



Compendium of U.S. Animal Protection Laws

West Virginia



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This chapter contains West Virginia’s general animal protection and related statutes with an effective date on or before September 1, 2025. It begins with a detailed overview of the provisions contained in these laws, followed by the full text of the statutes themselves. The various provisions are organized into categories with the relevant part of each statute italicized.

West Virginia may employ similar provisions within other non-animal-specific criminal and civil statutes, may have other more specific statutes in addition to those included, and may have a variety of animal-related regulations in effect. Because the law is continually evolving, always review an official source for the most current language of any statute.

ANIMAL PROTECTION LAWS OF WEST VIRGINIA

West Virginia Laws

SUBSTANTIVE PROHIBITIONS AND EXEMPTIONS

1. Definition of "Animal"	[None]
2. General Cruelty	<p>Abuse or killing of a companion animal. W. VA. CODE § 19-20-12(a) <i>90 days community service and/or \$500 fine</i></p> <p>Commercial dog-breeding operations W. VA. CODE, § 19-20-26 <i>Misdemeanor, \$1,000 fine, 1 year imprisonment</i></p> <p>Crimes against animals, including cruel treatment, neglect, or abandonment of an animal; riding an animal when they are unfit; baiting or harassing an animal to make them perform; cruelly chaining an animal; cruelly using an animal; or training or possessing a domesticated animal for the purpose of maltreating another domesticated animal. W. VA. CODE § 61-8-19(a),(g) <i>1st offense: Misdemeanor, 6 months jail and/or \$2,000 fine.</i> <i>Subsequent offenses: Misdemeanor, 1 year jail and/or \$3,000 fine.</i></p> <p>Torture or malicious killing of an animal. W. VA. CODE § 61-8-19(b) <i>Felony, 5 years jail and \$5,000 fine</i></p> <p>Euthanasia of wildlife by rehabilitators must be carried out by most humane means possible W. VA. CODE § 20-2D-6; 20-2D-9 <i>Misdemeanor: 30 days incarceration and/or \$1,000 fine</i></p> <p>Exemptions:</p> <p>Protection of farmed animals. W. VA. CODE § 19-20-16</p> <p>Veterinary practice, research animals, lawful hunting, accepted farm animal husbandry practices, AWA regulation compliance. W. VA. CODE § 61-8-19(c),(f)</p>

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<p>3. Animal Fighting</p>	<p>NOTE: Procedural matters relating to animal fighting are located the Seizure, Forfeiture, and Restitution sections of this document.</p> <p>Using, training, or possessing a domesticated animal for seizing, detaining, or mistreating another domesticated animal. W. VA. CODE § 61-8-19(a)(1)(I) <i>Misdemeanor, 6 months imprisonment and/or \$2,000 fine</i></p> <p>Animal fighting ventures are prohibited. W. VA. CODE § 61-8-19a <i>Misdemeanor, 1 year imprisonment and/or \$2,000 fine</i> <i>If the animal is one of the enumerated species: Felony, 5 years imprisonment and/or \$5,000 fine.</i></p> <p>Attending or wagering at an animal fighting venture. W. VA. CODE §§ 61-8-19b, 61-8-19c <i>1st and 2nd offense: Misdemeanor, 1 year imprisonment and/or \$2,000 fine.</i> <i>Subsequent offenses: Felony, 5 years imprisonment and/or \$5,000 fine.</i></p>
<p>4. Sexual Assault</p>	<p>[None]</p>
<p>5. Cruelty to Working Animals</p>	<p>Intentionally injuring or killing a law enforcement animal. W. VA. CODE § 19-20-24 <i>Serious physical injury or death: Felony, 3 years imprisonment and/or \$5,000 fine.</i> <i>Physical injury: Misdemeanor, 6 months imprisonment and/or \$500 fine.</i></p> <p>Injury to an explosives-detection animal. W. VA. CODE § 61-3E-6 <i>Felony: 5 years imprisonment and/or \$5,000 fine.</i></p>
<p>6. Laws Specific to Farmed Animals</p>	<p>Malicious poisoning, maiming, or killing of a horse, cow, or other animal (excluding dogs) who belong to another person. W. VA. CODE § 61-3-27 <i><\$100: 3 months jail and \$500 fine.</i> <i>\$100+ : 10 years prison.</i></p>
<p>7. Cruel Hunting, Trapping, and Fishing</p>	<p>Unlawful acts and methods. W. VA. CODE § 20-2-5</p> <p>Dogs chasing deer. W. VA. CODE § 20-2-16</p>

