

Date April 7, 1981

Time 8:15 pm

No: 767

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1981



ENROLLED

Com. Sub. for
HOUSE BILL No. 767

(By Mr. Whitlow + Mr. Williams)



Passed March 27, 1981

In Effect Ninety Days From Passage



ENROLLED
COMMITTEE SUBSTITUTE
FOR

H. B. 767

(By MR. WHITLOW and MR. GILLIAM)

[Passed March 27, 1981; in effect ninety days from passage.]

AN ACT to amend and reenact sections fourteen, fifteen, sixteen, seventeen, eighteen and nineteen, article twenty, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to including swine as livestock for which owners of dogs are liable for damages caused by their dogs in worrying, wounding, or killing livestock or poultry; criminal penalty.

Be it enacted by the Legislature of West Virginia:

That sections fourteen, fifteen, sixteen, seventeen, eighteen and nineteen, 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, wounding or worrying livestock or poultry
—Recovery of damages from owner of dog or county
commission.**

- 1 If any dog has killed or assisted in killing, wounding or
- 2 worrying any sheep, lambs, goats, kids, calves, cattle, swine
- 3 or poultry out of the enclosure of the owner of the dog, the
- 4 owner or keeper of the dog shall be liable for the sheep, lambs,

5 goats, kids, calves, cattle, swine or poultry in the amount of
6 the damages sustained, to be recovered in an action before any
7 court or magistrate having jurisdiction of the action. It shall
8 not be necessary to sustain the action to prove that the owner
9 of the dog knew the dog was accustomed to worrying, killing
10 or wounding. A recovery under this section shall bar and
11 preclude the owner of the sheep, lambs, goats, kids, calves,
12 cattle, swine or poultry from obtaining compensation from the
13 county commission under the provisions of this article. If the
14 person suffering the loss or damage cannot ascertain the
15 owner or keeper of the dog, or if the owner or keeper is not
16 financially responsible, then the person suffering the loss or
17 damage may file his claim with and prove the same before the
18 county commission of the county in which the loss or damage
19 is sustained, in the manner provided in this article, and the
20 commission shall pay the loss or damage out of the fund pro-
21 vided for such purposes and according to the provisions of this
22 article. When compensation is so obtained from the county
23 commission, the county commission is authorized to sue under
24 this section and recover as the owner of the sheep, lambs,
25 goats, kids, calves, cattle, swine or poultry. The amount so re-
26 covered shall be paid into the county treasury; but no suit
27 shall be commenced unless authorized by the county com-
28 mission.

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

1 Authority is hereby given to magistrates and notaries public
2 within this state, and within their respective jurisdictions, to
3 summon three substantial, upright and worthy bona fide resi-
4 dents, citizens and taxpayers of his county to assess the dam-
5 ages suffered by any person on account of the destruction, loss
6 or injury of any sheep, lambs, goats, kids, calves, cattle, swine
7 or poultry by dogs within the county. The appraisers shall be
8 appointed upon the request of a person suffering damages on
9 account of such destruction, loss or injury. The appraisers
10 shall go upon the ground and investigate fully the extent of the
11 destruction, loss or injury, taking all the evidence deemed nec-
12 essary to arrive at the facts to be passed upon in arriving at
13 the amount of damage, if any, suffered by the party making
14 the complaint. Before the appraisers may be summoned by the

15 magistrate or notary public, the complainant shall be required
16 to make a sworn complaint before the magistrate or notary
17 public, setting out in plain, easily comprehensible terms the
18 facts concerning his damages to the best of his knowledge.
19 After making a full investigation of the facts involved, the ap-
20 praisers, with the assistance of the magistrate or notary public,
21 shall make a sworn statement and report the facts ascertained
22 and the damages suffered. The report and statement shall be
23 filed with the county commission or the clerk thereof in vaca-
24 tion. The fees and mileage for services allowed in such cases
25 shall be the same as are allowed magistrates, witnesses and
26 arbitrators in magistrates' courts in this state for similar ser-
27 vices. In the event that the appraisers find that the complain-
28 ant has suffered no damage, then the complainant shall be re-
29 sponsible for and pay all the costs and expenses of the pro-
30 ceeding. In the event that the complainant has suffered dam-
31 ages on account of the destruction, loss or injury of his domes-
32 tic animals, according to the finding of the appraisers, the
33 owner, keeper or person permitting the dog, or dogs, causing
34 the damage to remain upon the premises under his control
35 shall be liable for all damages sustained by the complainant,
36 including all costs and necessary expenses. All the damages
37 shall be collectible by an action at law before any court or
38 magistrate having jurisdiction of the matter. All papers in
39 connection with any claim shall be filed and preserved in the
40 office of the clerk of the county commission.

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

1 A person may kill a dog that he may see chasing, worrying,
2 wounding or killing any sheep, lambs, goats, kids, calves,
3 cattle, swine or poultry outside of the enclosure of the owner
4 of the dog unless the chasing or worrying be done by the
5 direction of the owner of the sheep, lambs, goats, kids, calves,
6 cattle, swine or poultry.

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

1 A person who shall harbor or secrete or aid in secreting
2 a dog which he knows or has reasons to believe his worried,
3 chased or killed any sheep, lambs, goats, kids, calves, cattle,
4 swine or poultry not the property of the owner of the dog,

5 out of his enclosure, or knowingly permits the same to be
6 done on any premises under his control, is guilty of a mis-
7 demeanor, and, upon conviction thereof, before any court or
8 magistrate having jurisdiction thereof in the county in which
9 the offense is committed, shall be fined not less than ten
10 dollars nor more than fifty dollars, and, at the discretion
11 of the court or magistrate imprisoned in the county jail not
12 more than thirty days. Each day that the dog is harbored, kept
13 or secreted shall constitute a separate offense.

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

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

§19-20-19. Offenses; criminal penalties; jurisdiction.

1 A person who violates any of the provisions of this article
2 for which no specific penalty is prescribed is guilty of a mis-
3 demeanor, and, upon conviction thereof, shall be fined not
4 more than one hundred dollars, or imprisoned in the county

- 5 jail not more than thirty days, or both fined and imprisoned.
- 6 Magistrates shall have concurrent jurisdiction with the circuit
- 7 courts to enforce the penalties prescribed by this article.

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

R. P. Baylon
Chairman Senate Committee

Tony E. Whitlow
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Todd C. Wicks
Clerk of the Senate

Ch Blankenship
Clerk of the House of Delegates

President of the Senate

Walter M. Lee, Jr.
Speaker House of Delegates

The within *is approved* this the *7*
day of *April*, 1981.

John D. Roper
Governor

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OFFICE OF THE GOVERNOR

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OFFICE
SECY. OF STATE