

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 4373

BY DELEGATES SKINNER, CAMPBELL, ELDRIDGE AND

MARCUM

[Introduced February 3, 2016; Referred
to the Committee on Agriculture and Natural
Resources then the Judiciary.]

1 A BILL to amend and reenact §61-8-19 of the Code of West Virginia, 1931, as amended, relating
 2 to prohibiting exposing a dog or cat that is a companion animal to extreme weather
 3 conditions that results in injury or death.

Be it enacted by the Legislature of West Virginia:

1 That §61-8-19 of the Code of West Virginia, 1931, as amended, be amended and
 2 reenacted to read as follows:

ARTICLE 8. CRIMES AGAINST CHASTITY, MORALITY AND DECENCY.

§61-8-19. Cruelty to animals; penalties; exclusions.

- 1 (a)(1) It is unlawful for any person to intentionally, knowingly or recklessly,
- 2 (A) Mistreat an animal in cruel manner;
- 3 (B) Abandon an animal;
- 4 (C) Withhold;
- 5 (i) Proper sustenance, including food or water;
- 6 (ii) Shelter that protects from the elements of weather; or
- 7 (iii) Medical treatment, necessary to sustain normal health and fitness or to end the
- 8 suffering of any animal;
- 9 (D) Abandon an animal to die;
- 10 (E) Leave an animal unattended and confined in a motor vehicle when physical injury to
- 11 or death of the animal is likely to result;
- 12 (F) Ride an animal when it is physically unfit;
- 13 (G) Bait or harass an animal for the purpose of making it perform for a person's
- 14 amusement;
- 15 (H) Cruelly chain or tether an animal; ~~or~~
- 16 (I) Use, train or possess a domesticated animal for the purpose of seizing, detaining or
- 17 maltreating any other domesticated animal; or
- 18 (J) Expose a dog or cat that is a companion animal in a manner that places the dog or

19 cat in a life-threatening situation for a prolonged period of time in extreme heat or cold conditions
20 that results in injury to, or death of, the animal.

21 (2) Any person in violation of subdivision (1) of this subsection is guilty of a misdemeanor
22 and, upon conviction thereof, shall be fined not less than \$300 nor more than \$2,000 or confined
23 in jail not more than six months, or both.

24 (b) A person who intentionally tortures, or mutilates or maliciously kills an animal, or
25 causes, procures or authorizes any other person to torture, mutilate or maliciously kill an animal,
26 is guilty of a felony and, upon conviction thereof, shall be confined in a correctional facility not less
27 than one nor more than five years and be fined not less than \$1,000 nor more than \$5,000. For
28 the purposes of this subsection, "torture" means an action taken for the primary purpose of
29 inflicting pain.

30 (c) A person, other than a licensed veterinarian or a person acting under the direction or
31 with the approval of a licensed veterinarian, who knowingly and willfully administers or causes to
32 be administered to any animal participating in any contest any controlled substance or any other
33 drug for the purpose of altering or otherwise affecting said animal's performance is guilty of a
34 misdemeanor and, upon conviction thereof, shall be fined not less than \$500 nor more than
35 \$2,000.

36 (d) Any person convicted of a violation of this section forfeits his or her interest in any
37 animal and all interest in the animal vests in the humane society or county pound of the county in
38 which the conviction was rendered and the person is, in addition to any fine imposed, liable for
39 any costs incurred or to be incurred by the humane society or county pound as a result.

40 (e) For the purpose of this section, the term "controlled substance" has the same meaning
41 ascribed to it by subsection (d), section one hundred one, article one, chapter sixty-a of this code.

42 (f) The provisions of this section do not apply to lawful acts of hunting, fishing, trapping or
43 animal training or farm livestock, poultry, gaming fowl or wildlife kept in private or licensed game
44 farms if kept and maintained according to usual and accepted standards of livestock, poultry,

45 gaming fowl or wildlife or game farm production and management, nor to humane use of animals
46 or activities regulated under and in conformity with the provisions of 7 U.S.C. §2131, *et seq.*, and
47 the regulations promulgated thereunder, as both statutes and regulations are in effect on the
48 effective date of this section.

49 (g) Notwithstanding the provisions of subsection (a) of this section, any person convicted
50 of a second or subsequent violation of subsection (a) is guilty of a misdemeanor and, shall be
51 confined in jail for a period of not less than ninety days nor more than one year, fined not less
52 than \$500 nor more than \$3,000, or both. The incarceration set forth in this subsection is
53 mandatory unless the provisions of subsection (h) of this section are complied with.

54 (h)(1) Notwithstanding any provision of this code to the contrary, no person who has been
55 convicted of a violation of the provisions of subsection (a) or (b) of this section may be granted
56 probation until the defendant has undergone a complete psychiatric or psychological evaluation
57 and the court has reviewed the evaluation. Unless the defendant is determined by the court to be
58 indigent, he or she is responsible for the cost of the evaluation.

59 (2) For any person convicted of a violation of subsection (a) or (b) of this section, the court
60 may, in addition to the penalties provided in this section, impose a requirement that he or she
61 complete a program of anger management intervention for perpetrators of animal cruelty. Unless
62 the defendant is determined by the court to be indigent, he or she is responsible for the cost of
63 the program.

64 (i) In addition to any other penalty which can be imposed for a violation of this section, a
65 court shall prohibit any person so convicted from possessing, owning or residing with any animal
66 or type of animal for a period of five years following entry of a misdemeanor conviction and fifteen
67 years following entry of a felony conviction. A violation under this subsection is a misdemeanor
68 punishable by a fine not exceeding \$2,000 and forfeiture of the animal.

NOTE: The purpose of this bill is to prohibit exposing a dog or cat that is a companion animal to extreme weather conditions that results in injury or death.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.