953 Comp., § 47-17-13.

### **77-16-15. Penalty.**

In addition to the damage as provided for in Section 77-16-14 NMSA 1978, the person violating the provisions of that section is guilty of a misdemeanor, and upon conviction before any magistrate shall be fined in a sum not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000).

**History:** Laws 1897, ch. 39, § 3; C.L. 1897, § 1827; Code 1915, § 2356; C.S. 1929, § 50-118; 1941 Comp., § 49-1814; 1953 Comp., § 47-17-14; 2011, ch. 46, § 1.

### **77-16-16. Railroads; fencing of lines; damage.**

A. Every railroad in this state whose lines of road, or any part thereof, are open for use and every railroad company formed or to be formed shall, within six months after the lines of the railroad or any part thereof are open, erect and thereafter maintain fences on the sides of the railroad or the part thereof so open for use, suitably and amply sufficient to prevent cattle, horses, sheep, mules, burros and hogs from getting on the railroad, except at the crossings of public roads and highways and within the limits of municipalities and shall also construct, where not already done, and maintain at all public road crossings now existing or hereafter established cattle guards suitable and sufficient to prevent cattle, horses, sheep, burros, mules and hogs from getting onto the railroad. If any railroad fails to construct and maintain fences and cattle guards as directed in this section, the railroad shall be liable to the owner for all damages resulting from injury or death caused to any livestock, including reasonable attorney fees, on order of the court should legal proceedings be commenced by the owner. Should the New Mexico livestock board be unable to determine ownership of livestock crippled or killed by the railroad within thirty days of the date it first receives notice of such injury or death, by report or otherwise, then the board may institute legal proceedings in the name of the unknown owner in any court of competent jurisdiction and recover damages as provided in this section, and the proceeds shall be disposed of as provided for under the laws pertaining to estrays.

B. In the event that a fence is in a condition of neglect, disrepair or nonexistence, the adjacent landowner may contact the railroad supervisor or the owner of the right of way by certified mail, return receipt requested, and demand repair or construction to the legal standard provided in Section 77-16-17 NMSA 1978. Within thirty days thereafter, the railroad shall commence construction or provide proof of intent to comply, and after ten more days, if the railroad has failed to commence construction or to comply with agreed-upon terms of construction or repair, the adjacent landowner may repair, construct or cause to be repaired or constructed the fence at the expense of the railroad calculated at the cost of commercial rates common to the area. If the railroad fails to comply within thirty days of presentation of proof of cost, the landowner shall be compensated in an amount equal to two times the amount of the presented proof plus any cost of litigation, including attorney fees.

C. State-owned railroads and narrow-gauge and recreational railroads are exempt from the provisions of this section.

**History:** Laws 1889, ch. 75, § 1; 1889, ch. 139, § 1; C.L. 1897, § 241; Laws 1901, ch. 86, § 1; Code 1915, § 28; C.S. 1929, § 4-103; 1941 Comp., § 49-1815; 1953 Comp., § 47-17-15; Laws 1965, ch. 9, § 1; 2013, ch. 145, § 1.

### **77-16-17. [Requirements of railroad fence.]**

That for the purposes of the preceding two sections [77-16-16 NMSA 1978] a sufficient and suitable fence is defined and declared to be a fence at least four and one-half feet high, constructed of posts and wire, the top wire to be four and one-half feet above the ground and shall have at least four wires upon posts not exceeding twenty feet apart.

**History:** Laws 1889, ch. 75, § 3; 1889, ch. 141, § 1; C.L. 1897, § 243; Code 1915, § 30; C.S. 1929, § 4-105; 1941 Comp., § 49-1817; 1953 Comp., § 47-17-17.

### **77-16-18. Report of killed or crippled livestock; inspection and removal.**

A. Every railroad in this state, upon discovery of livestock killed or crippled upon a section of the railroad right-of-way, shall immediately make a report thereof to an inspector of the cattle sanitary board [New Mexico livestock board] or to any other person designated by the board for the purpose of receiving the report.

B. The report required by Subsection A shall designate the place where the crippled or killed livestock is located and the brand on the livestock. The board, or a person designated by it, shall promptly inspect the stock, notify the owner and make a report of the inspection, including therein the age, color, sex, approximate weight, marks and brand of the stock. One copy of the report shall be transmitted by the inspector to the board, one to the owner of the stock and one to the railroad.

