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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2001



ENROLLED

**COMMITTEE SUBSTITUTE
FOR**

House Bill No. 2555

(By Delegates R. M. Thompson, Amores, Staton,
Mahan, Manuel, Warner and Bean)



Passed April 6, 2001

In Effect Ninety Days from Passage

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H. B. 2555

(BY DELEGATES R. M. THOMPSON, AMORES, STATON,
MAHAN, MANUEL, WARNER AND BEAN)

[Passed April 6, 2001; in effect ninety days from passage.]

AN ACT to amend and reenact sections four and five, article ten, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section eight, article twenty, chapter nineteen of said code, all relating to humane destruction of animals by humane officers, animal shelters and dog wardens; adding situations in which a humane officer may seize animals; defining the term humanely destroyed; providing for humane destruction of certain animals; permitting the shooting of animals in emergencies; providing guidelines for the shooting of animals; eliminating requirement that seized animals be kept pending disposition of criminal proceedings; clarifying liability of certain persons for costs of maintenance of confiscated animals; providing civil and criminal immunity to certified animal euthanasia technicians; and providing that humane officers may shelter animals at places other than shelters.

Be it enacted by the Legislature of West Virginia:

That sections four and five, article ten, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that section eight, article twenty, chapter nineteen of said code be amended and reenacted, all to read as follows:

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 10. HUMANE OFFICERS.

§7-10-4. Custody and care of animals abandoned, neglected or cruelly treated; hearing; liability for costs; 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 person in possession, if his or her identity
10 and residence is known, of any animal seized pursuant to
11 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
14 request a hearing before a magistrate in the county where the
15 animal was seized. The magistrate court shall schedule any
16 hearing requested within ten working days of the receipt of the
17 request. The failure of an owner or person in possession to
18 request a hearing within five working days of the seizure is
19 prima facie evidence of the abandonment of the animal. At the
20 hearing, if requested, the magistrate shall determine if probable

21 cause exists to believe that the animal was abandoned, ne-
22 glected or deprived of necessary sustenance, shelter, medical
23 care or reasonable protection from fatal freezing or heat
24 exhaustion, or otherwise treated or used cruelly as set forth in
25 this section.

26 (c) Upon finding of probable cause, or if no hearing is
27 requested and the magistrate finds probable cause based upon
28 the affidavit of the humane officer, the magistrate shall enter an
29 order authorizing any humane officer to maintain possession of
30 the animal pending further proceedings. During this period the
31 humane officer is authorized to place the animal in a safe
32 private home or other safe private setting in lieu of retaining the
33 animal in an animal shelter. The person whose animal is seized
34 is liable for all costs of the care of the seized animal.

35 (d) Any person whose animal is seized and against whom
36 a finding of probable cause is rendered pursuant to this section
37 is liable for the costs of the care, medical treatment and
38 provisions for the animal during any period it remains in the
39 possession of the humane officer. The magistrate may require
40 the person liable for these costs to post bond to provide for the
41 maintenance of the seized animal.

42 (e) If, after the humane officer takes possession of the
43 animal pursuant to the finding of probable cause, a licensed
44 veterinarian determines that the animal should be humanely
45 destroyed to end its suffering, the veterinarian may order the
46 animal to be humanely destroyed and neither the humane
47 officer, animal euthanasia technician, nor the veterinarian is
48 subject to any civil or criminal liability as a result of such
49 action.

50 (f) The term "humanely destroyed" as used in this section
51 means:

52 (1) Humane euthanasia of an animal by hypodermic
53 injection by a licensed veterinarian or by an animal euthanasia
54 technician certified in accordance with the provisions of article
55 ten-a, chapter thirty of this code; or

56 (2) Any other humane euthanasia procedure approved by
57 the American Veterinary Medical Association, the Humane
58 Society of the United States, or the American Humane Associa-
59 tion.

60 (g) In case of an emergency in which an animal cannot be
61 humanely destroyed in an expeditious manner, an animal may
62 be destroyed by shooting if:

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

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

69 (h) The provisions of this section do not apply to farm
70 livestock, poultry, gaming fowl or wildlife kept in private or
71 licensed game farms if kept and maintained according to usual
72 and accepted standards of livestock, poultry, gaming fowl,
73 wildlife or game farm production and management, nor to the
74 humane use of animals or activities regulated under and in
75 conformity with the provisions of 7 U.S.C. §2131 et seq. and
76 the regulations promulgated thereunder.

