

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1971



ENROLLED

HOUSE BILL No. 762

(By Mr. WHITLOW AND MR. BROYLES)



PASSED FEBRUARY 22, 1971

In Effect JULY 1, 1971 Passage



FILED IN THE OFFICE
JOHN D. LOCKFELLER, IV
SECRETARY OF STATE
THIS DATE 3-2-71

762

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House Bill No. 762

(By MR. WHITLOW and MR. BROYLES)

[Passed February 22, 1971; in effect July 1, 1971.]

AN ACT to amend and reenact sections fourteen, fifteen, sixteen, seventeen and eighteen, article twenty, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to dogs killing or worrying livestock or poultry and damages resulting therefrom; penalties.

Be it enacted by the Legislature of West Virginia:

That sections fourteen, fifteen, sixteen, seventeen and eighteen, article twenty, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 20. DOGS.**§19-20-14. Dog killing or worrying livestock or poultry—
Recovery of damages from owner of dog or county
court.**

1 If any dog shall have killed or assisted in killing,
2 wounding or worrying any sheep, lambs, goats, kids,
3 calves or poultry out of the enclosure of the owner of
4 such dog, the owner or keeper of such dog shall be liable
5 to the amount of such sheep, lambs, goats, kids, calves
6 or poultry in the amount of the damages sustained, to
7 be recovered in an action before any court or justice
8 having jurisdiction of such action; and it shall not be
9 necessary to sustain such action to prove that the owner
10 of such dog knew such dog was accustomed to do such
11 worrying, killing or wounding; but a recovery under
12 this section shall bar and preclude the owner of such
13 sheep, lambs, goats, kids, calves or poultry from obtain-
14 ing compensation from the county court under the pro-
15 visions of this article. If such person suffering such loss
16 or damage cannot ascertain the owner or keeper of
17 such dog, or if such owner or keeper is not financially
18 responsible, then the person suffering such loss or dam-

19 age may file his claim with, and prove the same before,
20 the county court of the county in which such loss or
21 damage is sustained, in the manner provided in this
22 article, and the court shall pay such loss or damage out
23 of the fund provided for such purposes and according
24 to the provisions of this article. When compensation
25 is so obtained from the county court, said county court
26 is authorized to sue under this section and recover as
27 the owner of the sheep, lambs, goats, kids, calves or
28 poultry might have done, and the amount so recovered
29 shall be paid into the county treasury; but no suit shall
30 be commenced unless authorized by the county court.

§19-20-15. Same—Assessment of damages; appraisers.

1 Authority is hereby given to justices of the peace and
2 notaries public within this state, and within their re-
3 spective jurisdictions, to summon three substantial, up-
4 right and worthy bona fide residents, citizens and tax-
5 payers of his county to assess the damages suffered by
6 any person on account of the destruction, loss or injury
7 of any sheep, lambs, goats, kids, calves or poultry by
8 dogs within the county. Such appraisers shall be ap-

9 pointed upon the request of any person suffering dam-
10 ages on account of such destruction, loss or injury, and
11 shall go upon the ground and investigate fully the ex-
12 tent of such destruction, loss or injury, taking all the
13 evidence deemed necessary to arrive at the facts to be
14 passed upon in arriving at the amount of damage, if any,
15 suffered by the party making the complaint. Before
16 such appraisers may be summoned by such justice or
17 notary public, such complainant shall be required to
18 make a sworn complaint before such justice or notary
19 public, setting out in plain, easily comprehended terms
20 the facts concerning his damage to the best of his knowl-
21 edge. And after making a full investigation of the facts
22 involved, such appraisers, with the assistance of such
23 justice or notary public, shall make a sworn statement
24 and report the facts ascertained and the damages suf-
25 fered, which report and statement shall be filed with
26 the county court or the clerk thereof in vacation. The
27 fees and mileage for services allowed in such cases shall
28 be the same as are allowed justices, witnesses and arbi-
29 trators in justices' courts in this state for similar ser-

30 vices. In the event that such appraisers find that the
31 complainant has suffered no damage, then the com-
32 plainant shall be responsible for and pay all the costs
33 and expenses of such proceeding; and in the event that
34 such complainant has suffered damages on account of
35 the destruction, loss or injury of any such domestic
36 animals, according to the finding of such appraisers,
37 then in such event the owner, keeper or person per-
38 mitting the dog, or dogs, causing such damage to re-
39 main upon premises under his control shall be liable
40 for all damage sustained by the complainant, including
41 all costs and necessary expenses, all of which shall be
42 collectible by an action at law before any court or justice
✓ 43 have jurisdiction of the matter. All papers in connection
44 with any such claim shall be filed and preserved in the
45 office of the clerk of the county court.

§19-20-16. **Same—When lawful to kill dog.**

1 Any person may kill any dog that he may see chasing,
2 worrying, wounding or killing any sheep, lambs, goats,
3 kids, calves or poultry outside of the enclosure of the
4 owner of such dog, unless the same be done by the direc-

5 tion of the owner of such sheep, lambs, goats, kids, calves
6 or poultry.

§19-20-17. Same—Unlawful to harbor dog; penalty.

1 Any person who shall harbor or secrete or aid in
2 secreting any dog which he knows or has reasons to
3 believe has worried, chased or killed any sheep, lambs,
4 goats, kids, calves or poultry not the property of the
5 owner of such dog, out of his enclosure, or knowingly
6 permits the same to be done on any premises under his
7 control, shall be guilty of a misdemeanor, and, upon
8 conviction thereof, before any court or justice having
9 jurisdiction thereof in the county in which the offense
10 is committed, shall be fined not less than ten nor more
11 than fifty dollars, and, at the discretion of the court or
12 justice, imprisoned in the county jail not more than
13 thirty days; and each day that such dog is harbored,
14 kept or secreted shall constitute a separate offense.

**§19-20-18. Same—Duty of owner to kill dog; proceeding before
justice on failure of owner to kill.**

1 The owner or keeper of any dog that has been worry-
2 ing, wounding, chasing or killing any sheep, lambs, goats,

3 kids, calves or poultry not the property of such owner
4 or keeper, out of his enclosure, shall, within forty-eight
5 hours, after having received notice thereof in writing
6 from a reliable and trustworthy source, under oath, cause
7 such dog to be killed. If the owner or keeper refuses
8 to kill said dog as hereinbefore provided, any justice
9 of the peace, upon information, shall summon the owner
10 or keeper of such dog, and, after receiving satisfactory
11 proof that his dog did the mischief, shall issue a warrant
12 on application being made by the owner of the sheep,
13 lambs, goats, kids, calves or poultry killed; and give
14 it into the hands of the constable, special constable or
15 sheriff, who shall kill the dog forthwith. The cost of
16 such proceedings shall be paid by the owner or keeper
17 of the dog so killed, including a fee of fifty cents to the
18 officer killing the dog. The owner or keeper of the dog
19 so killed shall, in addition to the costs, be liable to the
20 owner of the sheep, lambs, goats, kids, calves or poultry
21 or to the county court, for the value of the sheep, lambs,
22 goats, kids, calves or poultry so killed or injured.

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

Fred M. Beall
Chairman Senate Committee

Phyllis Rutledge
Chairman House Committee

Originated in the House.

Takes effect July 1, 1971.

Howard Myers
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Edm. Bout
President of the Senate

Ivor F. Bowersky
Speaker House of Delegates

The within approved this the 1st
day of March, 1971.

Arch A. Shaw Jr.
Governor



PRESENTED TO THE
GOVERNOR

RECEIVED

Date 2/24/71

Time 1:45 p.m. Mar 2 12 49 PM '71

OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA