

Senate Bill No. 527

(By Senators Williams and Miller)

[Introduced February 6, 2012; referred to the Committee on
Agriculture; and then to the Committee on the Judiciary.]

10 A BILL to repeal §19-18-4, §19-18-5, §19-18-6, §19-18-7, §19-18-8,
11 §19-18-9, §19-18-10, §19-18-11 and §19-18-12 of the Code of
12 West Virginia, 1931, as amended; and to amend and reenact
13 §19-18-1, §19-18-2 and §19-18-3 of said code, all relating to
14 the general livestock trespass law; prohibiting livestock from
15 trespassing; clarifying damages that may be recovered;
16 permitting containment of livestock; requiring owner of
17 trespassing livestock be notified; requiring containment costs
18 be negotiated; permitting containment costs to be recovered in
19 court; permitting the sheriff to take possession of unclaimed
20 livestock; permitting unclaimed livestock be sold at auction;
21 setting forth how the proceeds of a livestock sale shall be
22 distributed; establishing misdemeanor penalties and fines; and
23 permitting restitution.

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

2 That §19-18-4, §19-18-5, §19-18-6, §19-18-7, §19-18-8,
3 §19-18-9, §19-18-10, §19-18-11 and §19-18-12 of the Code of West
4 Virginia, 1931, as amended, be repealed; and that §19-18-1,
5 §19-18-2 and §19-18-3 of said code be amended and reenacted, all to
6 read as follows:

7 **ARTICLE 18. GENERAL LIVESTOCK TRESPASS LAW.**

8 **§19-18-1. Livestock trespassing on property of another; damages**
9 **for injuries to person or property; notice to**
10 **livestock owner; containment of livestock; costs for**
11 **containment.**

12 (a) If livestock enters the property of another landowner
13 without that landowner's consent, the owner or manager of the
14 livestock is liable for damages for personal injury or property
15 loss in a civil action in magistrate or circuit court.

16 (b) The affected landowner must attempt to contact the owner
17 or manager of the trespassing livestock within forty-eight hours of
18 the trespass. If the owner or manager cannot be contacted within
19 forty-eight hours, the landowner shall notify the county sheriff.

20 (c) The landowner may contain the trespassing livestock on
21 his or her property, but is not required to do so. If the
22 landowner is able to contact the owner or manager of the

1 trespassing livestock pursuant to subsection (a) of this section,
2 he or she shall also inform the owner or manager of the costs of
3 containment.

4 (d) The owner or manager of the trespassing livestock and the
5 landowner shall attempt to mutually agree on a fair cost for any
6 containment. A fair cost for containment would be an amount in
7 keeping with an amount allowed by the sheriff or the department for
8 containing similar livestock. However, if the negotiation fails,
9 or if the landowner is not otherwise reimbursed for the costs for
10 containment, the landowner may seek monetary damages in a civil
11 action for these costs in addition to damages to person or
12 property.

13 **§19-18-2. Unclaimed livestock; containment by sheriff; sheriff's**
14 **sale at public auction.**

15 (a) If the owner or manager of trespassing livestock cannot be
16 determined, or if the trespassing livestock has not recovered
17 within ten days of notifying the owner or manager, the county
18 sheriff shall take possession of the trespassing livestock.

19 (b) The county sheriff may return the livestock to its owner
20 or manager and seek reimbursement for containment costs. However,
21 if attempts to return the livestock to the owner or manager fail
22 the sheriff may, after at least ten days notice has been given in
23 an advertisement, sell the livestock to the highest bidder at a

1 public livestock auction.

2 (c) The proceeds of the livestock sale shall be distributed in
3 the following order: (1) Costs incident to the sale; (2) costs of
4 containment by the sheriff and the landowner; (3) any remaining
5 amount to the owner of the trespassing livestock; and (4) if the
6 owner is unknown or does not claim the amount remaining within
7 ninety days, that amount shall be deposited into the county
8 treasury.

9 **§19-18-3. Criminal penalties for trespassing livestock;**
10 **restitution.**

11 (a) While livestock may escape enclosures due to accident or
12 unforeseen circumstances, it is unlawful for the owner or manager
13 of livestock to negligently permit livestock to run at large and
14 trespass on the property of other landowners.

15 (b) If livestock injures a person or destroys the property of
16 another person while negligently trespassing, the owner or manager
17 of the livestock shall be given an oral or written warning for the
18 first offense. For a second offense within six months of the
19 first, the owner or manager is guilty of a misdemeanor and, upon
20 conviction, shall be fined not less than \$50 nor more than \$100.
21 For a third or subsequent offense within six months of the second
22 or subsequent offense, the owner or manager is guilty of a
23 misdemeanor and, upon conviction, shall be fined not less than \$100

1 nor more than \$1,000. The court may also order restitution to the
2 injured party for damages to persons and property and containment
3 costs.

Note: The purpose of this bill is to revise the antiquated stock laws of West Virginia. The name has been updated to "General Livestock Trespass Law." The bill clarifies damages for injury or loss to person or property from trespassing livestock and permits costs to be reimbursed for containment of livestock. The bill requires notification to the owner of trespassing livestock within forty-eight hours. The bill requires negotiating the costs of containment. The bill requires unclaimed livestock to be given to the sheriff for sale at a public livestock auction and the proceeds of the sale are distributed in a particular order. The bill clarifies misdemeanor penalties and fines for livestock that negligently trespass and injure persons or property. The bill also permits restitution.

§19-18-1, §19-18-2 and §19-18-3 have been completely rewritten; therefore, strike-throughs and underscoring have been omitted.