

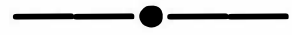
HB 4344

FILED

2008 MAR 27 AM 11:06

SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
SECOND REGULAR SESSION, 2008



**ENROLLED**

**COMMITTEE SUBSTITUTE  
FOR  
House Bill No. 4344**

(By Delegates Webster, Overington, Pino, Schadler,  
Brown, Fleischauer and Shook)



Passed March 6, 2008

In Effect Ninety Days from Passage

**E N R O L L E D**

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COMMITTEE SUBSTITUTE

FOR

**H. B. 4344**

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(BY DELEGATES WEBSTER, OVERINGTON, PINO, SCHADLER,  
BROWN, FLEISCHAUER AND SHOOK)

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[Passed March 6, 2008; in effect ninety days from passage.]

AN ACT to amend and reenact §61-8-19 of the Code of West Virginia, 1931, as amended, relating to the criminal offense of cruelty to animals; providing that animals be adequately sheltered; and prohibiting the tethering or chaining of animals in a cruel manner.

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

That §61-8-19 of the Code of West Virginia, 1931, as amended, be amended and 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,  
2           knowingly or recklessly,

3 (A) mistreat an animal in cruel manner;

4 (B) abandon an animal;

5 (C) withhold,

6 (i) proper sustenance, including food or water;

7 (ii) shelter that protects from the elements of  
8 weather; or

9 (iii) medical treatment, necessary to sustain normal  
10 health and fitness or to end the suffering of any animal;

11 (D) abandon an animal to die;

12 (E) leave an animal unattended and confined in a motor  
13 vehicle when physical injury to or death of the animal is  
14 likely to result;

15 (F) ride an animal when it is physically unfit;

16 (G) bait or harass an animal for the purpose of making it  
17 perform for a person's amusement;

18 (H) cruelly chain or tether an animal; or

19 (I) use, train or possess a domesticated animal for the  
20 purpose of seizing, detaining or mistreating any other  
21 domesticated animal.

22 (2) Any person in violation of subdivision (1) of this  
23 subsection is guilty of a misdemeanor and, upon conviction  
24 thereof, shall be fined not less than three hundred nor more  
25 than two thousand dollars or confined in jail not more than  
26 six months, or both.

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

36 (c) A person, other than a licensed veterinarian or a  
37 person acting under the direction or with the approval of a  
38 licensed veterinarian, who knowingly and willfully  
39 administers or causes to be administered to any animal  
40 participating in any contest any controlled substance or any  
41 other drug for the purpose of altering or otherwise affecting  
42 said animal's performance is guilty of a misdemeanor and,  
43 upon conviction thereof, shall be fined not less than five  
44 hundred nor more than two thousand dollars.

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

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

56 (f) The provisions of this section do not apply to lawful  
57 acts of hunting, fishing, trapping or animal training or farm  
58 livestock, poultry, gaming fowl or wildlife kept in private or

59 licensed game farms if kept and maintained according to  
60 usual and accepted standards of livestock, poultry, gaming  
61 fowl or wildlife or game farm production and management,  
62 nor to humane use of animals or activities regulated under  
63 and in conformity with the provisions of 7 U.S.C. §2131, *et*  
64 *seq.*, and the regulations promulgated thereunder, as both  
65 statutes and regulations are in effect on the effective date of  
66 this section.

67 (g) Notwithstanding the provisions of subsection (a) of  
68 this section, any person convicted of a second or subsequent  
69 violation of subsection (a) is guilty of a misdemeanor and  
70 shall be confined in jail for a period of not less than ninety  
71 days nor more than one year, fined not less than five hundred  
72 dollars nor more than three thousand dollars, or both. The  
73 incarceration set forth in this subsection is mandatory unless  
74 the provisions of subsection (h) of this section are complied  
75 with.

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

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

91 (i) In addition to any other penalty which can be imposed  
92 for a violation of this section, a court shall prohibit any  
93 person so convicted from possessing, owning or residing with  
94 any animal or type of animal for a period of five years  
95 following entry of a misdemeanor conviction and fifteen  
96 years following entry of a felony conviction. A violation  
97 under this subsection is a misdemeanor punishable by a fine  
98 not exceeding two thousand dollars and forfeiture of the  
99 animal.

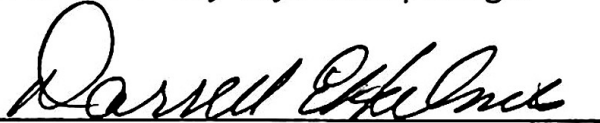
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
Chairman Senate Committee

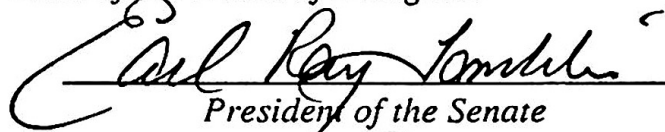
  
Chairman House Committee

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 27th  
day of March, 2008.

  
Governor

PRESENTED TO THE  
GOVERNOR

MAR 1 8 2008

Time 9:30am