

H. B. 2618

(By Delegates Guthrie, L. Phillips, Eldridge, Romine and Ambler)

[Introduced February 5, 2015; referred to the

Committee on the Judiciary.]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §15-14-1, §15-14-2, §15-14-3, §15-14-4, §15-14-5, §15-14-6, §15-14-7, §15-14-8, §15-14-9, §15-14-10 and §15-14-11, all relating to creating a State Animal Abuse Registry; defining terms; creating a registry of all persons convicted of animal abuse; requiring all persons convicted of animal abuse to register; setting forth the information to be provided when registering; requiring a registrant to pay a fee; creating the Central Abuse Registry Fund; determining how the money in the fund will be used; requiring the registry information to be public; providing an exception from being required to register; setting forth duties of animal breeders, animal shelters and pet stores; and providing criminal penalties.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §15-14-1, §15-14-2, §15-14-3, §15-14-4, §15-14-5, §15-14-6, §15-14-7, §15-14-8, §15-14-9, §15-14-10 and §15-14-11, all to read as follows:

1 **ARTICLE 14. ANIMAL ABUSE REGISTRY.**

2 **§15-14-1. Definitions.**

3 As used in this article, unless the context otherwise requires:

4 "Animal abuse crime" means a violation of any animal protection statute in this code,
5 including section nineteen, nineteen-a or twenty of article eight, chapter sixty-one of this code or of
6 section twenty-seven, article three of that chapter.

7 "Animal breeder" means an entity engaged in the practice of facilitating the reproduction of
8 animals for the purpose of distributing the resulting offspring to one or more other individuals or
9 entities.

10 "Animal shelter" means a public animal control facility or any other facility that is operated
11 by an organization or individual for the purpose of protecting animals from cruelty, neglect or abuse.

12 "Fund" means the Central Abuse Registry Fund established under this article.

13 "Offender" means a person required to register under section four of this article.

14 "Pet store" means a place or premises where birds, mammals, or reptiles are kept for the
15 purpose of sale, at either wholesale or retail, import, export, barter, exchange or gift.

16 **§15-14-2. When convicted.**

17 For the purpose of this article, a person is convicted when the person:

18 (1) Is found guilty of a crime by a jury or judicial officer;

19 (2) Enters a plea of guilty or nolo contendere;

20 (3) Is granted probation before judgment after a finding of guilt for a crime if the court, as
21 a condition of probation, orders compliance with the requirements of this article; or

22 (4) Is found to have committed a criminal act but is found not criminally responsible for the

1 act.

2 **§15-14-3. West Virginia Animal Abuse Registry.**

3 (a) The West Virginia State Police shall establish and maintain a central computerized
4 registry of all persons convicted of an animal abuse crime who are required to register in accordance
5 with section four of this article, to be known as the West Virginia Animal Abuse Registry.

6 (b) The registry shall be updated based on information made available to the State Police,
7 including information acquired in accordance with the registration provisions of section five of this
8 article.

9 (c) The registry shall include the offender's name, the offender's residential address, the date
10 and a description of the crime for which registration is required, and a photograph of the offender's
11 head and shoulders from the front.

12 **§15-14-4. Persons required to register; when registration required.**

13 A person convicted of an animal abuse crime shall register with the State Police within ten
14 days after the conviction.

15 **§15-14-5. Information to be supplied to the State Police; State Police to obtain photograph;**
16 **updates to information required.**

17 (a) A registrant shall provide the State Police with the registrant's legal name, the registrant's
18 current address or location, the crime of which the registrant was convicted, and the date and location
19 of the crime.

20 (b) The State Police shall obtain a photograph of the registrant's head and shoulders from the
21 front.

22 (c) A person required to register under this article shall update the information and reflect any

1 change in name or address within ten days of the change.

2 **§15-14-6. Registrant to pay fee; fees remitted to State Treasurer.**

3 (a) In addition to any fine, fee, or penalty levied or imposed as provided by law, each
4 registrant shall pay an annual registration fee of \$50.

