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States' Animal Cruelty Statutes:

West Virginia

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Current through the 2020 Regular Session.

§ 7-10-2. Duty of humane officers; reporting requirement when abuse or neglect of individuals suspected; prohibition against interference with humane officers; penalties

(a) Humane officers shall prevent the perpetration or continuance of any act of cruelty upon any animal and investigate and, upon probable cause, cause the arrest and assist in the prosecution of any person engaging in such cruel and forbidden practices. Upon reasonable cause, and, as provided by law, such officers have the right to access and inspect records and property reasonably necessary to any investigation.

(b) Whenever a humane officer, pursuant to an investigation of animal cruelty, forms a reasonable suspicion that a minor child, or incapacitated or elderly person, is the victim of abuse or neglect or has a suspicion of domestic violence, he or she shall report the suspicion and the grounds for the suspicion. In the event of suspected child abuse or neglect, the humane officer shall report to the local child protective services agency of the Department of Health and Human Resources in accordance with the provisions of § 49-2-809 of this code. In the event of suspected abuse or neglect of an incapacitated or elderly person, he or she shall report to the department's local adult protective services agency in accordance with the provisions of § 9-6-11 of this code. In the event of suspected domestic violence, he or she shall report to the State Police in accordance with the provisions of § 48-27-101 et seq. of this code.

(c) Any person who interferes with, obstructs or resists any humane officer in the discharge of his or her duty is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $100 nor more than $500 or confined in jail not more than 30 days, or both fined and confined. Any penalties imposed for a violation of this subsection shall be imposed in addition to any penalties the person incurs for cruel or inhumane treatment of any animal.

§ 7-10-3. Cruel treatment of animal drawing or in vehicle; custody and care thereof by humane officers

When any person arrested is, at the time of such arrest, in charge of any vehicle drawn by or containing any animal cruelly treated, such officer shall take charge of such animal and of such vehicle and its contents, and of the animal or animals drawing the same, and shall, if the person in charge thereof be not the owner, give notice of such seizure to the owner, and provide for them until their owner shall take charge of the same; and if the person in charge of or driving such animals be the owner thereof, the same shall not be returned to him until he has been tried for the offense and acquitted, or if convicted, until he shall give bond in the penalty of five hundred dollars with approved security before the tribunal trying the case conditioned not to again cruelly treat such animals; and the officer shall have a lien upon such animals and the vehicle and its contents for the expenses of such care and provision, or such expenses or any part thereof remaining unpaid may be recovered by such humane officer in a civil action.

§ 7-10-4. Custody and care of animals abandoned, neglected or cruelly treated; hearing; bonds; liability for costs; liens; exclusions

(a) Subject to the provisions of subsection (h) of this section, a humane officer shall take possession of any animal, including birds or wildlife in captivity, known or believed to be abandoned, neglected, deprived of necessary sustenance, shelter, medical care or reasonable protection from fatal freezing or heat exhaustion or cruelly treated or used as defined in sections nineteen and nineteen-a, article eight, chapter sixty-one of this code.

(b) The owner or persons in possession, if his or her identity and residence are known, of any animal seized pursuant to subsection (a) of this section shall be provided written notice of the seizure, his or her liability for the cost and care of the animal seized as provided in this section and the right to request a hearing in writing before a magistrate in the county where the animal was seized. The magistrate court shall schedule any hearing requested within ten working days of the receipt of the request. The failure of an owner or person in possession to request a hearing within five working days of the seizure is prima facie evidence of the abandonment of the animal. At the hearing, if requested, the magistrate shall determine by a preponderance of the evidence if the animal was abandoned, neglected or deprived of necessary sustenance, shelter, medical care or reasonable protection from fatal freezing or heat exhaustion or otherwise treated or used cruelly as set forth in this section.

(c)(1) If a hearing is requested and the magistrate finds by a preponderance of the evidence that the owner did abandon, neglect or cruelly treat the animal, or if no hearing is requested and the magistrate finds by a preponderance of the evidence, based upon the affidavit of the humane officer, that the owner did abandon, neglect or cruelly treat the animal, the magistrate shall enter an order awarding custody of the animal to any humane officer for further disposition in accordance with reasonable practices for the humane treatment of animals. After hearing the evidence, if the magistrate is not convinced the animal was neglected or cruelly treated, he or she may dismiss the action and order the animal be returned to the owner. If the magistrate finds in favor of the humane officer, the owner of the animal shall post a bond with the court in an amount sufficient to provide for the reasonable costs of care, medical treatment and provisions for the animal for at least thirty days. The bond shall be filed with the court within five days following the court's finding against the owner. At the end of the time for which expenses are covered by the original bond if the animal remains in the care of the humane officer and the owner desires to prevent disposition of the animal by the humane officer, the owner shall post an additional bond with the court within five days of the expiration of the original bond. During this period the humane officer is authorized to place the animal in a safe private home or other safe private setting in lieu of retaining the animal in an animal shelter. The person whose animal is seized is liable for all costs of the care of the seized animal.

(2) If a bond has been posted in accordance with subdivision (1) of this subsection, the custodial animal care agency may draw from the bond the actual reasonable costs incurred by the agency in providing care, medical treatment and provisions to the impounded animal from the date of the initial impoundment to the date of the final disposition of the animal.

(d) Any person whose animal is seized and against whom the magistrate enters a finding pursuant to this section is liable during any period it remains in the possession of the humane officer for the reasonable costs of care, medical treatment and provisions for the animal not covered by the posting of the bond as provided in subdivision (1), subsection (c) of this section. The magistrate shall require the person liable for these costs to post bond to provide for the maintenance of the seized animal. This expense, if any, becomes a lien on the animal and must be discharged before the animal is released to the owner. Upon dismissal or withdrawal of the complaint, any unused portion of posted bonds shall be returned to the owner. Upon a finding in favor of the humane officer, all interest in the impounded animal shall transfer to the humane officer for disposition in accordance with reasonable practices for the humane treatment of animals. Any additional expense above the value of the animal may be recovered by the humane officer or custodial agency.

(e) After the humane officer takes possession of the animal pursuant to a finding by a magistrate that the animal has been abandoned, neglected or cruelly treated and a licensed veterinarian determines that the animal should be humanely destroyed to end its suffering, the veterinarian may order the animal to be humanely destroyed and neither the humane officer, animal euthanasia technician nor the veterinarian is subject to any civil or criminal liability as a result of the action.

(f)(1) The term “humanely destroyed” as used in this section means:

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

(B) Any other humane euthanasia procedure approved by the American Veterinary Medical Association, the Humane Society of the United States or the American Humane Association.

(2) The term “humanely destroyed” does not include euthanizing an animal by means of a gas chamber: Provided, That any county which has a gas chamber in operation as of the effective date of this section may continue to operate the gas chamber subject to the following: (1) The gas chamber shall be operated by an animal euthanasia technician certified pursuant to article ten-a, chapter thirty of this code; and (2) the gas chamber shall have been manufactured and installed by a person who regularly manufactures and installs gas chambers. The Board of Veterinary Medicine shall promulgate emergency rules regarding the inspection of gas chambers, pursuant to section fifteen, article three, chapter twenty-nine-a of this code.

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

(1) The shooting is performed by someone trained in the use of firearms with a weapon and ammunition of suitable caliber and other characteristics designed to produce instantaneous death by a single shot; and

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

(h) The provisions of this section do not apply to farm livestock, as defined in subsection (d), section two, article ten-b, chapter nineteen of this code; poultry, gaming fowl or wildlife kept in private or licensed game farms if kept and maintained according to usual and accepted standards of livestock; poultry, gaming fowl, wildlife or game farm production and management; nor to the humane use of animals or activities regulated under and in conformity with the provisions of 7 U.S.C. § 2131, et seq., and the regulations promulgated thereunder.

(i) All persons or entities in the state performing euthanasia under this article shall register with the Board of Veterinary Medicine by December 31, 2009, in a manner to be prescribed by the board. The Board of Veterinary Medicine shall promulgate emergency rules relating to the registration of those performing animal euthanasia, pursuant to section fifteen, article three, chapter twenty-nine-a of this code.

§ 7-10-4a. Reporting of animals abandoned, neglected or cruelly treated; enforcement

(a) It is the duty of any licensed veterinarian and the right of any other person to report to a humane officer any animal found, reasonably known or believed to be abandoned, neglected or cruelly treated as set forth in this article, and such veterinarian or other person may not be subject to any civil or criminal liability as a result of such reporting.

