WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 3056

BY DELEGATE PETHTEL

(BY REQUEST)

[Introduced February 12, 2019; Referred

to the Committee on Agriculture and Natural

Resources then the Judiciary.]

1   A BILL to amend and reenact §19-18-1 of the Code of West Virginia, 1931, as amended, relating

2   to providing protections, under certain circumstances, to owners of livestock and other

3   domestic animals when retrieving the animals after they have trespassed on the property

4   of another.

Be it enacted by the Legislature of West Virginia:

ARTICLE 18. GENERAL STOCK 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; <u>retrieval of livestock by owner.</u>

1   (a) If livestock <u>or other domestic animal</u> enters the property of a landowner without that

2   landowner's consent, the owner of the livestock <u>or other domestic animal</u> is liable for damages for

3   personal injury or property damage in a civil action in magistrate or circuit court.

4   (b) The landowner ~~must~~ <u>shall</u> attempt to contact the owner of the trespassing livestock <u>or</u>

5   <u>other domestic animal</u> within 48 hours of the trespass. If the owner cannot be contacted within 48

6   hours, the landowner shall notify the county sheriff.

7   (c) The landowner may contain the trespassing livestock <u>or other domestic animal</u> on his

8   or her property, but is not required to do so. If the landowner is able to contact the owner of the

9   trespassing livestock <u>or other domestic animal</u> pursuant to subsection (a) of this section, he or

10   she shall also inform the owner of the costs of containment.

11   (d) The owner of the trespassing livestock <u>or other domestic animal</u> and the landowner

12   shall attempt to mutually agree upon a fair cost for any containment. A fair cost for containment

13   is an amount which would be allowed for the sheriff for containing similar livestock <u>or other</u>

14   <u>domestic animal.</u> If the negotiation fails, or if the landowner is not otherwise reimbursed for the

15   costs for containment, the landowner may seek monetary damages in a civil action for these

16   costs.

17   <u>(e) The owner of the trespassing livestock or other domestic animal may recover the</u>

18   trespassing livestock or other domestic animal without being guilty of trespassing if:

19   (1) The owner makes a reasonable attempt to notify the landowner of the presence of the

20   trespassing livestock or other domestic animal;

21   (2) The owner goes onto the property on foot, unless the landowner gives permission to

22   use a motor vehicle or a horse;

23   (3) The owner and all persons assisting the owner recover the trespassing livestock or

24   other domestic animal are unarmed;

25   (4) No damage is done to the landowner's property:

26   (5) No game is taken unless given permission to do so is given in writing by the land

27   owner; and

28   (6) Before entering the property there is no immediate and apparent damage done to the

29   landowner's property.

30   (f) For purposes of this section the term "livestock" includes every domestic animal for

31   which personal property tax is required to be paid.

32   (g) The landowner is free of all liability and responsibility resulting from the owner's actions,

33   and others assisting the owner, in recovering the trespassing livestock or other domestic animal.

34   (h) A landowner may be found guilty of animal cruelty if:

35   (1) The landowner maliciously harbors another person's trespassing livestock or other

36   domestic animal that has identification tags, markings or collars indicating who owns the livestock

37   or other domestic animal; or

38   (2) The landowner maliciously shoots or harms the animals for no apparent justifiable

39   reason.

NOTE: The purpose of this bill is to provide protections to owners of livestock and other
domestic animals when the animals trespass on property of another.

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