

1 **ENROLLED**

2 **COMMITTEE SUBSTITUTE**

3 **for**

4 **H. B. 2399**

5
6 (By Delegates D. Poling, Anderson, Manypenny, Guthrie, Ireland,
7 Ellem and Swartzmiller)

8 [Passed April 12, 2013; in effect ninety days from passage.]
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10
11 AN ACT to repeal §19-18-4, §19-18-5, §19-18-6, §19-18-7, §19-18-8,
12 §19-18-9, §19-18-10, §19-18-11 and §19-18-12 of the Code of
13 West Virginia, as amended; to amend and reenact §19-1C-4 of
14 said code; and to amend and reenact §19-18-1, §19-18-2 and
15 §19-18-3 of said code, all relating generally to livestock;
16 permitting the Livestock Care Standards Board to create
17 procedures to address the inhumane treatment of livestock;
18 prohibiting livestock from trespassing; clarifying damages
19 that may be recovered; permitting containment of livestock;
20 requiring notification of owner of trespassing livestock;
21 requiring containment costs be negotiated and recovered in
22 court; permitting the sheriff to take possession of unclaimed
23 livestock; permitting unclaimed livestock be sold at auction;
24 setting forth the distribution of auction proceeds; and
25 establishing misdemeanor penalties.

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

That §19-18-4, §19-18-5, §19-18-6, §19-18-7, §19-18-8,

§19-18-9, §19-18-10, §19-18-11 and §19-18-12 of the Code of West Virginia, 1931, as amended, be repealed; that §19-1C-4 of said code be amended and reenacted; and that §19-18-1, §19-18-2 and §19-18-3 of said code be amended and reenacted, all to read as follows:

ARTICLE 1C. CARE OF LIVESTOCK.

§19-1C-4. Powers and duties of the board.

(a) The board has the following powers and duties to:

(1) Establish standards governing the care and well-being of livestock;

(2) Maintain food safety;

(3) Encourage locally grown and raised food; and

(4) Protect West Virginia farms and families.

(b) The board is also authorized to establish standards by legislative rule, pursuant to the provisions of article three, chapter twenty-nine-a of this code, governing the care and well-being of livestock in this state, including:

(1) The agricultural best management practices for the care and well-being of livestock and poultry in this state;

(2) Procedures for addressing complaints regarding the inhumane treatment of livestock and coordinating efforts with county humane officers;

(3) Biosecurity, disease prevention, animal morbidity and mortality data;

(4) Food safety practices; and

(5) The protection of local, affordable food supplies for consumers.

(c) The Department of Agriculture shall administer and enforce

the standards established by the board that are approved by the Legislature.

ARTICLE 18. GENERAL LIVESTOCK TRESPASS LAW.

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

(a) If livestock enters the property of a landowner without that landowner's consent, the owner of the livestock is liable for damages for personal injury or property damage in a civil action in magistrate or circuit court.

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

(c) The landowner may contain the trespassing livestock on his or her property, but is not required to do so. If the landowner is able to contact the owner of the trespassing livestock pursuant to subsection (a) of this section, he or she shall also inform the owner of the costs of containment.

(d) The owner of the trespassing livestock and the landowner shall attempt to mutually agree upon a fair cost for any containment. A fair cost for containment is an amount which would be allowed for the sheriff for containing similar livestock. If the negotiation fails, or if the landowner is not otherwise reimbursed for the costs for containment, the landowner may seek monetary damages in a civil action for these costs.

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

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

(b) The county sheriff may return the livestock to its owner and seek reimbursement for containment costs. If attempts to return the livestock to the owner fail, the sheriff may, after publishing notice as a Class I legal advertisement, sell the livestock to the highest bidder at a public livestock auction.

(c) The proceeds of the livestock sale shall be distributed in the following order:

(1) Costs incident to the sale;

(2) Costs of containment incurred by the sheriff and the landowner;

(3) Any remaining amount to the owner of the trespassing livestock; and

(4) If the owner is unknown or does not claim the amount remaining within ninety days, that amount shall be deposited into the county treasury.

§19-18-3. Criminal penalties for trespassing livestock.

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

(b) If livestock injures a person or destroys the property of

another person while negligently trespassing, the owner of the livestock shall be given an oral or written warning for the first offense. For a second offense within six months of the first, the owner is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 nor more than \$100. For a third or subsequent offense within six months of the second or subsequent offense, the owner is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000.