(b) Any person who, with force, assaults, resists, or impedes any other person engaged in the reporting of abandoned, neglected or cruelly treated animals as provided for in this section is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than two hundred fifty nor more than one thousand dollars, or confined in the county jail not more than one year, or both so fined and confined.

§ 7-10-5. Destruction of animals

Any humane officer or animal shelter lawfully may humanely destroy or cause to be humanely destroyed any animal in a manner consistent with the provisions of section four of this article when, in the judgment of the humane officer or director or supervisor of an animal shelter and upon the written certificate of a regularly licensed veterinary surgeon, the animal appears to be injured, disabled or diseased past recovery or the animal is unclaimed.

§ 9-6-9a. Mandatory reporting suspected of animal cruelty by adult protective service workers

In the event an adult protective service worker, in response to a report mandated by section nine of this article, forms a reasonable suspicion that an animal is the victim of cruel or inhumane treatment, he or she shall report the suspicion and the basis therefor to the county humane officer provided under section one, article ten, chapter seven of this code within twenty-four hours of the response to the report.

§ 19-20-6. County dog warden; rules and regulations for dog control; prosecution and penalties for violation of ordinances

(a) The county commission of each county may appoint and employ a county dog warden, and such number of deputies, for such time, and at such compensation, as such county commission shall deem reasonable and necessary to enforce the provisions of this Code with respect to the control and registration of dogs, the impounding, care and destruction of unlicensed dogs. Such county dog warden may be appointed a deputy assessor for the purpose of collecting the dog tax and registration fees, taking the dog registration and providing the tags authorized by this article. The county dog warden or any deputies may, in the discretion of the county commission, be regularly employed officers or agents of any humane society or society for the prevention of cruelty to animals, organized and operating under the laws of this State and owning, controlling and operating a suitable place within the county for impounding and destroying dogs. In addition to the compensation provided for above, a bounty of fifty cents per dog shall be paid to the county dog warden or deputy who captures an unregistered dog. Such county dog warden and deputy wardens shall each give bond in a sum of not less than one thousand dollars and not more than two thousand dollars conditioned on the faithful performance of their duties. Such bonds shall be filed with the county commission by which such persons are appointed.

The county dog warden and his deputies shall patrol the county in which they are appointed and shall seize on sight and impound any dog more than six months of age found not wearing a valid registration tag, except dogs kept constantly confined in a registered dog kennel. They shall be responsible for the proper care and final disposition of all impounded dogs. The county dog warden shall make a monthly report, in writing, to the county commission of his county. When any dog shall have been seized and impounded, the county dog warden shall forthwith give notice to the owner of such dog, if such owner be known to the warden, that such dog has been impounded and that it will be sold or destroyed if not redeemed within five days. If the owner of such dog be not known to the dog warden, he shall post a notice in the county courthouse. The notice shall describe the dog and the place where seized and shall advise the unknown owner that such dog will be sold or destroyed if not redeemed within five days.

(b) Any county commission may promulgate and enforce such ordinances, rules and regulations, not inconsistent with the provisions of this article, as it considers necessary or convenient for the control and management of all dogs in the county, or any portion thereof, regardless of the age of any such dog: Provided, that the county commissions may promulgate and enforce such ordinances, rules and regulations to the extent necessary for the implementation of the provisions contained in this article.

(c) The county commission of each county may provide in such ordinance for the arrest, conviction and punishment of any person who violates the provisions thereof. The county commission of each county may provide in any such ordinance that any person who violates the provisions of the ordinance is guilty of a misdemeanor, and, upon conviction thereof, that such person is subject to a fine or fines. The amount of such fine for a single violation of any such ordinance may not exceed one hundred dollars. Magistrate courts and circuit courts shall have concurrent jurisdiction with respect to such misdemeanors.

§ 19-20-6a. Authority of county commission to contract with private society, other county or municipality for the care and control of dogs and cats

In addition to the powers granted to county commissions by section six of this article, the county commission of each county may contract with or reimburse any private incorporated society or association, county commission or municipality for the care, maintenance, control or destruction of dogs and cats.