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	<p>Unlawful acts concerning the taking of furbearers. <i>W. VA. CODE § 20-2-17</i></p> <p>Restrictions on bear hunting. <i>W. VA. CODE § 20-2-22a</i></p> <p>Keeping or using live birds, at which to shoot. <i>W. VA. CODE § 61-8-20</i> <i>Misdemeanor, 1 month imprisonment and/or \$50 fine</i></p>
REPORTING LAWS	
8. Cross Reporting	<p>Humane officers shall report suspected abuse, neglect, or domestic violence of a child, elder, and incapacitated person. <i>W. VA. CODE §§ 7-10-2(b), 49-2-803</i></p> <p>Humane officers shall report suspected circumstances whereby a vulnerable person may be abused, neglected, or in an emergency situation. <i>W. VA. CODE § 9-6-9</i></p> <p>Adult protective service and child protective service workers shall report suspected animal cruelty. <i>W. VA. CODE §§ 9-6-9a, 49-2-806</i></p> <p>Law enforcement officers responding to domestic violence cases shall report suspected animal cruelty. <i>W. VA. CODE § 48-27-702(c)</i></p>
9. Veterinary Reporting	<p>A veterinarian has a duty to report suspected animal abuse or neglect, and has no civil or criminal liability from such reporting. <i>W. VA. CODE § 7-10-4a(a)</i></p>
10. "Ag-Gag" Laws	[None]
CIVIL AND CIVILIAN INTERVENTION	
11. Emergency Rescue and Relief	[None]
12. Civil Enforcement	[None]
13. Domestic Relations	Provisions regarding rewarding a petitioner the exclusive care, possession, or control of any animal who is owned, possessed, leased, kept, or held by either the

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	<p>petitioner, the respondent, or a minor child who resides in the residence or household of either the petitioner or the respondent; prohibiting the respondent from taking, concealing, molesting, physically injuring, killing, or otherwise disposing of the animal; and limiting or precluding contact by the respondent with the animal.</p> <p>W. VA. CODE § 48-27-503(13)</p>
CRIMINAL JUSTICE INTERVENTION	
<p>14. Maximum Penalties and Statute of Limitations</p>	<p>NOTE: All penalties are defined in the substantive statutes, that are available in the Substantive Prohibitions and Exemptions sections of this document.</p> <p>Statute of limitations.</p> <p>W. VA. CODE § 61-11-9 <i>Misdemeanor: 1 year.</i> <i>Felony: None.</i></p>
<p>15. Law Enforcement Policies</p>	<p>Notwithstanding any statute to the contrary, counties may adopt laws providing for the custody and care of animals who have been abandoned, neglected, or cruelly treated.</p> <p>W. VA. CODE § 7-1-14</p> <p>When a prosecuting attorney has information regarding a violation of any penal law committed within the county they serve, they shall institute and prosecute all necessary and proper proceedings against the person who committed the violation.</p> <p>W. VA. CODE § 7-4-1</p> <p>Designated humane officers shall investigate all complaints of cruelty and shall enforce related statutes.</p> <p>W. VA. CODE § 7-10-1</p> <p>Humane officers may arrest a person they suspect of committing a crime, based on probable cause; and they shall prevent the person's perpetration or continuance of any act of cruelty.</p> <p>W. VA. CODE § 7-10-2(b)</p> <p>The Commissioner of Agriculture may designate employees to investigate animal cruelty. State police and law enforcement personnel have the authority and the duty to enforce provisions related to abuse and killing of companion animals.</p> <p>W. VA. CODE § 19-20-12(d),(e)</p>
<p>16. Seizure</p>	<p>Humane officers may seize cruelly treated animals drawing, or inside of, a vehicle.</p> <p>W. VA. CODE § 7-10-3</p>