C. Dead livestock shall not be destroyed by the railroad until the inspection required by this section is made, but if the inspection is not made within twenty-four hours after transmittal of the report by the railroad, the railroad may bury the dead stock and shall thereupon promptly notify the board, or the person designated by it, of the place of burial so that inspection may be made.

D. A railroad which fails to make any report required by this section is guilty of a petty misdemeanor.

E. "Railroad" as used in this section includes any person, firm or corporation.

**History:** 1953 Comp., § 47-17-18, enacted by Laws 1963, ch. 180, § 1.

## **ARTICLE 17**

### **Abattoirs, Meat Dealers and Storage Plants**

### **77-17-1. Repealed.**

**History:** Laws 1939, ch. 115, § 1; 1941 Comp., § 49-2201; 1953 Comp., § 47-20-1; Laws 1969, ch. 117, § 1; 1973, ch. 126, § 1; 1999, ch. 282, § 94; repealed by Laws 2013, ch. 84, § 2.

### **77-17-2. Repealed.**

**History:** Laws 1939, ch. 115, § 2; 1941 Comp., § 49-2202; 1953 Comp., § 47-20-2; Laws 1963, ch. 252, § 5; 1967, ch. 228, § 1; 1969, ch. 117, § 2; 1973, ch. 126, § 2; 1977, ch. 166, § 1; 1999, ch. 282, § 95; 2004, ch. 26, § 2; repealed by Laws 2013, ch. 84, § 2.

### **77-17-3. Repealed.**

**History:** Laws 1939, ch. 115, § 3; 1941 Comp., § 49-2203; 1953 Comp., § 47-20-3; Laws 1963, ch. 252, § 6; 1969, ch. 117, § 3; 1977, ch. 142, § 2; 1981, ch. 357, § 15; repealed by Laws 2013, ch. 84, § 2.

### **77-17-4. Criminal offender's character evaluation.**

The provisions of the Criminal Offender Employment Act shall govern any consideration of criminal records required or permitted by Sections 77-17-7 through 77-17-14 NMSA 1978.

**History:** 1953 Comp., § 47-20-3.1, enacted by Laws 1974, ch. 78, § 8; 2013, ch. 84, § 1.

### **77-17-5. Repealed.**

**History:** Laws 1939, ch. 115, § 4; 1941 Comp., § 49-2204; 1953 Comp., § 47-20-4; Laws 1993, ch. 248, § 79; 1999, ch. 282, § 96; repealed by Laws 2013, ch. 84, § 2.

### **77-17-6. Repealed.**

**History:** Laws 1939, ch. 115, § 5; 1941 Comp., § 49-2205; 1953 Comp., § 47-20-5; Laws 1999, ch. 282, § 97; repealed by Laws 2013, ch. 84, § 2.

### **77-17-7. Definition.**

As used in Sections 77-17-7 and 77-17-8 NMSA 1978, "slaughterhouse" means an abattoir or a place where livestock are slaughtered.

**History:** 1953 Comp., § 47-20-5.1, enacted by Laws 1965, ch. 127, § 1; 1999, ch. 282, § 98.



### **77-17-8. Restriction upon establishing slaughterhouses.**

No person shall establish a slaughterhouse in any location which is within one thousand feet of a residential dwelling house unless, prior thereto, the person shall gain the written consent from at least seventy-five percent of the owners of residential dwelling houses located within one thousand feet of the proposed slaughterhouse.

**History:** 1953 Comp., § 47-20-5.2, enacted by Laws 1965, ch. 127, § 2.

### **77-17-9. Failing to keep record; penalty.**

A person who carries on the business of butcher or slaughterer of livestock shall keep a true and faithful record, in a book kept for the purpose, of all livestock purchased or slaughtered by him together with a description of each animal, including marks, brands, age and weight and from whom purchased and the date of purchase. The person shall keep the hide and ears of cattle, sheep and goats for thirty days or until inspected by an inspector after the livestock is slaughtered. A person who violates a provision of this section is guilty of a misdemeanor for each offense and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978.

**History:** Laws 1884, ch. 47, § 20; C.L. 1884, § 73; C.L. 1897, § 86; Code 1915, § 546; C.S. 1929, § 19-103; 1941 Comp., § 49-2206; 1953 Comp., § 47-20-6; Laws 1999, ch. 282, § 99.

