

No. 1066

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1986

— ● —

ENROLLED

Committee Substitute for
HOUSE BILL No. *1066*.....

(By Mr. *Del McKinley*.....)

— ● —

Passed *February 13,* 1986

In Effect *Ninety Days From* Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 1066
(By DELEGATE MCKINLEY)

[Passed February 13, 1986; in effect ninety days from passage.]

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, all relating to dogs killing, wounding or worrying livestock or poultry; adding show or breeding rabbits, horses and colts to the list of protected livestock or poultry; recovery of damages; assessment of damages; criminal penalties for harboring dog; and providing procedure and conditions under which owner of dog has duty to kill dog.

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, all to read as follows:

ARTICLE 20. DOGS.

§19-20-14. Dog killing, wounding or worrying livestock or poultry—Recovery of damages.

- 1 If any dog has killed or assisted in killing, wounding
- 2 or worrying any sheep, lambs, goats, kids, calves, cattle,
- 3 swine, show or breeding rabbits, horses, colts, or poultry

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

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

1 Authority is hereby given to magistrates and notaries
2 public within this state, and within their respective
3 jurisdictions, to summon three substantial, upright and
4 worthy bona fide residents, citizens and taxpayers of his
5 county to assess the damages suffered by any person on
6 account of the destruction, loss or injury of any sheep,
7 lambs, goats, kids, calves, cattle, swine, show or
8 breeding rabbits, horses, colts, or poultry by dogs within
9 the county. The appraisers shall be appointed upon the

10 request of a person suffering damages on account of
11 such destruction, loss or injury. The appraisers shall go
12 upon the ground and investigate fully the extent of the
13 destruction, loss or injury, taking all the evidence
14 deemed necessary to arrive at the facts to be passed
15 upon in arriving at the amount of damage, if any,
16 suffered by the party making the complaint. Before the
17 appraisers may be summoned by the magistrate or
18 notary public, the complainant shall be required to
19 make a sworn complaint before the magistrate or notary
20 public, setting out in plain, easily comprehensible terms
21 the facts concerning his damages to the best of his
22 knowledge. After making a full investigation of the facts
23 involved, the appraisers, with the assistance of the
24 magistrate or notary public, shall make a sworn
25 statement and report the facts ascertained and the
26 damages suffered. The report and statement shall be
27 filed with the county commission or the clerk thereof in
28 vacation. The fees and mileage for services allowed in
29 such cases shall be the same as are allowed magistrates,
30 witnesses and arbitrators in magistrates' courts in this
31 state for similar services. In the event that the apprais-
32 ers find that the complainant has suffered no damage,
33 then the complainant shall be responsible for and pay
34 all the costs and expenses of the proceeding. In the event
35 that the complainant has suffered damages on account
36 of the destruction, loss or injury of his domestic animals,
37 according to the finding of the appraisers, the owner,
38 keeper or person permitting the dog, or dogs, causing
39 the damage to remain upon the premises under his
40 control shall be liable for all damages sustained by the
41 complainant, including all costs and necessary expenses.
42 All of the damages shall be collectible by an action at
43 law before any court or magistrate having jurisdiction
44 of the matter. All papers in connection with any claim
45 shall be filed and preserved in the office of the clerk of
46 the county commission.

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

1 A person may kill a dog that he may see chasing,
2 worrying, wounding or killing any sheep, lambs, goats,
3 kids, calves, cattle, swine, show or breeding rabbits,

4 horses, colts, or poultry outside of the enclosure of the
5 owner of the dog, unless the chasing or worrying be done
6 by the direction of the owner of the sheep, lambs, goats,
7 kids, calves, cattle, swine, show or breeding rabbits,
8 horses, colts, or poultry.

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

1 A person who shall harbor or secrete or aid in
2 secreting a dog which he knows or has reasons to believe
3 has worried, chased or killed any sheep, lambs, goats,
4 kids, calves, cattle, swine, show or breeding rabbits,
5 horses, colts, or poultry not the property of the owner
6 of the dog, out of his enclosure, or knowingly permits
7 the same to be done on any premises under his control,
8 is guilty of a misdemeanor, and, upon conviction thereof,
9 before any court or magistrate having jurisdiction
10 thereof in the county in which the offense is committed,
11 shall be fined not less than ten dollars nor more than
12 fifty dollars, and, at the discretion of the court or
13 magistrate, imprisoned in the county jail not more than
14 thirty days. Each day that the dog is harbored, kept or
15 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,
3 kids, calves, cattle, swine, show or breeding rabbits,
4 horses, colts, or poultry not the property of the owner
5 or keeper, out of his enclosure, shall, within forty-eight
6 hours, after having received notice thereof in writing
7 from a reliable and trustworthy source, under oath, kill
8 the dog or direct that the dog be killed. If the owner
9 or keeper refuses to kill the dog as hereinbefore
10 provided, the magistrate, upon information shall
11 summon the owner or keeper of the dog, and, after
12 receiving satisfactory proof that this dog did the
13 mischief, shall issue a warrant on application being
14 made by the owner of the sheep, lambs, goats, kids,
15 calves, cattle, swine, show or breeding rabbits, horses,
16 or colts, or poultry killed; and give it into the hands of

17 the sheriff, who shall kill the dog forthwith or dispose
18 of by other available methods. The cost of the proceed-
19 ings shall be paid by the owner or keeper of the dog so
20 killed, including a fee of fifty cents to the officer killing
21 the dog. The owner or keeper of the dog so killed shall,
22 in addition to the costs, be liable to the owner of the
23 sheep, lambs, goats, kids, calves, cattle, swine, show or
24 breeding rabbits, horses, colts, or poultry or to the
25 county commission for the value of the sheep, lambs,
26 goats, kids, calves, cattle, swine, show or breeding
27 rabbits, horses, colts, or poultry so killed or injured.

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

Bruce A. DeLoach
.....
Chairman Senate Committee

Floyd Fulber
.....
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Todd C. Wick
.....
Clerk of the Senate

Donald L. Kopf
.....
Clerk of the House of Delegates

Sam Tomblin
.....
President of the Senate

Joseph P. Allright
.....
Speaker of the House of Delegates

The within *approved* this the *1st*
March day of, 1986.

Arch A. Moore, Jr.
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 2/25/86

Time 2:40 p.m.

RECEIVED

1986 MAR -6 AM 9:19

DEPARTMENT OF STATE

FILE 101 ELE-182 OF
SECRETARIAT OF STATE OF
WEST VIRGINIA

THIS DATE 3/6/86