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	<p>Humane officers shall seize any abandoned, neglected, or cruelly treated animals, including captive birds and wildlife. W. VA. CODE § 7-10-4(a)</p> <p>If a magistrate finds an animal was cruelly treated, a humane officer will maintain possession of the seized animal, pending further proceedings. W. VA. CODE § 7-10-4(c)</p> <p>A court shall issue search warrants that are based on reasonable cause, that animals are being cruelly treated. W. VA. CODE § 61-8-21</p> <p>Search warrants relating to birds and animals who are kept for fighting may be issued for reasonable cause. W. VA. CODE § 61-8-22</p> <p>A search without a warrant is authorized at animal fighting exhibitions. W. VA. CODE § 61-8-23</p>
<p>17. Courtroom Animal Advocate Program</p>	<p>[None]</p>
<p>18. Restitution and Reimbursement</p>	<p>If probable cause is shown, a defendant is liable for the costs of care for their animal, while the animal is impounded. W. VA. CODE § 7-10-4(b),(d)</p> <p>Upon a finding of probable cause, an owner shall post a renewable bond for the costs of care for their seized animal. W. VA. CODE § 7-10-4(c)</p> <p>Unrecovered expenses become a lien on the animal. W. VA. CODE § 7-10-4(d)</p> <p>Restitution is available for abuse or killing of a companion animal. W. VA. CODE § 19-20-12(a)</p> <p>If convicted, a defendant shall pay restitution for injuring or killing a law enforcement animal. W. VA. CODE § 19-20-24</p>

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	<p>If convicted, a defendant shall pay restitution for injuring or killing an explosives-detection animal. W. VA. CODE § 61-3E-6</p> <p>If convicted, a defendant is liable for the costs of care for their seized animals. W. VA. CODE § 61-8-19(d)</p> <p>Upon conviction for conducting an animal fighting venture, a defendant shall be liable for all costs of care for the seized animals involved in the defendant's case. W. VA. CODE § 61-8-19a(e)</p>
<p>19. Forfeiture and Possession Bans</p>	<p>Upon a finding by a preponderance of the evidence that the owner of a seized animal did abandon, neglect, or cruelly treat the animal, a humane officer will receive custody of the animal, to determine where the animal will go, based on reasonable and humane practices. W. VA. CODE § 7-10-4(c)</p> <p>Any person convicted of an animal cruelty violation shall forfeit their interest in the abused animal. W. VA. CODE § 61-8-19(d)</p> <p>A court shall prohibit anyone who is convicted of animal cruelty, from possessing, owning, or residing with any animal for 5 years following a misdemeanor conviction, and for 15 years following a felony conviction. W. VA. CODE § 61-8-19(i)</p> <p>Upon conviction for conducting an animal fighting venture, a defendant shall be divested of their ownership and control of the animals whom they kept for fighting. W. VA. CODE § 61-8-19a(e)</p>
<p>20. Rehabilitative Sentencing</p>	<p>Psychiatric evaluations are required for probation. W. VA. CODE § 61-8-19(h)(1)</p> <p>A court may require a defendant to complete an anger management program if they committed animal cruelty. W. VA. CODE § 61-8-19(h)(2)</p>

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1. DEFINITION OF "ANIMAL"

[None]

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2. GENERAL CRUELTY

W. VA. CODE § 19-20-12. Dogs, other animals and reptiles protected by law; unlawful killing thereof; aggrieved owner's remedy; penalties; penalties for unlawful stealing of companion animals.

