WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2001

ENROLLED

COMMITTEE SUBSTITUTE FOR
House Bill No. 2555

(By Delegates R. M. Thompson, Amores, Staton, Mahan, Manuel, Warner and Bean)

Passed April 6, 2001

In Effect Ninety Days from Passage
AN ACT to amend and reenact sections four and five, article ten, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section eight, article twenty, chapter nineteen of said code, all relating to humane destruction of animals by humane officers, animal shelters and dog wardens; adding situations in which a humane officer may seize animals; defining the term humanely destroyed; providing for humane destruction of certain animals; permitting the shooting of animals in emergencies; providing guidelines for the shooting of animals; eliminating requirement that seized animals be kept pending disposition of criminal proceedings; clarifying liability of certain persons for costs of maintenance of confiscated animals; providing civil and criminal immunity to certified animal euthanasia technicians; and providing that humane officers may shelter animals at places other than shelters.
Be it enacted by the Legislature of West Virginia:

That sections four and five, article ten, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that section eight, article twenty, chapter nineteen of said code be amended and reenacted, all to read as follows:

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 10. HUMANE OFFICERS.

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

(a) Subject to the provisions of subsection (h) of this section, a humane officer shall take possession of any animal, including birds or wildlife in captivity, known or believed to be abandoned, neglected, deprived of necessary sustenance, shelter, medical care or reasonable protection from fatal freezing or heat exhaustion, or cruelly treated or used, as defined in sections nineteen and nineteen-a, article eight, chapter sixty-one of this code.

(b) The owner or person in possession, if his or her identity and residence is known, of any animal seized pursuant to subsection (a) of this section, shall be provided written notice of the seizure, his or her liability for the cost and care of the animal seized as provided in this section, and the right to request a hearing before a magistrate in the county where the animal was seized. The magistrate court shall schedule any hearing requested within ten working days of the receipt of the request. The failure of an owner or person in possession to request a hearing within five working days of the seizure is prima facie evidence of the abandonment of the animal. At the hearing, if requested, the magistrate shall determine if probable
cause exists to believe that the animal was abandoned, neglect or deprived of necessary sustenance, shelter, medical care or reasonable protection from fatal freezing or heat exhaustion, or otherwise treated or used cruelly as set forth in this section.

(c) Upon finding of probable cause, or if no hearing is requested and the magistrate finds probable cause based upon the affidavit of the humane officer, the magistrate shall enter an order authorizing any humane officer to maintain possession of the animal pending further proceedings. During this period the humane officer is authorized to place the animal in a safe private home or other safe private setting in lieu of retaining the animal in an animal shelter. The person whose animal is seized is liable for all costs of the care of the seized animal.

(d) Any person whose animal is seized and against whom a finding of probable cause is rendered pursuant to this section is liable for the costs of the care, medical treatment and provisions for the animal during any period it remains in the possession of the humane officer. The magistrate may require the person liable for these costs to post bond to provide for the maintenance of the seized animal.

(e) If, after the humane officer takes possession of the animal pursuant to the finding of probable cause, a licensed veterinarian determines that the animal should be humanely destroyed to end its suffering, the veterinarian may order the animal to be humanely destroyed and neither the humane officer, animal euthanasia technician, nor the veterinarian is subject to any civil or criminal liability as a result of such action.

(f) The term "humanely destroyed" as used in this section means:
(1) Humane euthanasia of an animal by hypodermic injection by a licensed veterinarian or by an animal euthanasia technician certified in accordance with the provisions of article ten-a, chapter thirty of this code; or

(2) Any other humane euthanasia procedure approved by the American Veterinary Medical Association, the Humane Society of the United States, or the American Humane Association.

(g) In case of an emergency in which an animal cannot be humanely destroyed in an expeditious manner, an animal may be destroyed by shooting if:

   (1) The shooting is performed by someone trained in the use of firearms with a weapon and ammunition of suitable caliber and other characteristics designed to produce instantaneous death by a single shot; and

   (2) Maximum precaution is taken to minimize the animal’s suffering and to protect other persons and animals.

(h) The provisions of this section do not apply to farm livestock, poultry, gaming fowl or wildlife kept in private or licensed game farms if kept and maintained according to usual and accepted standards of livestock, poultry, gaming fowl, wildlife or game farm production and management, nor to the humane use of animals or activities regulated under and in conformity with the provisions of 7 U.S.C. §2131 et seq. and the regulations promulgated thereunder.

§7-10-5. Destruction of animals.

Any humane officer or animal shelter lawfully may humanely destroy or cause to be humanely destroyed any animal in a manner consistent with the provisions of section four of this article when, in the judgment of the humane officer
CHAPTER 19. AGRICULTURE.

ARTICLE 20. DOGS AND CATS.

§19-20-8. Impounding and disposition of dogs; costs and fees.

(a) All dogs seized and impounded as provided in this article, except dogs taken into custody under section two of this article, shall be kept housed and fed in the county dog pound for five days after notice of seizure and impounding has been given or posted as required by this article, at the expiration of which time all dogs which have not previously been redeemed by their owners as provided in this article, shall be sold or humanely destroyed. No dog sold as provided in this section may be discharged from the pound until the dog has been registered and provided with a valid registration tag.

(b) The term "humanely destroyed" as used in this section means:

(1) Humane euthanasia of an animal by hypodermic injection by a licensed veterinarian or by an animal euthanasia technician certified in accordance with the provisions of article ten-a, chapter thirty of this code; or

(2) Any other humane euthanasia procedure approved by the American Veterinary Medical Association, the Humane Society of the United States, or the American Humane Association.

(c) In an emergency or in a situation in which a dog cannot be humanely destroyed in an expeditious manner, a dog may be destroyed by shooting if:
(1) The shooting is performed by someone trained in the use of firearms with a weapon and ammunition of suitable caliber and other characteristics designed to produce instantaneous death by a single shot; and

(2) Maximum precaution is taken to minimize the dog's suffering and to protect other persons and animals.

(d) The owner, keeper or harborer of any dog seized and impounded under the provisions of this article may, at any time prior to the expiration of five days from the time that notice of the seizure and impounding of the dog has been given or posted as required by this article, redeem the dog by paying to the dog warden or his or her authorized agent or deputy all of the costs assessed against the dog, and by providing a valid certificate of registration and registration tag for the dog.

(e) Reasonable costs and fees, in an amount to be determined from time to time by the county commission, shall be assessed against every dog seized and impounded under the provisions of this article, except dogs taken into custody under section two of this article. The cost shall be a valid claim in favor of the county against the owner, keeper or harborer of any dog seized and impounded under the provisions of this article and not redeemed or sold as provided in this section, and the costs shall be recovered by the sheriff in a civil action against the owner, keeper or harborer.

(f) A record of all dogs impounded, the disposition of the dogs and a statement of costs assessed against each dog shall be kept by the dog warden and a transcript thereof shall be furnished to the sheriff quarterly.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Originating in the House.

In 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 16th day of April, 2001.

Governor
PRESENTED TO THE
GOVERNOR
Date  
Time  