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

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

(b)(1) The term “humanely destroyed” as used in this section means:

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

(B) Any other humane euthanasia procedure approved by the American Veterinary Medical Association, the Humane Society of the United States or the American Humane Association.

(2) The term “humanely destroyed” does not include euthanizing a dog or cat by means of a gas chamber: Provided, That any county which has a gas chamber in operation as of the effective date of this section may continue to operate the gas chamber subject to the following: (1) The gas chamber shall be operated by an animal euthanasia technician certified pursuant to article ten-a, chapter thirty of this code; and (2) the gas chamber shall have been manufactured and installed by a person who regularly manufactures and installs gas chambers. The Board of Veterinary Medicine shall promulgate emergency rules regarding the inspection of gas chambers, pursuant to section fifteen, article three, chapter twenty-nine-a of this code.

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

(1) The shooting is performed by someone trained in the use of firearms with a weapon and ammunition of suitable caliber and other characteristics designed to produce instantaneous death by a single shot; and

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

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

(e) Reasonable costs and fees, in an amount to be determined, from time to time, by the county commission, shall be assessed against every dog seized and impounded under the provisions of this article, except dogs taken into custody under section two of this article. The cost shall be a valid claim in favor of the county against the owner, keeper or harborer of any dog seized and impounded under the provisions of this article and not redeemed or sold as provided in this section and the costs shall be recovered by the sheriff in a civil action against the owner, keeper or harborer.

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

(g) All persons or entities in the state performing euthanasia under this article shall register with the Board of Veterinary Medicine by December 31, 2009, in a manner to be prescribed by the board. The Board of Veterinary Medicine shall promulgate emergency rules relating to the registration of those performing animal euthanasia, pursuant to section fifteen, article three, chapter twenty-nine-a of this code.

§ 19-20-16. Same--When lawful to kill dog

A person may kill a dog that he may see chasing, worrying, wounding or killing any sheep, lambs, goats, kids, calves, cattle, swine, show or breeding rabbits, horses, colts or poultry outside of the enclosure of the owner of the dog, unless the chasing or worrying be done by the direction of the owner of the sheep, lambs, goats, kids, calves, cattle, swine, show or breeding rabbits or horses and colts or poultry.

§ 19-20-17. Same--Unlawful to harbor dog; penalty

A person who shall harbor or secrete or aid in secreting a dog which he knows or has reasons to believe has worried, chased or killed any sheep, lambs, goats, kids, calves, cattle, swine, show or breeding rabbits, horses, colts or poultry not the property of the owner of the dog, out of his enclosure, or knowingly permits the same to be done on any premises under his control, is guilty of a misdemeanor, and, upon conviction thereof, before any court or magistrate having jurisdiction thereof in the county in which the offense is committed, shall be fined not less than ten dollars nor more than fifty dollars, and, at the discretion of the court or magistrate, imprisoned in the county jail not more than thirty days. Each day that the dog is harbored, kept or secreted shall constitute a separate offense.

§ 19-20-18. Same--Duty of owner to kill dog; proceeding before magistrate on failure of owner to kill

The owner or keeper of a dog that has been worrying, wounding, chasing or killing any sheep, lambs, goats, kids, calves, cattle, swine, show or breeding rabbits, horses, colts

or poultry not the property of the owner or keeper, out of his enclosure, shall, within forty-eight hours, after having received notice thereof in writing from a reliable and trustworthy source, under oath, kill the dog or direct that the dog be killed. If the owner or keeper refuses to kill the dog as hereinbefore provided, the magistrate, upon information, shall summon the owner or keeper of the dog, and, after receiving satisfactory proof that this dog did the mischief, shall issue a warrant on application being made by the owner of the sheep, lambs, goats, kids, calves, cattle, swine, show or breeding rabbits, horses, colts or poultry killed; and give it into the hands of the sheriff, who shall kill the dog forthwith or dispose of by other available methods. The cost of the proceedings shall be paid by the owner or keeper of the dog so killed, including a fee of fifty cents to the officer killing the dog. The owner or keeper of the dog so killed shall, in addition to the costs, be liable to the owner of the sheep, lambs, goats, kids, calves, cattle, swine, show or breeding rabbits, horses, colts or poultry or to the county commission for the value of the sheep, lambs, goats, kids, calves, cattle, swine, show or breeding rabbits, horses or colts or poultry so killed or injured.

