

HB 2399

2013 APR 29 PM 6:00

SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
FIRST REGULAR SESSION, 2013



**ENROLLED**

COMMITTEE SUBSTITUTE  
FOR

**House Bill No. 2399**

(By Delegate(s) D. Poling, Anderson, Manypenny,  
Guthrie, Ireland, Ellem and Swartzmiller)



Passed April 12, 2013

In effect ninety days from passage.

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COMMITTEE SUBSTITUTE

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## H. B. 2399

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(BY DELEGATE(S) D. POLING, ANDERSON, MANYPENNY,  
GUTHRIE, IRELAND, ELLEM AND SWARTZMILLER)

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AN ACT to repeal §19-18-4, §19-18-5, §19-18-6, §19-18-7, §19-18-8, §19-18-9, §19-18-10, §19-18-11 and §19-18-12 of the Code of West Virginia, as amended; to amend and reenact §19-1C-4 of said code; and to amend and reenact §19-18-1, §19-18-2 and §19-18-3 of said code, all relating generally to livestock; permitting the Livestock Care Standards Board to create procedures to address the inhumane treatment of livestock; prohibiting livestock from trespassing; clarifying damages that may be recovered; permitting containment of livestock; requiring notification of owner of trespassing livestock; requiring containment costs be negotiated and recovered in court; permitting the sheriff to take possession of unclaimed livestock; permitting unclaimed livestock be sold at auction; setting forth the distribution of auction proceeds; and establishing misdemeanor penalties.

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

That §19-18-4, §19-18-5, §19-18-6, §19-18-7, §19-18-8, §19-18-9, §19-18-10, §19-18-11 and §19-18-12 of the Code of West Virginia, 1931, as amended, be repealed; that §19-1C-4 of said code be amended and reenacted; and that §19-18-1, §19-18-2 and §19-18-3 of said code be amended and reenacted, all to read as follows:

**ARTICLE 1C. CARE OF LIVESTOCK.**

**§19-1C-4. Powers and duties of the board.**

- 1 (a) The board has the following powers and duties to:
  - 2 (1) Establish standards governing the care and well-being of  
3 livestock;
  - 4 (2) Maintain food safety;
  - 5 (3) Encourage locally grown and raised food; and
  - 6 (4) Protect West Virginia farms and families.
- 7 (b) The board is also authorized to establish standards by  
8 legislative rule, pursuant to the provisions of article three,  
9 chapter twenty-nine-a of this code, governing the care and  
10 well-being of livestock in this state, including:
  - 11 (1) The agricultural best management practices for the care  
12 and well-being of livestock and poultry in this state;
  - 13 (2) Procedures for addressing complaints regarding the  
14 inhumane treatment of livestock and coordinating efforts with  
15 county humane officers;
  - 16 (3) Biosecurity, disease prevention, animal morbidity and  
17 mortality data;
  - 18 (4) Food safety practices; and
  - 19 (5) The protection of local, affordable food supplies for  
20 consumers.
- 21 (c) The Department of Agriculture shall administer and  
22 enforce the standards established by the board that are approved  
23 by the Legislature.

**ARTICLE 18. GENERAL LIVESTOCK TRESPASS LAW.**

**§19-18-1. Livestock trespassing on property of another; damages for injuries to person or property; notice to livestock owner; containment of livestock; costs for containment.**

1 (a) If livestock enters the property of a landowner without  
2 that landowner's consent, the owner of the livestock is liable for  
3 damages for personal injury or property damage in a civil action  
4 in magistrate or circuit court.

5 (b) The landowner must attempt to contact the owner of the  
6 trespassing livestock within forty-eight hours of the trespass. If  
7 the owner cannot be contacted within forty-eight hours, the  
8 landowner shall notify the county sheriff.

9 (c) The landowner may contain the trespassing livestock on  
10 his or her property, but is not required to do so. If the landowner  
11 is able to contact the owner of the trespassing livestock pursuant  
12 to subsection (a) of this section, he or she shall also inform the  
13 owner of the costs of containment.

14 (d) The owner of the trespassing livestock and the landowner  
15 shall attempt to mutually agree upon a fair cost for any  
16 containment. A fair cost for containment is an amount which  
17 would be allowed for the sheriff for containing similar livestock.  
18 If the negotiation fails, or if the landowner is not otherwise  
19 reimbursed for the costs for containment, the landowner may  
20 seek monetary damages in a civil action for these costs.

**§19-18-2. Unclaimed livestock; containment by sheriff; sheriff's sale at public auction.**

1 (a) If the owner of trespassing livestock cannot be  
2 determined, or if the trespassing livestock has not been  
3 recovered within ten days of notifying the owner, the county  
4 sheriff shall take possession of the trespassing livestock.

5 (b) The county sheriff may return the livestock to its owner  
6 and seek reimbursement for containment costs. If attempts to  
7 return the livestock to the owner fail, the sheriff may, after  
8 publishing notice as a Class I legal advertisement, sell the  
9 livestock to the highest bidder at a public livestock auction.

10 (c) The proceeds of the livestock sale shall be distributed in  
11 the following order:

12 (1) Costs incident to the sale;

13 (2) Costs of containment incurred by the sheriff and the  
14 landowner;

15 (3) Any remaining amount to the owner of the trespassing  
16 livestock; and

17 (4) If the owner is unknown or does not claim the amount  
18 remaining within ninety days, that amount shall be deposited  
19 into the county treasury.

**§19-18-3. Criminal penalties for trespassing livestock.**

1 (a) While livestock may escape enclosures due to accident  
2 or unforeseen circumstances, it is unlawful for the owner of  
3 livestock to negligently permit livestock to run at large and  
4 trespass on the property of other landowners.

5 (b) If livestock injures a person or destroys the property of  
6 another person while negligently trespassing, the owner of the  
7 livestock shall be given an oral or written warning for the first  
8 offense. For a second offense within six months of the first, the  
9 owner is guilty of a misdemeanor and, upon conviction thereof,  
10 shall be fined not less than \$50 nor more than \$100. For a third  
11 or subsequent offense within six months of the second or  
12 subsequent offense, the owner is guilty of a misdemeanor and,  
13 upon conviction thereof, shall be fined not less than \$100 nor  
14 more than \$1,000.

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

*Danny Welle*  
Chairman, House Committee

*Rocky Felton*  
~~Member~~ ~~Chairman~~, Senate Committee

Originating in the House.

In effect ninety days from passage.

*Dwight L. Lee*  
Clerk of the House of Delegates

*Joseph M. Minard*  
Clerk of the Senate

*Rocky Felton*  
Speaker of the House of Delegates

*Joseph M. Minard*  
President of the Senate

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The within *is approved* this the *29th*  
day of *April*, 2013.

*Carl Ray Tomblin*  
Governor

PRESENTED TO THE GOVERNOR

APR 25 2013

Time 11:40am