§7-10-5. Destruction of animals.

1 Any humane officer or animal shelter lawfully may
2 humanely destroy or cause to be humanely destroyed any
3 animal in a manner consistent with the provisions of section
4 four of this article when, in the judgment of the humane officer

5 or director or supervisor of an animal shelter and upon the
6 written certificate of a regularly licensed veterinary surgeon, the
7 animal appears to be injured, disabled or diseased past recovery
8 or the animal is unclaimed.

CHAPTER 19. AGRICULTURE.

ARTICLE 20. DOGS AND CATS.

§19-20-8. Impounding and disposition of dogs; costs and fees.

1 (a) All dogs seized and impounded as provided in this
2 article, except dogs taken into custody under section two of this
3 article, shall be kept housed and fed in the county dog pound for
4 five days after notice of seizure and impounding has been given
5 or posted as required by this article, at the expiration of which
6 time all dogs which have not previously been redeemed by their
7 owners as provided in this article, shall be sold or humanely
8 destroyed. No dog sold as provided in this section may be
9 discharged from the pound until the dog has been registered and
10 provided with a valid registration tag.

11 (b) The term "humanely destroyed" as used in this section
12 means:

13 (1) Humane euthanasia of an animal by hypodermic
14 injection by a licensed veterinarian or by an animal euthanasia
15 technician certified in accordance with the provisions of article
16 ten-a, chapter thirty of this code; or

17 (2) Any other humane euthanasia procedure approved by
18 the American Veterinary Medical Association, the Humane
19 Society of the United States, or the American Humane Associa-
20 tion.

21 (c) In an emergency or in a situation in which a dog cannot
22 be humanely destroyed in an expeditious manner, a dog may be
23 destroyed by shooting if:

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

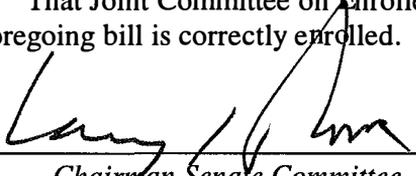
28 (2) Maximum precaution is taken to minimize the dog's
29 suffering and to protect other persons and animals.

30 (d) The owner, keeper or harbinger of any dog seized and
31 impounded under the provisions of this article may, at any time
32 prior to the expiration of five days from the time that notice of
33 the seizure and impounding of the dog has been given or posted
34 as required by this article, redeem the dog by paying to the dog
35 warden or his or her authorized agent or deputy all of the costs
36 assessed against the dog, and by providing a valid certificate of
37 registration and registration tag for the dog.

38 (e) Reasonable costs and fees, in an amount to be deter-
39 mined from time to time by the county commission, shall be
40 assessed against every dog seized and impounded under the
41 provisions of this article, except dogs taken into custody under
42 section two of this article. The cost shall be a valid claim in
43 favor of the county against the owner, keeper or harbinger of any
44 dog seized and impounded under the provisions of this article
45 and not redeemed or sold as provided in this section, and the
46 costs shall be recovered by the sheriff in a civil action against
47 the owner, keeper or harbinger.

48 (f) A record of all dogs impounded, the disposition of the
49 dogs and a statement of costs assessed against each dog shall be
50 kept by the dog warden and a transcript thereof shall be
51 furnished to the sheriff quarterly.

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



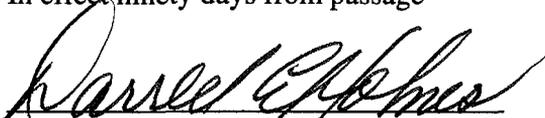
Chairwoman Senate Committee



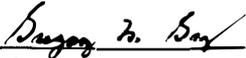
Chairman House Committee

Originating in the House.

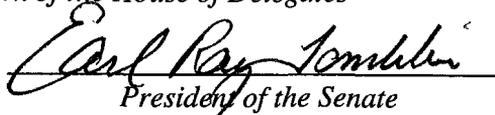
In effect ninety days from passage



Clerk of the Senate



Clerk of the House of Delegates

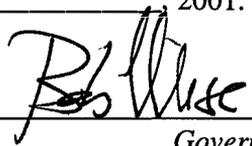


President of the Senate



Speaker of the House of Delegates

The within is approved this the 16th
day of April 2001.



Governor

PRESENTED TO THE

GOVERNOR

Date 4/12/08

Time 5:12 pm