§ 19-20-19. Offenses; criminal penalties; jurisdiction

A person who violates any of the provisions of this article for which no specific penalty is prescribed is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than one hundred dollars, or imprisoned in the county jail not more than thirty days, or both fined and imprisoned. Magistrates shall have concurrent jurisdiction with the circuit courts to enforce the penalties prescribed by this article.

§ 19-20-20. Keeping vicious dogs; humane officers may kill such dogs

Except as provided in section twenty-one of this article, no person shall own, keep or harbor any dog known by him to be vicious, dangerous, or in the habit of biting or attacking other persons, whether or not such dog wears a tag or muzzle. Upon satisfactory proof before a circuit court or magistrate that such dog is vicious, dangerous, or in the habit of biting or attacking other persons or other dogs or animals, the judge may authorize the humane officer to cause such dog to be killed.

§ 19-20-22. Confinement of female dogs

Every person owning or harboring a female dog, whether licensed or unlicensed, shall keep such dog confined in a building or secure enclosure for twenty-five days during the period of estrus.

§ 19-20-23. Prohibition of the use of impounded dogs and cats

On and after the first day of September, one thousand nine hundred eighty-nine, any dog or cat impounded under the provisions of this article may not be sold, given, transferred or otherwise made available directly or indirectly to any person, institution, corporation or other entity for use in educational or scientific research or related activities. Disposition of impounded dogs or cats may only be by adoption as pets or humanely destroyed. Any person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than four hundred fifty dollars nor more than two thousand dollars.

§ 19-20-24. Causing death or injury to animals used by law-enforcement officials or by fire prevention or investigation officials; criminal penalties

Any person who, without justification, and with the unlawful intent to inflict serious physical injury or death, causes the death of any trained dog or horse used by law-enforcement officials, the Department of Military Affairs and Public Safety or by fire prevention or investigation officials in the performance of their official duties is guilty of a felony and, upon conviction thereof, shall be fined not less than $500 nor more than $5,000 and imprisoned in a correctional facility for a definite term of not less than one year nor more than three years.

Any person who, without justification, willfully and unlawfully causes physical injury to any trained dog or horse used by law-enforcement officials, the Department of Military Affairs and Public Safety or by fire prevention or investigation officials in the performance of their official duties is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $500 or confined in jail not more than six months, or both.

Any person convicted of a violation of this section shall be ordered to make restitution to the law-enforcement agency, the Department of Military Affairs and Public Safety or to the State Fire Marshal or other fire prevention or investigation department or agency owning the animal for any veterinary bills, and replacement costs of any disabled or killed animal.

§ 19-20-25. Retirement, transfer or disposal of state owned dogs and horses

(a) Whenever any dog or horse, which is the property of the state, is unable to perform its duties as a service animal, the responsible governmental agency may:

(1) Transfer ownership of the dog or horse to another governmental agency within West Virginia;

(2) Transfer ownership of the dog or horse to the animal's handler;

(3) Transfer ownership of the dog or horse to a person who wishes to maintain the animal; or

(4) Transfer the dog or horse to the care and custody of any animal shelter, humane society or society for the prevention of cruelty to animals, organized and operating under the laws of this state, so that the dog or horse may be adopted. If the animal shelter, humane society or society for the prevention of cruelty to animals determines that the dog or horse is not suitable for adoption, then the animal may be humanely euthanized by a person licensed under the provisions of article ten or ten-a, chapter thirty of this code.

(b) In the event ownership of a dog or horse is transferred pursuant to subdivision (2), (3) or (4), subsection (a) of this section, the transfer documents must include provisions, signed by the person accepting ownership of the dog or horse, which hold the state harmless from any liability after the date of transfer.

§ 19-20-26. Commercial dog-breeding operations

(a) As used in this section:

(1) “Advertisement” means any media used to promote the sale of dogs including, but not limited to, the Internet, newspapers, flyers, magazines, radio, television, bulletins and signs.