- (a) *Any dog which is registered, kept and controlled as provided in this article or any dog, cat or other animal or any reptile which is owned, kept and maintained as a companion animal by any person, irrespective of age, is protected by law; and, except as otherwise authorized by law, any person who shall intentionally, knowingly or recklessly kill, injure, poison or in any other manner, cause the death or injury of any dog, cat, other animal or any reptile is guilty of a misdemeanor and, upon conviction thereof, shall be ordered to provide public service for not less than thirty nor more than ninety days or fined not less than three hundred dollars nor more than five hundred dollars, or both.* However, this section does not apply to a dog who is killed while attacking a person, a companion animal or livestock. Any person whose dog, cat, other animal or reptile as specified herein is killed or injured wrongfully or unlawfully by any other person shall have a right of action against the person who shall so kill or injure any dog, cat, animal or reptile.
- (b) Any person who shall intentionally and unlawfully steal a dog, cat, other animal or reptile as specified in subsection (a) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be ordered to provide public service for not less than thirty nor more than ninety days or fined not less than three hundred nor more than five hundred dollars, or both. Any person violating the provisions of this subsection, for second or subsequent offense, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for a period of not less than ninety days nor more than six months, or shall be ordered to provide public service for not more than one year, and fined not less than one thousand dollars. In no case can any action or prosecution relating to a dog under the provisions of this section be maintained if the dog concerned has not been duly registered pursuant to the provisions of this article or owned and kept pursuant to the provisions of this section or owned and kept pursuant to the provisions of this section at the time the cause of action shall have arisen.
- (c) No person other than the owner of a registered dog may remove a tag, collar or other identifying apparel from the registered dog, nor remove or turn off a radio transmitting collar on the registered dog, without the permission of the owner, unless removal of the tag, collar or apparel is necessary to prevent or treat an injury to the dog or is done by a law-enforcement officer for a legitimate law-enforcement purpose. Any person who intentionally removes a tag, collar or other apparel from a registered dog in violation of the provisions of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be ordered to provide community service for not less than eight hours nor more than forty hours or fined not less than fifty dollars nor more than one hundred fifty dollars, or both.
- (d) The Commissioner of Agriculture is hereby authorized to designate a reasonable number of his or her present employees as may be necessary to investigate alleged incidents of the unlawful stealing of dogs, other domestic animals or reptiles, alleged incidents of cruelty to animals or reptiles and the alleged incidents of the unlawful stealing of animals or reptiles for the purpose of sale to medical or other research companies. The deputies shall make the results of their investigations known to any law-enforcement officers who have authority to enforce the provisions of this article.

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- (e) It shall be the duty of all members of the West Virginia State Police, sheriffs and police officers to aid in the enforcement of the provisions of this article and, for services rendered in the enforcement thereof, those persons shall be entitled to fees in the amounts set forth in section eight of this article. The fees shall be paid by the county commission from the dog and kennel fund.

W. VA. CODE, § 19-20-26. Commercial dog-breeding operations

- (a) As used in this section:
- (1) "Advertisement" means any media used to promote the sale of dogs including, but not limited to, the Internet, newspapers, flyers, magazines, radio, television, bulletins and signs.
 - (2) "Commercial dog breeder" means any person who:
 - (A) Maintains eleven or more unsterilized dogs over the age of one year for the exclusive purpose of actively breeding;
 - (B) Is engaged in the business of breeding dogs as household pets for direct or indirect sale or for exchange in return for consideration; and
 - (C) Commercial dog breeder shall not include:
 - (i) Any person who keeps or breeds dogs exclusively for the purpose of herding or guarding livestock or farm animals, hunting, tracking or exhibiting in dog shows, performance events or field and obedience trials; and
 - (ii) With respect to greyhound dogs only, any person who holds an occupational permit from, and has registered a greyhound kennel name with, the West Virginia Racing Commission.
 - (3) "Class I Commercial Dog Breeder" means a commercial dog breeder that possesses eleven to thirty unsterilized dogs over the age of one year at any one time for the exclusive purpose of actively breeding.
 - (4) "Class II Commercial Dog Breeder" means a commercial dog breeder that possesses more than thirty unsterilized dogs over the age of one year at any time.
 - (5) "Housing facility" means a structure in which dogs are kept that provides them with shelter, protection from the elements and protection from temperature extremes.
 - (6) "Primary enclosure" means a structure that restricts a dog's ability to move in a limited amount of space, such as a room, cage or compartment.
- (b) No commercial dog breeder may breed dogs without a business registration certificate in accordance with section three, article twelve, chapter eleven of this code and a valid business license issued by the locality in which the dog breeding operation is located, if the locality so requires.
- (c) A commercial dog breeder shall:
- (1) Obtain a permit annually to operate, as required by the county commission in which the commercial dog breeding operation is located. County commissions are authorized to charge a fee to commercial dog breeders and shall deposit the fees collected in a specially designated account to be used for animal shelters, animal rescue and spay neuter programs administered by county animal shelters or other humane organizations. The fee for a Class I commercial dog-breeding permit shall be an amount determined by the county commission, not to exceed \$250

