

HB 2298

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SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1995



# ENROLLED

Com. Sub. For  
HOUSE BILL No. 2298

(By Delegates *Ballagher, Compton, Stator,*  
*Kiss, Trump, Burke and Rowe*)



Passed *March 10,* 1995

In Effect *Ninety Day from* Passage



**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR

**H. B. 2298**

(BY DELEGATES GALLAGHER, COMPTON, STATON, KISS,  
TRUMP, BURKE AND ROWE)

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[Passed March 10, 1995; in effect ninety days from passage.]

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AN ACT to amend and reenact section nineteen, article eight, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to enhanced and additional criminal penalties for convictions of animal cruelty; required evaluation; conditions of probation.

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

That section nineteen, article eight, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**ARTICLE 8. CRIMES AGAINST CHASTITY, MORALITY AND DECENCY.**

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

- 1 (a) If any person cruelly mistreats, abandons or
- 2 withholds proper sustenance, including food, water, shelter
- 3 or medical treatment necessary to sustain normal health
- 4 and fitness or to end suffering or abandons any animal to
- 5 die, or uses, trains or possesses any domesticated animal

6 for the purpose of seizing, detaining or maltreating any  
7 other domesticated animal, he or she is guilty of a  
8 misdemeanor, and, upon conviction thereof, shall be fined  
9 not less than one hundred nor more than one thousand  
10 dollars, or confined in the county jail not more than six  
11 months, or both so fined and confined.

12 (b) Any person, other than a licensed veterinarian or a  
13 person acting under the direction or with the approval of a  
14 licensed veterinarian, who knowingly and willfully  
15 administers or causes to be administered to any animal  
16 participating in any contest any controlled substance or  
17 any other drug for the purpose of altering or otherwise  
18 affecting said animal's performance is guilty of a  
19 misdemeanor, and, upon conviction thereof, shall be fined  
20 not less than one hundred nor more than one thousand  
21 dollars.

22 (c) Any person convicted of a violation of this section  
23 shall forfeit his or her interest in any such animal and all  
24 interest in such animal shall vest in the humane society or  
25 county pound of the county in which said conviction was  
26 rendered, and such person shall, in addition to any fine  
27 imposed, be liable for any costs incurred or to be incurred  
28 by the humane society or county pound as a result.

29 (d) For the purpose of this section, the term  
30 "controlled substance" shall have the same meaning  
31 ascribed to it by subsection (d), section one hundred one,  
32 article one, chapter sixty-a of this code.

33 (e) The provisions of this section do not apply to  
34 lawful acts of hunting, fishing, trapping or animal training  
35 or farm livestock, poultry, gaming fowl or wildlife kept in  
36 private or licensed game farms if kept and maintained  
37 according to usual and accepted standards of livestock,  
38 poultry, gaming fowl or wildlife or game farm production  
39 and management, nor to humane use of animals or  
40 activities regulated under and in conformity with the  
41 provisions of 7 U.S.C. § 2131 et seq. and the regulations  
42 promulgated thereunder, as both such statutes and

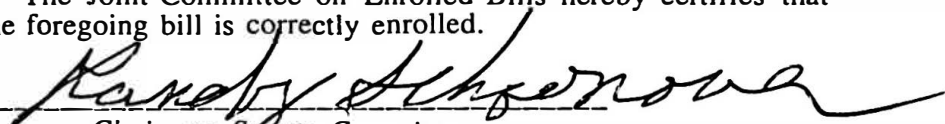
43 regulations are in effect on the effective date of this  
44 section.

45 (f) Notwithstanding the provisions of subsection (a) of  
46 this section, any person convicted of a second violation of  
47 said subsection is guilty of a misdemeanor and shall be  
48 confined in jail for a period of not less than ninety days  
49 nor more than one year, fined not less than five hundred  
50 dollars nor more than one thousand dollars, or both. The  
51 incarceration set forth in this subsection shall be  
52 mandatory unless the provisions of subsection (g) are  
53 complied with.

54 (g) Notwithstanding any provision of this code to the  
55 contrary, no person who has been convicted of a second  
56 or subsequent violation of the provisions of subsection (a)  
57 of this section may be granted probation until the  
58 defendant has undergone a complete psychiatric or  
59 psychological evaluation and the court has reviewed such  
60 evaluation. Unless the defendant is determined by the  
61 court to be indigent, he or she shall be responsible for the  
62 cost of said evaluation.

63 (h) In addition to any other penalty which can be  
64 imposed for a violation of this section, a court may, as a  
65 condition of probation, prohibit any person so convicted  
66 from possessing or owning any animal or type of animal  
67 during the period of probation.


The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
Chairman Senate Committee


  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

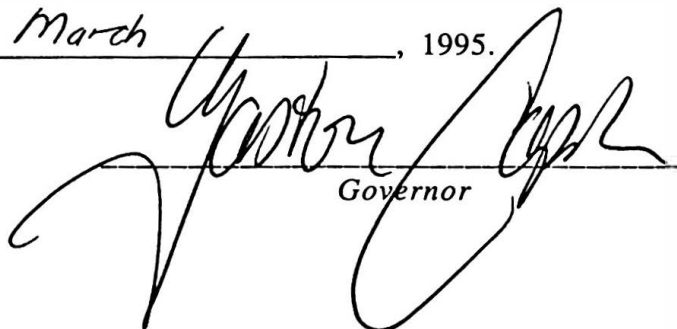
  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker of the House of Delegates

The within is approved this the 23<sup>d</sup>  
day of March, 1995.

  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/22/95

Time 3:40 pm