(2) “Commercial dog breeder” means any person who:

(A) Maintains eleven or more unsterilized dogs over the age of one year for the exclusive purpose of actively breeding;

(B) Is engaged in the business of breeding dogs as household pets for direct or indirect sale or for exchange in return for consideration; and

(C) Commercial dog breeder shall not include:

(i) Any person who keeps or breeds dogs exclusively for the purpose of herding or guarding livestock or farm animals, hunting, tracking or exhibiting in dog shows, performance events or field and obedience trials; and

(ii) With respect to greyhound dogs only, any person who holds an occupational permit from, and has registered a greyhound kennel name with, the West Virginia Racing Commission.

(3) “Class I Commercial Dog Breeder” means a commercial dog breeder that possesses eleven to thirty unsterilized dogs over the age of one year at any one time for the exclusive purpose of actively breeding.

(4) “Class II Commercial Dog Breeder” means a commercial dog breeder that possesses more than thirty unsterilized dogs over the age of one year at any time.

(5) “Housing facility” means a structure in which dogs are kept that provides them with shelter, protection from the elements and protection from temperature extremes.

(6) “Primary enclosure” means a structure that restricts a dog's ability to move in a limited amount of space, such as a room, cage or compartment.

(b) No commercial dog breeder may breed dogs without a business registration certificate in accordance with section three, article twelve, chapter eleven of this code and a valid business license issued by the locality in which the dog breeding operation is located, if the locality so requires.

(c) A commercial dog breeder shall:

(1) Obtain a permit annually to operate, as required by the county commission in which the commercial dog breeding operation is located. County commissions are authorized to charge a fee to commercial dog breeders and shall deposit the fees collected in a specially designated account to be used for animal shelters, animal rescue and spay neuter programs administered by county animal shelters or other humane organizations. The fee for a Class I commercial dog-breeding permit shall be an amount determined by the county commission, not to exceed

$250 per year. The fee for a Class II commercial dog breeding permit shall be an amount determined by the county commission, not to exceed $500 per year;

(2) Breed female dogs only after the breeder has obtained an annual certification by a licensed veterinarian that the dog is in suitable health for breeding;

(3) Dispose of dogs only by gift, sale, transfer, barter or euthanasia by a licensed veterinarian;

(4) Maintain current, valid rabies certificates for every dog pursuant to article twenty-a of this chapter;

(5) Include the breeder's annual permit number on any advertisement for the sale of a dog;

(6) If selling directly to the public, post a conspicuous notice containing the breeder's name, address and annual permit number on each cage;

(7) Provide for the humane treatment of dogs in accordance with section nineteen, article eight, chapter sixty-one of this code;

(8) Provide dogs with easy and convenient access to adequate amounts of clean food and water. Food and water receptacles must be regularly cleaned and sanitized. All enclosures must contain potable water that is not frozen, is substantially free from debris and is readily accessible to all dogs in the enclosure at all times unless otherwise directed by a veterinarian for the health of the dog;

(9) Provide veterinary care without delay when necessary;

(10) Maintain adequate staffing levels to ensure compliance with this section; and

(11) Maintain adequate housing facilities and primary enclosures that meet the following minimum requirements:

(A) Housing facilities and primary enclosures must be kept in a sanitary condition and in good repair; must be sufficiently ventilated at all times to minimize odors, drafts, ammonia levels and to prevent moisture condensation; must have a means of fire suppression, such as functioning fire extinguishers or a sprinkler system on the premises; and must have sufficient lighting to allow for observation of the dogs at any time of day or night;

(B) Housing facilities and primary enclosures must enable all dogs to remain dry and clean;

(C) Housing facilities must provide shelter and protection from extreme temperatures and weather conditions that may be uncomfortable or hazardous to the dogs;

(D) Housing facilities must provide sufficient shade to simultaneously shelter all of the dogs housed therein;

(E) A primary enclosure must have solid floors that are constructed in a manner that protects the dogs' feet and legs from injury;

(F) Primary enclosures must be placed no higher than forty-two inches above the floor and may not be placed over or stacked on top of another cage or primary enclosure;

(G) Feces, hair, dirt, debris and food waste must be removed from primary enclosures and housing facilities at least daily or more often if necessary to prevent accumulation and to reduce disease hazards, insects, pests and odors;

(H) All dogs in the same enclosure at the same time must be compatible, as determined by observation. Breeding females in heat may not be in the same enclosure at the same time with sexually mature males, except for breeding purposes. Breeding females and their litters may not be in the same enclosure at the same time with other adult dogs. Puppies under twelve weeks may not be in the same enclosure at the same time with other adult dogs, other than the dam or foster dam unless under immediate supervision; and

(I) Sick dogs shall be isolated sufficiently so as not to endanger the health of other dogs.