### **77-17-10. Inspection of record, hides and ears.**

The record, hides and ears of cattle, sheep and goats shall be open to the inspection by the board for the period of thirty days or until inspected by an inspector, and any butcher or slaughterer who refuses to permit such inspection or examination is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978.

**History:** Laws 1884, ch. 47, § 21; C.L. 1884, § 74; C.L. 1897, § 87; Code 1915, § 547; C.S. 1929, § 19-104; 1941 Comp., § 49-2207; 1953 Comp., § 47-20-7; Laws 1999, ch. 282, § 100.

### **77-17-11. Repealed.**

### **77-17-12. Hides and ears to be kept; inspection; penalty.**

A person killing or causing to be killed any livestock for his own use or for the use of others or for the purpose in whole or in part of sale or exchange is required to keep in his own possession, unchanged and unmutilated and in condition to be easily inspected and examined, all hides or pelts and ears of cattle, sheep and goats, for the period of thirty days after the killing or until inspected by an inspector and shall at any time while

the hides or pelts and ears remain in his possession permit them to be inspected and examined by a sheriff, deputy sheriff, inspector or other officer authorized by law to inspect any hides and pelts or livestock, whether dead or alive. A person who violates the provisions of this section is guilty of a fourth degree felony and upon conviction shall be sentenced in accordance with the provisions of Section 31-18-15 NMSA 1978.

**History:** Laws 1891, ch. 45, § 1; C.L. 1897, § 89; Code 1915, § 549; C.S. 1929, § 19-106; 1941 Comp., § 49-2209; 1953 Comp., § 47-20-9; Laws 1999, ch. 282, § 101.

### **77-17-13. Repealed.**

### **77-17-14. [Failure to show hides or pelts; evidence of violation.]**

Inability or refusal to show such hide or pelt to any proper authority within said period of thirty days, or a refusal to so show it at any time thereafter while remaining in the possession of the person by or for whom the animal was killed, shall be prima facie evidence of a violation of the provisions of said section [77-17-12 NMSA 1978], and shall be competent evidence to go to the jury upon the trial of any indictment against such person or persons for the larceny of any animal or animals, or for the receiving of stolen property.

**History:** Laws 1891, ch. 45, § 3; C.L. 1897, § 91; Code 1915, § 551; C.S. 1929, § 19-108; 1941 Comp., § 49-2211; 1953 Comp., § 47-20-11.

### **77-17-15, 77-17-16. Repealed.**

## **ARTICLE 18**

### **General Animal Regulations**

#### **77-18-1. Sale, purchase, trade and possession of certain animals regulated.**

The sale, purchase, trade and possession with intent to keep as a pet of any subhuman primate, skunk, raccoon, fox or other sylvatic carnivore may be regulated by regulation of the health and environment department [department of health] for the protection of public health and safety.

**History:** Laws 1979, ch. 194, § 6.

#### **77-18-2. Seizure and disposition of cruelly treated livestock.**

A. If a livestock inspector or other peace officer has reason to believe that livestock are being cruelly treated, the inspector or peace officer may apply to a court in the

county where the livestock are located for a warrant to seize the allegedly cruelly treated livestock.

B. On a showing of probable cause to believe that the livestock are being cruelly treated, the court shall issue a warrant for the seizure of the livestock and set the matter for hearing as expeditiously as possible within thirty days unless good cause for a later time is demonstrated by the state. Seizure as authorized by this section shall be restricted to only those livestock allegedly being cruelly treated. The board by rule shall establish procedures for preserving evidence of alleged cruel treatment of livestock.

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

D. For livestock that is not an equine:

(1) if the court finds that the owner has cruelly treated the livestock, the court shall order the sale of the livestock at fair market value or order humane destruction; provided that if the livestock are ordered sold, the sale shall occur within ten days of the order; and further provided that if the court does not find that the owner has cruelly treated the livestock, the court shall order the livestock returned to the owner;

(2) if the court orders the sale of the livestock, the board shall take proper action to ensure that the livestock are sold at fair market value, including acceptance of reasonable bids or sale at auction; provided that a bid by the owner of the livestock or the owner's representative shall not be accepted; and

(3) proceeds from the sale of the livestock shall be forwarded to the court ordering the sale; provided that from these proceeds, the court shall pay all expenses incurred in caring for the livestock while they were impounded and any expenses involved in their sale; and further provided that any excess proceeds of the sale shall be forwarded to the former owner; and further provided that if the expenses incurred in caring for and selling the livestock exceed the amount received from the sale, the court shall order the former owner to pay the additional cost.

