

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

Senate Bill 501

By Senators Weld and Deeds

[Introduced on January 22, 2024; referred
to the Committee on the Judiciary]

1 A BILL to amend and reenact §61-8-19 of the Code of West Virginia, 1931, as amended, relating to
 2 cruelty to animals; creating and defining the felony offense of cruelty to animals; modifying
 3 and clarifying applicability; defining terms; and creating criminal penalties.

Be it enacted by the Legislature of West Virginia:

ARTICLE 8. CRIMES AGAINST CHASTITY, MORALITY AND DECENCY.

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

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

2 (A) Cause serious bodily injury or death to a domestic animal;

3 (B) Fail to provide proper care to end the suffering of any domestic animal;

4 (C) Abandon a domestic animal to die without appropriate veterinary care; or

5 (D) Leave a domestic animal unattended and confined in a motor vehicle resulting in the
 6 death of the animal.

7 (2) Any person who violates subdivision (1), of this subsection is guilty of a felony and,
 8 upon conviction, shall be fined not less than \$1,000 nor more than \$3,000 or imprisoned in a state
 9 correctional facility, not less than one nor more than three years, or both fined and confined.

10 (b) A person who intentionally tortures, mutilates, maliciously kills an animal, or causes,
 11 procures, or authorizes any other person to torture, mutilate, or maliciously kill an animal, is guilty
 12 of a felony and, upon conviction, shall be imprisoned in a state correctional facility not less than
 13 one nor more than five years and be fined not less than \$1,000 nor more than \$5,000.

14 (c) (1) It is unlawful for any person to recklessly:

15 (A) Mistreat an animal in cruel manner;

16 (B) Abandon an animal;

17 (C) Withhold:

18 (i) Proper sustenance, including food or water;

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

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

22 (D) Abandon an animal to die; or

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

25 (2) It is unlawful for any person to intentionally, knowingly, or recklessly:

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

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

29 ~~(H)~~ (C) Cruelly chain or tether an animal; or

30 ~~(I)~~ (D) Use, train, or possess a domesticated animal for the purpose of seizing, detaining,
31 or mistreating any other domesticated animal.

32 ~~(2)~~ (3) Any person in violation of ~~subdivision (1)~~ subdivisions (1) or (2) of this subsection is
33 guilty of a misdemeanor and, upon conviction, ~~thereof~~ shall be fined not less than \$300 nor more
34 than \$2,000 or confined in jail not more than six months, or both fined and confined.

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

41 ~~(c)~~ (d) A person, other than a licensed veterinarian or a person acting under the direction or
42 with the approval of a licensed veterinarian, who knowingly and willfully administers or causes to
43 be administered to any animal participating in any contest any controlled substance or any other
44 drug for the purpose of altering or otherwise affecting ~~said~~ the animal's performance is guilty of a

45 misdemeanor and, upon conviction, ~~thereof~~ shall be fined not less than \$500 nor more than
46 \$2,000.

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

51 ~~(e)~~ (f) For the purpose of this section, the term "controlled substance" has the same
52 meaning ascribed to it by ~~§60A-1-101(d)~~ of this code.

53 (g) The provisions of this section do not apply to and have no force or effect as to:

54 (1) Lawful acts of hunting, fishing, trapping, or animal training; ~~or farm livestock, poultry~~

55 (2) The production, marketing, transportation, exhibition, or slaughter of farm or
56 agricultural animals, non-traditional agricultural animals, captive cervids, farm livestock or poultry,
57 used for the production of food or fiber or for breeding, if kept and maintained according to usual
58 and accepted production, marketing, transportation, exhibition, or slaughter standards for farm
59 livestock or poultry;

60 (3) Gaming fowl or wildlife kept in private or licensed game farms if kept and maintained
61 according to usual and accepted standards of ~~livestock, poultry~~, gaming fowl or wildlife or game
62 farm production and management; ~~nor~~

63 (4) Guard and herding animals used in the production or protection of farm livestock;

64 (5) Working livestock; or

65 (6) ~~To~~ The humane use of animals or activities regulated under and in conformity with the
66 provisions of 7 U.S.C. §2131, et seq., and the regulations promulgated thereunder, as both
67 statutes and regulations are in effect on the effective date of this section.

68 (g) Notwithstanding ~~the provisions of~~ subsection ~~(a)~~ (c) of this section any person
69 convicted of a second or subsequent violation of that subsection ~~(a)~~ is guilty of a misdemeanor
70 and, shall be confined in jail for a period of not less than 90 days nor more than one year, fined not

71 less than \$500 nor more than \$3,000, or both confined and fined. The incarceration set forth in this
72 subsection is mandatory unless the provisions of subsection ~~(h)~~ (i) of this section are complied
73 with.

74 (h) (1) Notwithstanding any provision of this code to the contrary, ~~no~~ a person who has
75 been convicted of a violation of ~~the provisions of~~ subsection (a) or (b) of this section may not be
76 granted probation until the defendant has undergone a complete psychiatric or psychological
77 evaluation and the court has reviewed the evaluation. Unless the defendant is determined by the
78 court to be indigent, he or she is responsible for the cost of the evaluation.

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

84 (i) In addition to any other penalty which can be imposed for a violation of this section, a
85 court ~~shall~~ may prohibit any person so convicted from possessing, owning, or residing with any
86 animal or type of animal for a period of five years following entry of a misdemeanor conviction and
87 15 years following entry of a felony conviction. A violation under this subsection is a misdemeanor
88 punishable by a fine not exceeding \$2,000 and forfeiture of the animal.

89 (j) As used in this section:

90 (1) "Animal" means mammals, fish, birds, reptiles, and amphibians;

91 (2) "Controlled substance" means a drug, substance, or immediate precursor or any drug
92 or substance regulated by the provisions of chapter 60A of this code;

93 (3) "Domestic animal" means a dog, cat, or other animal ordinarily kept as a house pet;

94 (4) "Farm livestock" means cattle, sheep, horses, mules, donkeys, goats, rabbits, alpacas,
95 llamas, and other domesticated animals ordinarily raised on a farm;

96 (5) "House pet" means a fully domesticated animal which typically lives indoors and is
97 owned by a person for personal companionship;

98 (6) "Poultry" means domesticated fowl such as chickens, turkeys, ostriches, emus, rheas,
99 cassowaries, waterfowl, and game birds, other than doves and pigeons, which are bred for the
100 primary purpose of producing eggs or meat;

101 (7) "Serious bodily injury" means bodily injury that causes a substantial risk of death,
102 extreme physical pain, obvious disfigurement, or permanent loss or impairment of the function of a
103 limb or organ;

104 (8) "Torture" means a deliberate action by a person intended to inflict pain on an animal;
105 and

106 (9) "Working livestock" means animals being used in the production of agricultural
107 products or farm livestock.

NOTE: The purpose of this bill relates to cruelty to animals. The bill creates and defines the felony offense of cruelty to animals; modifies and clarifies applicability of the section; defines terms; and creates criminal penalties.

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