(d) To ensure compliance with state animal care laws and regulations, commercial dog breeding locations are subject to biannual inspections by animal control officers or law-enforcement officers.

(e) It is unlawful for a commercial dog breeder to operate if he or she has been convicted of animal cruelty in any local, state or federal jurisdiction.

(f) Any commercial dog breeder who violates any provision of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000 per violation. In any proceeding brought pursuant to the provisions of this section, a circuit judge or magistrate may grant a person accused of violating this section an improvement period not to exceed one year upon such terms and conditions as the judge or magistrate may determine. Upon successful completion of the improvement period the judge or magistrate shall dismiss the charges.

(g) Nothing in this section exempts a facility licensed by the United States Department of Agriculture from compliance.

(h) Nothing in this section prevents any local, state or federal law-enforcement agency from investigating animal cruelty in commercial dog breeding operations.

§ 48-27-702. Law-enforcement officers to provide information, transportation and to report suspicions of animal cruelty

(a) Any law-enforcement officer responding to an alleged incident of domestic violence shall inform the parties of the availability of the possible remedies provided by this article and the possible applicability of the criminal laws of this state. Any law-enforcement officer investigating an alleged incident of domestic violence shall advise the victim of

such violence of the availability of the family protection shelter to which such person may be admitted.

(b) If there is reasonable cause to believe that a person is a victim of domestic violence or is likely to be a victim of domestic violence, a law-enforcement officer responding to an alleged incident of domestic violence shall, in addition to providing the information required in subsection (a) of this section, provide transportation for or facilitate transportation of the victim, upon the request of such victim, to a shelter or an appropriate court.

(c) Whenever a law-enforcement officer, pursuant to a response to an alleged incident of domestic violence, forms a reasonable suspicion that an animal is a victim of cruel or inhumane treatment, he or she shall report the suspicion and the grounds therefor to the county humane officer within twenty-four hours of the response to the alleged incident of domestic violence.

§ 49-2-806. Mandatory reporting of suspected animal cruelty by child protective service workers

In the event a child protective service worker, in response to a report mandated by section eight hundred two and eight hundred three of this article, forms a reasonable suspicion that an animal is the victim of cruel or inhumane treatment, he or she shall report the suspicion and the basis therefor to the county humane officer provided under section one, article ten, chapter seven of this code within twenty-four hours of the response to the report.

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

(a)(1) It is unlawful for any person to intentionally, knowingly or recklessly,

(A) Mistreat an animal in cruel manner;

(B) Abandon an animal;

(C) Withhold;

(i) Proper sustenance, including food or water;

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

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

(D) Abandon an animal to die;

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

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

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

(H) Cruelly chain or tether an animal; or

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

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

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

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

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

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

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

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

(h)(1) Notwithstanding any provision of this code to the contrary, no person who has been convicted of a violation of the provisions of subsection (a) or (b) of this section may be granted probation until the defendant has undergone a complete psychiatric or

psychological evaluation and the court has reviewed the evaluation. Unless the defendant is determined by the court to be indigent, he or she is responsible for the cost of the evaluation.

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

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

§ 61-8-19a. Animal fighting ventures prohibited

(a) For the purpose of this article, “animal fighting venture” means any event that involves a fight conducted or to be conducted between at least two animals for purposes of sport, wagering, or entertainment: Provided, That it shall not be deemed to include any lawful activity the primary purpose of which involves the use of one or more animals in racing or in hunting another animal: Provided, however, That “animal fighting venture” does not include the lawful use of livestock as such is defined in section two, article ten-b, chapter nineteen of this code or exotic species of animals bred or possessed for exhibition purposes when such exhibition purposes do not include animal fighting or training therefor.

(b) It is unlawful for any person to conduct, finance, manage, supervise, direct, engage in, be employed at, or sell an admission to any animal fighting venture or to knowingly allow property under his care, custody or control to be so used.

(c) It is unlawful for any person to possess an animal with the intent to engage the animal in an animal fighting venture.