E. For livestock that is an equine:

(1) if the court finds that the owner has cruelly treated the equine, the court shall give a registered equine rescue or retirement facility the right of first refusal to purchase the equine for an ownership transfer fee equal to all actual costs incurred by the impounding agency in caring for the equine while the equine was impounded; provided that:

(a) the board shall provide a bill of sale to the registered equine rescue or retirement facility that purchases the equine; and

(b) the bill of sale shall be legal evidence of the ownership of the equine by the registered equine rescue or retirement facility and shall be legal title to the equine;

(2) if the court finds that the owner has cruelly treated the equine and a registered equine rescue or retirement facility has been given the right of first refusal but the registered equine rescue or retirement facility is unable or unwilling to purchase the equine:

(a) the board shall auction the equine through a sealed-bid process administered by the board and established by rule;

(b) any proceeds from the sale less expenses incurred in caring for the equine while the equine was impounded shall be forwarded to the former owner;

(c) if the expenses incurred in caring for the equine exceed the proceeds from the sale, the court shall order the former owner to pay the additional costs; and

(d) if the equine is not purchased through the sealed-bid process, the board may pursue an alternative placement for care with a last resort option to humanely euthanize the equine by a licensed veterinarian; and

(3) if the court does not find that the owner cruelly treated the equine, the court shall order the equine returned to the owner.

**History:** Laws 1987, ch. 151, § 1; 1999, ch. 282, § 102; 2009, ch. 43, § 3; 2023, ch. 45, § 11.

### **77-18-3. Prohibited means of disposal or destruction.**

No animal shall be destroyed by means of a high altitude decompression chamber or decompression device.

**History:** Laws 1989, ch. 175, § 1.

### **77-18-4. Penalty.**

Any person who violates Section 1 [77-18-3 NMSA 1978] of this act is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars (\$1,000) or by imprisonment for a definite term of less than one year or both.

**History:** Laws 1989, ch. 175, § 2.

## **77-18-5. Wild horses; conformation, history and deoxyribonucleic acid testing; Spanish colonial horses; birth control.**

A. As used in this section:

(1) "public land" does not include federal land controlled by the bureau of land management, the forest service or state trust land controlled by the state land office;

(2) "range" means the amount of land necessary to sustain a herd of wild horses, which does not exceed its known territorial limits;

(3) "Spanish colonial horse" means a wild horse that is descended from horses of the Spanish colonial period; and

(4) "wild horse" means an unclaimed horse on public land that is not an stray.

B. A wild horse that is captured on public land shall have its conformation, history and deoxyribonucleic acid tested to determine if it is a Spanish colonial horse. If it is a Spanish colonial horse, the wild horse shall be relocated to a state or private wild horse preserve created and maintained for the purpose of protecting Spanish colonial horses. If it is not a Spanish colonial horse, it shall be returned to the public land, relocated to a public or private wild horse preserve or put up for adoption by the agency on whose land the wild horse was captured.

C. If the mammal division of the museum of southwestern biology at the university of New Mexico determines that a wild horse herd exceeds the number of horses that is necessary for preserving the genetic stock of the herd and for preserving and maintaining the range, it may cause control of the wild horse population through the use of birth control and may cause excess horses to be:

(1) humanely captured and relocated to other public land or to a public or private wild horse preserve;

(2) adopted by a qualified person for private maintenance; or

(3) euthanized; provided that this option applies only to wild horses that are determined by a veterinarian to be crippled or otherwise unhealthy.

**History:** Laws 2007, ch. 216, § 1.

## **77-18-6. Feral hogs; prohibition; penalty.**

A. The purpose of this section is to ensure the public health, safety and welfare and to prevent the introduction or spread of disease to New Mexico's livestock and wildlife.

B. No person shall import into the state, transport within the state, hold for breeding, release or sell a live feral hog or operate a commercial feral hog hunting enterprise.

C. Any person who violates this section is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars (\$1,000) or by imprisonment for a definite term of less than one year or both.

D. As used in this section, "feral hog" means a pig that exists in an untamed state from domestication.

**History:** Laws 2009, ch. 257, § 1 and Laws 2009, ch. 264, § 1.