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- per year. The fee for a Class II commercial dog breeding permit shall be an amount determined by the county commission, not to exceed \$500 per year;
- (2) Breed female dogs only after the breeder has obtained an annual certification by a licensed veterinarian that the dog is in suitable health for breeding;
 - (3) Dispose of dogs only by gift, sale, transfer, barter or euthanasia by a licensed veterinarian;
 - (4) Maintain current, valid rabies certificates for every dog pursuant to article twenty-a of this chapter;
 - (5) Include the breeder's annual permit number on any advertisement for the sale of a dog;
 - (6) If selling directly to the public, post a conspicuous notice containing the breeder's name, address and annual permit number on each cage;
 - (7) *Provide for the humane treatment of dogs in accordance with section nineteen, article eight, chapter sixty-one of this code;*
 - (8) *Provide dogs with easy and convenient access to adequate amounts of clean food and water. Food and water receptacles must be regularly cleaned and sanitized. All enclosures must contain potable water that is not frozen, is substantially free from debris and is readily accessible to all dogs in the enclosure at all times unless otherwise directed by a veterinarian for the health of the dog;*
 - (9) *Provide veterinary care without delay when necessary;*
 - (10) Maintain adequate staffing levels to ensure compliance with this section; and
 - (11) *Maintain adequate housing facilities and primary enclosures that meet the following minimum requirements:*
 - (A) *Housing facilities and primary enclosures must be kept in a sanitary condition and in good repair; must be sufficiently ventilated at all times to minimize odors, drafts, ammonia levels and to prevent moisture condensation; must have a means of fire suppression, such as functioning fire extinguishers or a sprinkler system on the premises; and must have sufficient lighting to allow for observation of the dogs at any time of day or night;*
 - (B) *Housing facilities and primary enclosures must enable all dogs to remain dry and clean;*
 - (C) *Housing facilities must provide shelter and protection from extreme temperatures and weather conditions that may be uncomfortable or hazardous to the dogs;*
 - (D) *Housing facilities must provide sufficient shade to simultaneously shelter all of the dogs housed therein;*
 - (E) *A primary enclosure must have solid floors that are constructed in a manner that protects the dogs' feet and legs from injury;*
 - (F) *Primary enclosures must be placed no higher than forty-two inches above the floor and may not be placed over or stacked on top of another cage or primary enclosure;*
 - (G) *Feces, hair, dirt, debris and food waste must be removed from primary enclosures and housing facilities at least daily or more often if necessary to prevent accumulation and to reduce disease hazards, insects, pests and odors;*
 - (H) *All dogs in the same enclosure at the same time must be compatible, as determined by observation. Breeding females in heat may not be in the same enclosure at the same time with sexually mature males, except for breeding purposes. Breeding females and their litters may not be in the same enclosure at the same time with other adult dogs.*

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Puppies under twelve weeks may not be in the same enclosure at the same time with other adult dogs, other than the dam or foster dam unless under immediate supervision; and

(l) Sick dogs shall be isolated sufficiently so as not to endanger the health of other dogs.

- (d) To ensure compliance with state animal care laws and regulations, commercial dog breeding locations are subject to biannual inspections by animal control officers or law-enforcement officers.
- (e) It is unlawful for a commercial dog breeder to operate if he or she has been convicted of animal cruelty in any local, state or federal jurisdiction.
- (f) *Any commercial dog breeder who violates any provision of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 per violation. In any proceeding brought pursuant to the provisions of this section, a circuit judge or magistrate may grant a person accused of violating this section an improvement period not to exceed one year upon such terms and conditions as the judge or magistrate may determine. Upon successful completion of the improvement period the judge or magistrate shall dismiss the charges.*
- (g) Nothing in this section exempts a facility licensed by the United States Department of Agriculture from compliance.
- (h) Nothing in this section prevents any local, state or federal law-enforcement agency from investigating animal cruelty in commercial dog breeding operations.

