

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 2119

BY DELEGATE PYLES AND PAYNTER

[Introduced January 9, 2019; 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 the performing of an onychectomy or flexor tendonectomy procedure on a
 3 cat.

Be it enacted by the Legislature of West Virginia:

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.
 18 (J) Perform, or cause to be performed, an onychectomy (declawing) or flexor
 19 tendonectomy procedure on a cat or other animal.
 20 (2) Any person in violation of subdivision (1) of this subsection is guilty of a misdemeanor

21 and, upon conviction thereof, shall be fined not less than \$300 nor more than \$2,000 or confined
22 in jail not more than six months, or both.

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

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

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

39 (e) For the purpose of this section, the term "controlled substance" has the same meaning
40 ascribed to it by subsection (d), ~~sixty-a~~ 60A -1-100 of this code.

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

47 effective date of this section.

48 (g) Notwithstanding the provisions of subsection (a) of this section, any person convicted
49 of a second or subsequent violation of subsection (a) is guilty of a misdemeanor and, shall be
50 confined in jail for a period of not less than 90 days nor more than one year, fined not less than
51 \$500 nor more than \$3,000, or both. The incarceration set forth in this subsection is mandatory
52 unless the provisions of subsection (h) of this section are complied with.

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

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

63 (i) In addition to any other penalty which can be imposed for a violation of this section, a
64 court shall prohibit any person so convicted from possessing, owning or residing with any animal
65 or type of animal for a period of five years following entry of a misdemeanor conviction and 15
66 years following entry of a felony conviction. A violation under this subsection is a misdemeanor
67 punishable by a fine not exceeding \$2,000 and forfeiture of the animal.

NOTE: The purpose of this bill is to prohibit the performing of a onychectomy (declawing)
or flexor tendonectomy procedure on a cat or other animal.

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