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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1991

— ● —

# ENROLLED

*Com. Sub. for*  
HOUSE BILL No. *2297*

(By ~~Mr.~~ *Del. Spencer and Gallagher*)

— ● —

Passed *March 8,* 1991

In Effect *Ninety Days From* Passage

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**ENROLLED**  
**COMMITTEE SUBSTITUTE**  
**FOR**  
**H. B. 2297**

(By DELEGATES SPENCER AND GALLAGHER)

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[Passed March 8, 1991; in effect ninety days from passage.]

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AN ACT to amend and reenact sections two and four, article ten, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to further amend said article ten by adding thereto a new section, designated section four-a; and to amend and reenact sections nineteen and nineteen-a, article eight, chapter sixty-one of said code, all relating to cruelty to animals; setting forth duties of humane officers; permitting humane officers to inspect certain records and property; redefining acts of cruelty to animals; providing for notice and hearing to owners of seized animals; establishing evidence of abandonment; setting forth when ownership may be forfeited; requiring owner to pay for costs of animal care; permitting veterinarian to determine when animal should be humanely destroyed; limiting liability of certain persons; requiring veterinarians and permitting other persons to report acts of cruelty; defining the crime of forcibly interfering with the reporting of acts of cruelty and providing criminal penalties therefor; expanding the circumstances under which it is a crime to administer drugs to animals participating in contests; exempting certain activities and practices under certain circumstances; prohibiting certain participation in animal

fighting ventures; and providing for and increasing certain civil and criminal penalties.

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

That sections two and four, article ten, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that said article ten be further amended by adding thereto a new section, designated section four-a; and that sections nineteen and nineteen-a, article eight, chapter sixty-one of said code be amended and reenacted, all to read as follows:

## CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

### ARTICLE 10. HUMANE OFFICERS.

#### **§7-10-2. Duty of humane officers; interference with.**

1 It is the duty of such officers to prevent the perpetra-  
2 tion or continuance of any act of cruelty upon any  
3 animal and to investigate, and upon probable cause, to  
4 cause the arrest and assist in the prosecution of any  
5 person engaging in such cruel and forbidden practices.  
6 Upon reasonable cause, and as provided by law, such  
7 officers have the right to access and inspection of  
8 records and property as may be reasonably necessary to  
9 any investigation. Any person who interferes with,  
10 obstructs or resists any such officer in the discharge of  
11 his duty is guilty of a misdemeanor, and, upon convic-  
12 tion thereof, shall be fined not less than one hundred nor  
13 more than five hundred dollars, or confined in the  
14 county jail not more than thirty days, or both so fined  
15 and confined. Any such penalties are in addition to any  
16 penalties such person may incur for cruel or inhumane  
17 treatment of any animal.

#### **§7-10-4. Custody and care of animals abandoned, neglected or cruelly treated; hearing; liability for costs; exclusions.**

1 (a) A humane officer shall take possession of any  
2 animal, including birds or wildlife in captivity, known  
3 or believed to be abandoned, neglected, deprived of  
4 necessary sustenance, shelter or medical care or cruelly

5 treated or used, as defined in sections nineteen and  
6 nineteen-a, article eight, chapter sixty-one of this code.

7 (b) The owner, or person in possession, if his or her  
8 identity and residence is known, of any animal seized  
9 pursuant to subsection (a) of this section, shall be  
10 provided written notice of such seizure, their liability  
11 for the cost and care of the animal seized as herein  
12 provided, and the right to request a hearing before a  
13 magistrate in the county wherein the animal was seized.  
14 The magistrate court shall schedule any hearing so  
15 requested within ten working days of the receipt of the  
16 request. The failure of an owner or person in possession  
17 to request a hearing within five working days of the  
18 seizure shall be deemed prima facie evidence of the  
19 abandonment of said animal. At the hearing, if re-  
20 quested, the magistrate shall determine if probable  
21 cause exists to believe that such animal was abandoned,  
22 neglected or deprived of necessary sustenance, shelter or  
23 medical care, or otherwise treated or used cruelly as set  
24 forth herein.

25 (c) Upon finding of such probable cause, or if no  
26 hearing is requested, if the magistrate finds probable  
27 cause based upon the affidavit of the humane officer, the  
28 magistrate shall enter an order authorizing any humane  
29 officer to maintain possession of the animal pending  
30 further proceedings, appeal or the disposition of any  
31 criminal charges pursuant to chapter sixty-one of this  
32 code.