W. VA. CODE § 61-8-19. Cruelty to animals; penalties; exclusions.

- (a)
 - (1) *It is unlawful for any person to intentionally, knowingly or recklessly,*
 - (A) *Mistreat an animal in cruel manner;*
 - (B) *Abandon an animal;*
 - (C) *Withhold;*
 - (i) *Proper sustenance, including food or water;*
 - (ii) *Shelter that protects from the elements of weather; or*
 - (iii) *Medical treatment, necessary to sustain normal health and fitness or to end the suffering of any animal;*
 - (D) *Abandon an animal to die;*
 - (E) *Leave an animal unattended and confined in a motor vehicle when physical injury to or death of the animal is likely to result;*
 - (F) *Ride an animal when it is physically unfit;*
 - (G) *Bait or harass an animal for the purpose of making it perform for a person's amusement;*
 - (H) *Cruelly chain or tether an animal; or*
 - (I) *Use, train or possess a domesticated animal for the purpose of seizing, detaining or mistreating any other domesticated animal.*
 - (2) *Any person in violation of subdivision (1) of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than three hundred nor more than two thousand dollars or confined in jail not more than six months, or both.*

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- (b) *A person who intentionally tortures, or mutilates or maliciously kills an animal, or causes, procures or authorizes any other person to torture, mutilate or maliciously kill an animal, is guilty of a felony and, upon conviction thereof, shall be confined in a correctional facility not less than one nor more than five years and be fined not less than one thousand dollars nor more than five thousand dollars. For the purposes of this subsection, "torture" means an action taken for the primary purpose of inflicting pain.*
- (c) *A person, other than a licensed veterinarian or a person acting under the direction or with the approval of a licensed veterinarian, who knowingly and willfully administers or causes to be administered to any animal participating in any contest any controlled substance or any other drug for the purpose of altering or otherwise affecting said animal's performance is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than five hundred nor more than two thousand dollars.*
- (d) Any person convicted of a violation of this section forfeits his or her interest in any animal and all interest in the animal vests in the humane society or county pound of the county in which the conviction was rendered and the person is, in addition to any fine imposed, liable for any costs incurred or to be incurred by the humane society or county pound as a result.
- (e) For the purpose of this section, the term "controlled substance" has the same meaning ascribed to it by subsection (d), section one hundred one, article one, chapter sixty-a of this code.
- (f) *The provisions of this section do not apply to lawful acts of hunting, fishing, trapping or animal training or 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 or wildlife or game farm production and management, nor to 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, as both statutes and regulations are in effect on the effective date of this section.*
- (g) *Notwithstanding the provisions of subsection (a) of this section, any person convicted of a second or subsequent violation of subsection (a) is guilty of a misdemeanor and shall be confined in jail for a period of not less than ninety days nor more than one year, fined not less than five hundred dollars nor more than three thousand dollars, or both. The incarceration set forth in this subsection is mandatory unless the provisions of subsection (h) of this section are complied with.*
- (h)
- (1) Notwithstanding any provision of this code to the contrary, no person who has been convicted of a violation of the provisions of subsection (a) or (b) of this section may be granted probation until the defendant has undergone a complete psychiatric or psychological evaluation and the court has reviewed the evaluation. Unless the defendant is determined by the court to be indigent, he or she is responsible for the cost of the evaluation.
 - (2) For any person convicted of a violation of subsection (a) or (b) of this section, the court may, in addition to the penalties provided in this section, impose a requirement that he or she complete a program of anger management intervention for perpetrators of animal cruelty. Unless the defendant is determined by the court to be indigent, he or she is responsible for the cost of the program.
- (i) In addition to any other penalty which can be imposed for a violation of this section, a court shall prohibit any person so convicted from possessing, owning or residing with any animal or type of animal for a period of five years following entry of a misdemeanor conviction and fifteen years following entry of a felony conviction. A violation under this subsection is a misdemeanor punishable by a fine not exceeding two thousand dollars and forfeiture of the animal.

