

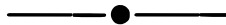
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FILED

2003 MAR 13 P 3: 35

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2003



ENROLLED

COMMITTEE SUBSTITUTE
FOR

House Bill No. 2301

(By Delegates Amores, Palumbo, Hatfield, Armstead and Foster)



Passed March 5, 2003

In Effect Ninety Days from Passage

FILED

2003 MAR 13 P 3: 36

OFFICE WEST VIRGINIA
SECRETARY OF STATE

E N R O L L E D

COMMITTEE SUBSTITUTE

FOR

H. B. 2301

(BY DELEGATES AMORES, PALUMBO,
HATFIELD, ARMSTEAD AND FOSTER)

[Passed March 5, 2003; in effect ninety days from passage.]

AN ACT to amend and reenact section four, article ten, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to animals seized pursuant to allegations of neglect or cruel treatment; providing funding for necessary care of animals seized pursuant to allegations of neglect or cruel treatment.

Be it enacted by the Legislature of West Virginia:

That section four, article ten, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 10. HUMANE OFFICERS.

§7-10-4. Custody and care of animals abandoned, neglected or cruelly treated; hearing; bonds; liability for costs; liens; exclusions.

1 (a) Subject to the provisions of subsection (h) of this
2 section, a humane officer shall take possession of any animal,
3 including birds or wildlife in captivity, known or believed to be
4 abandoned, neglected, deprived of necessary sustenance,
5 shelter, medical care or reasonable protection from fatal
6 freezing or heat exhaustion, or cruelly treated or used, as
7 defined in sections nineteen and nineteen-a, article eight,
8 chapter sixty-one of this code.

9 (b) The owner or persons in possession, if his or her
10 identity and residence is known, of any animal seized pursuant
11 to subsection (a) of this section shall be provided written notice
12 of the seizure, his or her liability for the cost and care of the
13 animal seized as provided in this section and the right to request
14 a hearing before a magistrate in the county where the animal
15 was seized. The magistrate court shall schedule any hearing
16 requested within ten working days of the receipt of the request.
17 The failure of an owner or person in possession to request a
18 hearing within five working days of the seizure is prima facie
19 evidence of the abandonment of the animal. At the hearing, if
20 requested, the magistrate shall determine if probable cause
21 exists to believe that the animal was abandoned, neglected or
22 deprived of necessary sustenance, shelter, medical care or
23 reasonable protection from fatal freezing or heat exhaustion, or
24 otherwise treated or used cruelly as set forth in this section.

25 (c)(1) Upon finding of probable cause, or if no hearing is
26 requested and the magistrate finds probable cause based upon
27 the affidavit of the humane officer, the magistrate shall enter an
28 order awarding custody of the animal to any humane officer for
29 further disposition in accordance with reasonable practices for
30 the humane treatment of animals. The owner of the animal shall

31 post a bond with the court in an amount sufficient to provide for
32 the reasonable costs of care, medical treatment and provisions
33 for the animal for at least thirty days. The bond shall be filed
34 with the court within five days following the court's finding of
35 probable cause. At the end of the time for which expenses are
36 covered by the original bond if the animal remains in the care
37 of the humane officer and the owner desires to prevent disposi-
38 tion of the animal by the humane officer, the owner shall post
39 an additional bond with the court within five days of the
40 expiration of the original bond. During this period the humane
41 officer is authorized to place the animal in a safe private home
42 or other safe private setting in lieu of retaining the animal in an
43 animal shelter. The person whose animal is seized is liable for
44 all costs of the care of the seized animal.

45 (2) If a bond has been posted in accordance with subdivi-
46 sion (1) of this subsection, the custodial animal care agency
47 may draw from the bond the actual reasonable costs incurred by
48 the agency in providing care, medical treatment and provisions
49 to the impounded animal from the date of the initial impound-
50 ment to the date of the final disposition of the animal.

51 (d) Any person whose animal is seized and against whom
52 a finding of probable cause is rendered pursuant to this section
53 is liable during any period it remains in the possession of the
54 humane officer for the reasonable costs of care, medical
55 treatment and provisions for the animal not covered by the
56 posting of the bond as provided in subdivision (1), subsection
57 (c) of this section. The magistrate shall require the person liable
58 for these costs to post bond to provide for the maintenance of
59 the seized animal. This expense, if any, becomes a lien on the
60 animal and must be discharged before the animal is released to
61 the owner following the acquittal of the owner or withdrawal of
62 the complaint. Upon acquittal, or withdrawal of the complaint,
63 any unused portion of posted bonds shall be returned to the
64 owner. Upon a criminal conviction, all interest in the im-

65 pounded animal shall transfer to the humane officer for the
66 further disposition in accordance with reasonable practices for
67 the humane treatment of animals. Any additional expense above
68 the value of the animal may be recovered by the humane officer
69 or custodial agency.

70 (e) If, after the humane officer takes possession of the
71 animal pursuant to the finding of probable cause a licensed
72 veterinarian determines that the animal should be humanely
73 destroyed to end its suffering, the veterinarian may order the
74 animal to be humanely destroyed and neither the humane
75 officer, animal euthanasia technician, nor the veterinarian is
76 subject to any civil or criminal liability as a result of such
77 action.

78 (f) The term “humanely destroyed” as used in this section
79 means:

80 (1) Humane euthanasia of an animal by hypodermic
81 injection by a licensed veterinarian or by an animal euthanasia
82 technician certified in accordance with the provisions of article
83 ten-a, chapter thirty of this code; or

84 (2) Any other humane euthanasia procedure approved by
85 the American veterinary medical association, the humane
86 society of the United States or the American humane associa-
87 tion.

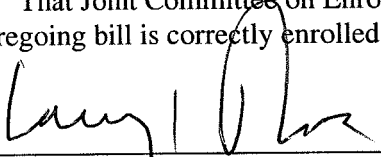
88 (g) In case of an emergency in which an animal cannot be
89 humanely destroyed in an expeditious manner, an animal may
90 be destroyed by shooting if:

91 (1) The shooting is performed by someone trained in the
92 use of firearms with a weapon and ammunition of suitable
93 caliber and other characteristics designed to produce instanta-
94 neous death by a single shot; and

95 (2) Maximum precaution is taken to minimize the animal's
96 suffering and to protect other persons and animals.

97 (h) The provisions of this section do not apply to farm
98 livestock, as defined in subsection (d), section two, article ten-
99 b, chapter nineteen of this code, poultry, gaming fowl or
100 wildlife kept in private or licensed game farms if kept and
101 maintained according to usual and accepted standards of
102 livestock, poultry, gaming fowl, wildlife or game farm produc-
103 tion and management, nor to the humane use of animals or
104 activities regulated under and in conformity with the provisions
105 of 7 U.S.C. §2131 et seq. and the regulations promulgated
106 thereunder.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



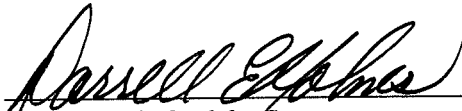
Chairman Senate Committee



Chairman House Committee

Originating in the House.

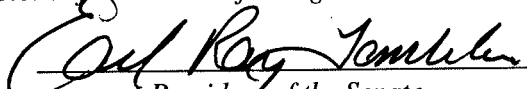
In effect ninety days from passage



Clerk of the Senate



Clerk of the House of Delegates



President of the Senate



Speaker of the House of Delegates

The within is approved this the 13th
day of March, 2003.



Governor

PRESENTED TO THE
GOVERNOR

Date 3/8/03

Time 12:20 pm