33 (d) Any person whose animal is seized and against  
34 whom a finding of probable cause is rendered pursuant  
35 to this section is liable for the costs of the care, medical  
36 treatment and provisions for such animal during any  
37 period it remains in the possession of the humane  
38 officer.

39 (e) If, after the humane officer takes possession of the  
40 animal pursuant to the finding of probable cause, it is  
41 determined by a licensed veterinarian that the animal  
42 should be humanely destroyed to end its suffering, the  
43 veterinarian may order the animal to be humanely  
44 destroyed according to acceptable humane standards

45 and neither the humane officer nor the veterinarian may  
46 be subject to any civil or criminal liability as a result  
47 of any such determination.

48 (f) The provisions of this section do not apply to farm  
49 livestock, poultry, gaming fowl or wildlife kept in  
50 private or licensed game farms if kept and maintained  
51 according to usual and accepted standards of livestock,  
52 poultry, gaming fowl, wildlife or game farm production  
53 and management, nor to the humane use of animals or  
54 activities regulated under and in conformity with the  
55 provisions of 7 U.S.C. §§2131, et seq. and the regulations  
56 promulgated thereunder, as both such statutes and  
57 regulations are in effect on the effective date of this  
58 section.

**§7-10-4a. Reporting of animals abandoned, neglected or  
cruelly treated; enforcement.**

1 (a) It is the duty of any licensed veterinarian and the  
2 right of any other person to report to a humane officer  
3 any animal found, reasonably known or believed to be  
4 abandoned, neglected or cruelly treated as set forth in  
5 this article, and such veterinarian or other person may  
6 not be subject to any civil or criminal liability as a result  
7 of such reporting.

8 (b) Any person who, with force, assaults, resists, or  
9 impedes any other person engaged in the reporting of  
10 abandoned, neglected or cruelly treated animals as  
11 provided for in this section is guilty of a misdemeanor,  
12 and, upon conviction thereof, shall be fined not less than  
13 two hundred fifty nor more than one thousand dollars,  
14 or confined in the county jail not more than one year,  
15 or both so fined and confined.

**CHAPTER 61. CRIMES AND THEIR PUNISHMENT.**

**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,  
3 shelter or medical treatment necessary to sustain

4 normal health and fitness or to end suffering or  
 5 abandons any animal to die, or uses, trains or possesses  
 6 any domesticated animal for the purpose of seizing,  
 7 detaining or mistreating any other domesticated  
 8 animal, he or she is guilty of a misdemeanor, and, upon  
 9 conviction thereof, shall be fined not less than one  
 10 hundred nor more than one thousand dollars, or  
 11 confined in the county jail not more than six months, or  
 12 both so fined and confined.

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

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

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

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

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

**§61-8-19a. Animal fighting ventures prohibited.**

1 (a) It is unlawful for any person to engage in, be  
2 employed at, or to purchase or sell an admission to any  
3 animal fighting venture.

4 (b) Any person who violates the provisions of this  
5 section is guilty of a misdemeanor, and, upon conviction  
6 thereof, shall be fined not less than one hundred dollars  
7 and not more than one thousand dollars, or confined in  
8 the county jail not exceeding one year, or both so fined  
9 and confined, and may be divested of ownership and  
10 control of such animals, and be liable for all costs for  
11 their care and maintenance.

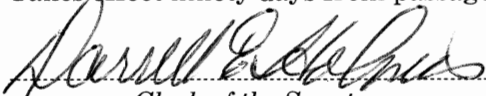
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
Chairman Senate Committee

  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

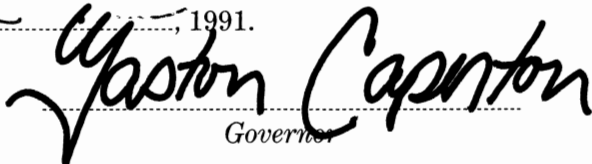
  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker of the House of Delegates

The within is approved this the 29<sup>th</sup>  
day of March, 1991.

  
Governor



PRESENTED TO THE

GOVERNOR

Date

3/20/91

Time

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