

1 *Be it enacted by the Legislature of West Virginia:*

2 That §19-18-4, §19-18-5, §19-18-6, §19-18-7, §19-18-8,
3 §19-18-9, §19-18-10, §19-18-11 and §19-18-12 of the Code of West
4 Virginia, 1931, as amended, be repealed; and that §19-18-1,
5 §19-18-2 and §19-18-3 of said code be amended and reenacted, all to
6 read as follows:

7 **ARTICLE 18. GENERAL LIVESTOCK TRESPASS LAW.**

8 **§19-18-1. Livestock trespassing on property of another; damages**
9 **for injuries to person or property; notice to**
10 **livestock owner; containment of livestock; costs for**
11 **containment.**

12 (a) If livestock enters the property of another landowner
13 without that landowner's consent, the owner or manager of the
14 livestock is liable for damages for personal injury or property
15 loss in a civil action in magistrate or circuit court.

16 (b) The affected landowner must attempt to contact the owner
17 or manager of the trespassing livestock within forty-eight hours of
18 the trespass. If the owner or manager cannot be contacted within
19 forty-eight hours, the landowner shall notify the county sheriff.

20 (c) The landowner may contain the trespassing livestock on
21 his or her property, but is not required to do so. If the
22 landowner is able to contact the owner or manager of the
23 trespassing livestock pursuant to subsection (a) of this section,

1 he or she shall also inform the owner or manager of the costs of
2 containment.

3 (d) The owner or manager of the trespassing livestock and the
4 landowner shall attempt to mutually agree on a fair cost for any
5 containment. A fair cost for containment is an amount which would
6 be allowed for the sheriff for containing similar livestock. If
7 the negotiation fails, or if the landowner is not otherwise
8 reimbursed for the costs for containment, the landowner may seek
9 monetary damages in a civil action for these costs.

10 **§19-18-2. Unclaimed livestock; containment by sheriff; sheriff's**
11 **sale at public auction.**

12 (a) If the owner or manager of trespassing livestock cannot be
13 determined, or if the trespassing livestock has not been recovered
14 within ten days of notifying the owner or manager, the county
15 sheriff shall take possession of the trespassing livestock.

16 (b) The county sheriff may return the livestock to its owner
17 or manager and seek reimbursement for containment costs. If
18 attempts to return the livestock to the owner or manager fail the
19 sheriff may, after publishing notice as a Class I legal
20 advertisement, sell the livestock to the highest bidder at a public
21 livestock auction.

22 (c) The proceeds of the livestock sale shall be distributed in
23 the following order:

24 (1) Costs incident to the sale;

1 (2) Costs of containment by the sheriff and the landowner;

2 (3) Any remaining amount to the owner of the trespassing
3 livestock; and

4 (4) If the owner is unknown or does not claim the amount
5 remaining within ninety days, that amount shall be deposited into
6 the county treasury.

7 **§19-18-3. Criminal penalties for trespassing livestock;**
8 **restitution.**

9 (a) While livestock may escape enclosures due to accident or
10 unforeseen circumstances, it is unlawful for the owner or manager
11 of livestock to negligently permit livestock to run at large and
12 trespass on the property of other landowners.

13 (b) If livestock injures a person or destroys the property of
14 another person while negligently trespassing, the owner or manager
15 of the livestock shall be given an oral or written warning for the
16 first offense. For a second offense within six months of the
17 first, the owner or manager is guilty of a misdemeanor and, upon
18 conviction thereof, shall be fined not less than \$50 nor more than
19 \$100. For a third or subsequent offense within six months of the
20 second or subsequent offense, the owner or manager is guilty of a
21 misdemeanor and, upon conviction thereof, shall be fined not less
22 than \$100 nor more than \$1,000.

NOTE: The purpose of this bill is to revise the antiquated

stock laws of West Virginia. The name has been updated to "General Livestock Trespass Law." The bill clarifies damages for injury or loss to person or property from trespassing livestock and permits costs to be reimbursed for containment of livestock. The bill requires notification to the owner of trespassing livestock within forty-eight hours. The bill requires negotiating the costs of containment. The bill requires unclaimed livestock to be given to the sheriff for sale at a public livestock auction and the proceeds of the sale are distributed in a particular order. The bill clarifies misdemeanor penalties and fines for livestock that negligently trespass and injure persons or property. The bill also permits restitution.

§19-18-1, §19-18-2 and §19-18-3 have been completely rewritten; therefore, strike-throughs and underscoring have been omitted.