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W. VA. CODE § 20-2D-6. General provisions regarding wildlife rehabilitation.

- (a) Permit holders or designated in-shelter assistants may have contact with wildlife being rehabilitated only to the extent necessary for adequate care and treatment. Wildlife may not be habituated to humans, tamed, kept as pets, or used in inappropriate ways.
- (b) Public exhibition of wildlife being rehabilitated is prohibited.
- (c) Permit holders shall notify the director immediately of the receipt of a federally threatened or endangered species.
- (d) On advice from the permit holder's consulting veterinarian, an injured or sick wildlife that is incapable of surviving if released to the wild must be:
 - (1) Humanely euthanized under the direction of the permit holder's consulting veterinarian;
 - (2) Turned over to the director or his or her designee; or
 - (3) On approval by the director, may remain with the rehabilitator for educational display.
- (e) *Euthanasia of wildlife shall be carried out by the most humane means possible under the direction of the permit holder's consulting veterinarian according to criteria established by the American Veterinary Medical Association, the National Wildlife Rehabilitators Association, or the International Wildlife Rehabilitators Council.* Threatened or endangered species may be euthanized only on written approval from the director.
- (f) Wildlife that are euthanized or die of natural causes must be buried or incinerated, except migratory birds. Federal permit holders must follow the guidelines of their permits for the final disposition of carcasses.
- (g) Permit holders may not sell, barter, or give away any live or dead wildlife or any parts thereof.
- (h) The Director or his or her designee shall be able to inspect any wildlife rehabilitation facility at any time for reasons including disease surveillance, collection of treatment records, and wildlife welfare checks.
- (i) The Director can require wildlife to be tested, quarantined, and destroyed if they are exposed to or known to possess diseases or parasites of pathological or ecological significance to humans, domestic livestock and poultry, or native wildlife.

W. VA. CODE § 20-2D-9. Violation of article

- (a) *Any person violating any provision of this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500 nor more than \$1000, which is not subject to suspension by the court, confined in jail not less than 10 nor more than 30 days, or both fined and confined.*

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W. VA. CODE § 19-20-16. [Dog killing, wounding or worrying livestock or poultry]—when lawful to kill dog.

A person may kill a dog that he may see chasing, worrying, wounding or killing any sheep, lambs, goats, kids, calves, cattle, swine, show or breeding rabbits, horses, colts, or poultry outside of the enclosure of the owner of the dog, unless the chasing or worrying be done by the direction of the owner of the sheep, lambs, goats, kids, calves, cattle, swine, show or breeding rabbits, horses, colts, or poultry.

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3. ANIMAL FIGHTING

NOTE: Procedural matters relating to animal fighting are located the seizure, forfeiture, and restitution sections of this document.

W. VA. CODE § 61-8-19. Cruelty to animals; penalties; exclusions.

- (a)
- (1) *It is unlawful for any person to intentionally, knowingly or recklessly,*
 - (A) Mistreat an animal in cruel manner;
 - (B) Abandon an animal;
 - (C) Withhold;
 - (i) Proper sustenance, including food or water;
 - (ii) Shelter that protects from the elements of weather; or
 - (iii) Medical treatment, necessary to sustain normal health and fitness or to end the suffering of any animal;
 - (D) Abandon an animal to die;
 - (E) Leave an animal unattended and confined in a motor vehicle when physical injury to or death of the animal is likely to result;
 - (F) Ride an animal when it is physically unfit;
 - (G) *Bait or harass an animal for the purpose of making it perform for a person's amusement;*
 - (H) Cruelly chain or tether an animal; or
 - (I) *Use, train or possess a domesticated animal for the purpose of seizing, detaining or mistreating any other domesticated animal.*
 - (2) *Any person in violation of subdivision (1) of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than three hundred nor more than two thousand dollars or confined in jail not more than six months, or both.*
- (b) A person who intentionally tortures, or mutilates or maliciously kills an animal, or causes, procures or authorizes any other person to torture, mutilate or maliciously kill an animal, is guilty of a felony and, upon conviction thereof, shall be confined in a correctional facility not less than one nor more than five years and be fined not less than one thousand dollars nor more than five thousand dollars. For the purposes of this subsection, "torture" means an action taken for the primary purpose of inflicting pain.
- (c) A person, other than a licensed veterinarian or a person acting under the direction or with the approval of a licensed veterinarian, who knowingly and willfully administers or causes to be administered to any animal participating in any contest any controlled substance or any other drug for the purpose of altering or otherwise affecting said animal's performance is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than five hundred nor more than two thousand dollars.
- (d) Any person convicted of a violation of this section forfeits his or her interest in any animal and all interest in the animal vests in the humane society or county pound of the county in which the conviction was rendered and the person is, in addition to any fine imposed, liable for any costs incurred or to be incurred by the humane society or county pound as a result.