5 (b) The State Police shall collect and remit the annual registration fees required under
6 subsection (a) of this section to the State Treasurer for deposit into the fund.

7 **§15-14-7. Central Abuse Registry Fund created.**

8 (a) There is hereby created in the State Treasury a special revenue account designated the
9 Central Abuse Registry Fund which shall consist of money deposited into the fund from annual
10 registration fees collected under section six of this article, fees collected by other abuse registries and
11 moneys appropriated by the Legislature. Additional financial support may come from gifts, grants,
12 contributions, bequests and endowment, either public or private.

13 (b) Funds appropriated to the fund in accordance with this section that remain unallocated
14 or unexpended at the end of a fiscal year do not expire, but remain in the line item to which they
15 were originally appropriated and are available in the next fiscal year to be used for the purposes of
16 operating and maintaining the Animal Abuse Registry authorized by this article and other abuse
17 registries operated by the State Police.

18 (c) Expenditures from the fund may be made from collections and may only be used to pay
19 for expenses of administering the Animal Abuse Registry as provided in this article and other abuse
20 registries operated by the State Police.

21 **§15-14-8. Registry information to be made public.**

22 The State Police shall make information contained in the West Virginia Animal Abuse

1 Registry available to the public through the Internet, by telephone, by written access and in person.

2 **§15-14-9. Appeal of level of danger; court-ordered removal of registration upon certain**
3 **finding.**

4 (a) A person convicted of an animal abuse crime who would otherwise be required to register
5 under section four of this article may appeal to the circuit court for a determination of the level of
6 danger posed by the offender.

7 (b) The circuit court may make a finding that the circumstances of the crime, in conjunction
8 with the offender's criminal history, do not indicate a risk of reoffending by the offender or that the
9 offender is a danger to the public. The circuit court shall specify in writing the reasons for its finding.

10 On making its finding as described herein, the circuit court shall notify the offender and, if the
11 finding is in the offender's favor, order the State Police to remove the offender's registration
12 information from the registry.

13 **§15-14-10. Acts required by a person subject to registration; penalties.**

14 (a) A person who is subject to registration under section four of this article may not
15 knowingly fail to:

16 (1) Register with the State Police; or

17 (2) Provide accurate information when registering under section five of this article.

18 (b) A person who violates this section:

19 (1) For a first offense, is guilty of a misdemeanor and, upon conviction, shall be fined not
20 more than \$1,000 or confined in jail not more than six months, or both fined and confined; and

21 (2) For a second or subsequent offense, is guilty of a misdemeanor and, upon conviction,
22 shall be fined not more than \$5,000 or confined in jail not more than one year, or both fined and

1 confined.

2 **§15-14-11. Duties of animal breeders and owners or managers of animal shelters or pet**
3 **stores; penalties.**

4 (a) Animal breeders and owners or managers of animal shelters and pet stores in this state
5 shall determine whether the name and address of a person seeking to purchase or adopt an animal
6 appears on the registry.

7 (b) An animal breeder, or owner or manager responsible for an animal shelter or a pet store
8 may not knowingly offer, sell, deliver, give or provide an animal to a person registered on the
9 registry.

10 (c) A person violating provisions of this section is guilty of a misdemeanor and, upon
11 conviction, is subject to:

12 (1) For a first offense, a fine not exceeding \$1,000; or

13 (2) For a second or subsequent offense, a fine not exceeding \$10,000.

NOTE: The purpose of this bill is to establish a West Virginia Animal Abuse Registry requiring registration of persons convicted of certain crimes of animal abuse. The bill defines terms, creates a registry of all persons convicted of animal abuse, requires all persons convicted of an abuse to register, sets forth the information to be provided when registering, requires a registrant to pay a fee, creates the Central Abuse Registry Fund, determines how the money in the fund will be used, requires the registry information to be public, provides an exception from the registration requirement, provides criminal penalties, and sets forth duties of animal breeders, animal shelters and pet stores.

This article is new; therefore, it has been completely underscored.