

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

**Introduced**

### **Senate Bill 334**

BY SENATORS WELD, CLINE AND MILLER

[Introduced February 16, 2017; Referred  
to the Committee on the Judiciary]

1 A BILL to amend and reenact §61-8-19 of the Code of West Virginia, 1931, as amended, relating  
 2 to cruelty to animals; creating the felony offense of aggravated cruelty to animals; and  
 3 providing a criminal penalty for the offense.

*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. Aggravated cruelty to animals; penalties; exclusions.**

1 (a)(1) It is unlawful for any person to intentionally or knowingly: ~~or recklessly~~  
 2 (A) Cause serious bodily injury to an animal;  
 3 (B) Withhold any of the following which results in the serious injury or death of an animal;  
 4 (i) Proper sustenance, including food or water;  
 5 (ii) Shelter that protects from the elements of weather; or  
 6 (iii) Medical treatment necessary to sustain normal health;  
 7 (C) Failing to provide proper care to end the suffering of any animal;  
 8 (D) Abandon an animal to die without proper medical care;  
 9 (E) Leave an animal unattended and confined in a motor vehicle resulting in the death of  
 10 the animal;  
 11 (2) Any person in violation of subdivision (1) of this subsection is guilty of a felony and,  
 12 upon conviction thereof, shall be fined not less than \$1,000 nor more than \$3,000 or be imprisoned  
 13 in a correctional facility not less than one nor more than three years, or both.  
 14 (b) A person who intentionally tortures, or mutilates or maliciously kills an animal, or  
 15 causes, procures or authorizes any other person to torture, mutilate or maliciously kill an animal,  
 16 is guilty of a felony and, upon conviction thereof, shall be confined in a correctional facility not less  
 17 than one nor more than five years and be fined not less than \$1,000 nor more than \$5,000. For  
 18 the purposes of this subsection, "torture" means an action taken for the primary purpose of

19 inflicting pain.

20 (c) (1) It is unlawful for any person to recklessly:

21 (A) Mistreat an animal in cruel manner;

22 (B) Abandon an animal;

23 (C) Withhold:

24 (i) Proper sustenance, including food or water;

25 (ii) Shelter that protects from the elements of weather; or

26 (iii) Medical treatment, necessary to sustain normal health and fitness or to end the  
27 suffering of any animal;

28 (D) Abandon an animal to die; or

29 (E) Leave an animal unattended and confined in a motor vehicle when physical injury to  
30 or death of the animal is likely to result;

31 (2) It is unlawful for any person to intentionally, knowingly, or recklessly:

32 ~~(F)~~ (A) Ride an animal when it is physically unfit;

33 ~~(G)~~ (B) Bait or harass an animal for the purpose of making it perform for a person's  
34 amusement;

35 ~~(H)~~ (C) Cruelly chain or tether an animal; or

36 ~~(I)~~ (D) Use, train or possess a domesticated animal for the purpose of seizing, detaining  
37 or maltreating any other domesticated animal.

38 ~~(2)~~ (3) Any person in violation of subdivision (1) or (2) of this subsection is guilty of a  
39 misdemeanor and, upon conviction thereof, shall be fined not less than \$300 nor more than  
40 \$2,000 or confined in jail not more than six months, or both.

41 ~~(b) A person who intentionally tortures, or mutilates or maliciously kills an animal, or~~  
42 ~~causes, procures or authorizes any other person to torture, mutilate or maliciously kill an animal,~~  
43 ~~is guilty of a felony and, upon conviction thereof, shall be confined in a correctional facility not less~~  
44 ~~than one nor more than five years and be fined not less than \$1,000 nor more than \$5,000. For~~

45 ~~the purposes of this subsection, "torture" means an action taken for the primary purpose of~~  
46 ~~inflicting pain.~~

47 ~~(e)~~ (d) A person, other than a licensed veterinarian or a person acting under the direction  
48 or with the approval of a licensed veterinarian, who knowingly and willfully administers or causes  
49 to be administered to any animal participating in any contest any controlled substance or any  
50 other drug for the purpose of altering or otherwise affecting said animal's performance is guilty of  
51 a misdemeanor and, upon conviction thereof, shall be fined not less than \$500 nor more than  
52 \$2,000.

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

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

60 ~~(f)~~ (g) The provisions of this section do not apply to lawful acts of hunting, fishing, trapping  
61 or animal training or farm livestock, poultry, gaming fowl or wildlife kept in private or licensed  
62 game farms if kept and maintained according to usual and accepted standards of livestock,  
63 poultry, gaming fowl or wildlife or game farm production and management, nor to humane use of  
64 animals or activities regulated under and in conformity with the provisions of 7 U.S.C. §2131, *et*  
65 *seq.*, and the regulations promulgated thereunder, as both statutes and regulations are in effect  
66 on the effective date of this section.

67 ~~(g)~~ (h) Notwithstanding the provisions of subsection (a) of this section, any person  
68 convicted of a second or subsequent violation of subsection (a) is guilty of a misdemeanor and,  
69 shall be confined in jail for a period of not less than ninety days nor more than one year, fined not  
70 less than \$500 nor more than \$3,000, or both. The incarceration set forth in this subsection is

71 mandatory unless the provisions of subsection (h) of this section are complied with.

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

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

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

NOTE: The purpose of this bill is to create the felony offense of aggravated cruelty to animals.

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