(d) Any person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $300 and not more than $2,000, or confined in the county jail not exceeding one year, or both so fined and confined: Provided, That if the animal is a wild animal, game animal or fur-bearing animal, as defined in section two, article one, chapter twenty of this code, or wildlife not indigenous to West Virginia, or of a canine, feline, porcine, bovine, or equine species whether wild or domesticated, the person who violates the provisions of this section is guilty of a felony and, upon conviction thereof, shall be fined not less than $2,500 and not more than $5,000, and imprisoned in a state correctional facility for not less than two nor more than five years, or both fined and imprisoned.

(e) Any person convicted of a violation of this section shall be divested of ownership and control of such animals and liable for all costs of their care and maintenance pursuant to section four, article ten, chapter seven of this code.

§ 61-8-19b Attendance at animal fighting ventures prohibited; penalty

(a) It is unlawful for any person to knowingly attend or knowingly cause an individual who has not attained the age of eighteen to attend, an animal fighting venture involving animals as defined in section nineteen-a, article eight of this chapter.

(b) Any person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $300 and not more than $2,000, or confined in the county or regional jail not more than one year, or both fined and imprisoned.

(c) Notwithstanding the provisions of subsection (b) of this section, any person convicted of a third or subsequent violation of subsection (a) of this section is guilty of a felony and, shall be fined not less than $2,500 and not more than $5,000, imprisoned in a state correctional facility not less than one year nor more than five years, or both fined and imprisoned

§ 61-8-19c. Wagering at animal fighting venture prohibited; penalty

(a) It is unlawful for any person to bet or wager money or any other thing of value in any location or place where an animal fighting venture occurs.

(b) Any person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $300 and not more than $2,000, or confined in jail not more than one year, or both fined and imprisoned.

(c) Notwithstanding the provisions of subsection (b) of this section, any person who is convicted of a third or subsequent violation of this section is guilty of a felony and, upon conviction thereof, shall be fined not less than $2,500 and not more than $5,000, or imprisoned in a state correctional facility not less than one year nor more than five years, or both fined and imprisoned.

§ 61-8-20. Keeping or using live birds to be shot at; penalty

Whoever keeps or uses a live bird to be shot at either for amusement or as a test of skill in marksmanship, or shoots at a bird kept or used as aforesaid, or is a party to such shooting, or lets any building, room, field, or premises, or knowingly permits the use thereof, for the purpose of such shooting, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by fine of not more than fifty dollars or by imprisonment for not more than one month, or by both. Nothing herein contained shall apply to the shooting of wild game.

§ 61-8-21. Search warrants relating to cruelty to animals

If complaint is made to a court or magistrate which is authorized to issue warrants in criminal cases that the complainant believes, and has reasonable cause to believe, that the laws relative to cruelty to animals have been or are violated in any particular building or place, such court or magistrate, if satisfied that there is reasonable cause for such

belief, shall issue a search warrant authorizing any sheriff, deputy sheriff, constable or police officer to search such building or place; but no such search shall be made after sunset, unless specially authorized by the magistrate upon satisfactory cause shown.

§ 61-8-22. Search warrants relating to birds and animals kept for fighting

If complaint is made to a court or magistrate authorized to issue warrants in criminal cases that the complainant believes, and has reasonable cause to believe, that preparations are being made for an exhibition of the fighting of birds, dogs, or other animals, or that such exhibition is in progress, or that birds, dogs, or other animals are kept or trained for fighting at any place or in any building or tenement, such court or magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant authorizing any sheriff, deputy sheriff, constable, or police officer, to search such place, building, or tenement at any hour of the day or night, and take possession of all such birds, dogs or other animals there found, and to arrest all persons there present at any such exhibition or where preparations for such an exhibition are being made, or where birds, dogs, or other animals are kept or trained for fighting.

§ 61-8-23. Search without warrant where there is an exhibition of the fighting of birds or animals

Any officer authorized to serve criminal process may, without warrant, enter any place, building, or tenement in which there is an exhibition of the fighting of birds, dogs, or other animals, or in which preparations are being made for such an exhibition and arrest all persons there present and take possession of and remove from the place of seizure the birds, dogs, or other animals engaged in fighting or there found and intended to be used or engaged in fighting, or kept or trained for fighting and hold the same in custody subject to the order of the court as hereinafter provided