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- (e) For the purpose of this section, the term “controlled substance” has the same meaning ascribed to it by subsection (d), section one hundred one, article one, chapter sixty-a of this code.
- (f) The provisions of this section do not apply to lawful acts of hunting, fishing, trapping or animal training or 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 or wildlife or game farm production and management, nor to 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, as both statutes and regulations are in effect on the effective date of this section.
- (g) Notwithstanding the provisions of subsection (a) of this section, any person convicted of a second or subsequent violation of subsection (a) is guilty of a misdemeanor and shall be confined in jail for a period of not less than ninety days nor more than one year, fined not less than five hundred dollars nor more than three thousand dollars, or both. The incarceration set forth in this subsection is mandatory unless the provisions of subsection (h) of this section are complied with.
- (h)
 - (1) Notwithstanding any provision of this code to the contrary, no person who has been convicted of a violation of the provisions of subsection (a) or (b) of this section may be granted probation until the defendant has undergone a complete psychiatric or psychological evaluation and the court has reviewed the evaluation. Unless the defendant is determined by the court to be indigent, he or she is responsible for the cost of the evaluation.
 - (2) For any person convicted of a violation of subsection (a) or (b) of this section, the court may, in addition to the penalties provided in this section, impose a requirement that he or she complete a program of anger management intervention for perpetrators of animal cruelty. Unless the defendant is determined by the court to be indigent, he or she is responsible for the cost of the program.
- (i) In addition to any other penalty which can be imposed for a violation of this section, a court shall prohibit any person so convicted from possessing, owning or residing with any animal or type of animal for a period of five years following entry of a misdemeanor conviction and fifteen years following entry of a felony conviction. A violation under this subsection is a misdemeanor punishable by a fine not exceeding two thousand dollars and forfeiture of the animal.

W. VA. CODE § 61-8-19a. Animal fighting ventures prohibited.

- (a) *For the purpose of this article, “animal fighting venture” means any event that involves a fight conducted or to be conducted between at least two animals for purposes of sport, wagering, or entertainment: Provided, That it shall not be deemed to include any lawful activity the primary purpose of which involves the use of one or more animals in racing or in hunting another animal: Provided, however, That “animal fighting venture” does not include the lawful use of livestock as such is defined in section two, article ten-b, chapter nineteen of this code [§ 19-10B-2] or exotic species of animals bred or possessed for exhibition purposes when such exhibition purposes do not include animal fighting or training therefor.*

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- (b) *It is unlawful for any person to conduct, finance, manage, supervise, direct, engage in, be employed at, or sell an admission to any animal fighting venture or to knowingly allow property under his care, custody or control to be so used.*
- (c) *It is unlawful for any person to possess an animal with the intent to engage the animal in an animal fighting venture.*
- (d) *Any person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$300 and not more than \$2,000, or confined in the county jail not exceeding one year, or both so fined and confined: Provided, That if the animal is a wild animal, game animal or fur-bearing animal, as defined in section two, article one, chapter twenty of this code [§ 20-1-2], or wildlife not indigenous to West Virginia, or of a canine, feline, porcine, bovine, or equine species whether wild or domesticated, the person who violates the provisions of this section is guilty of a felony and, upon conviction thereof, shall be fined not less than \$2,500 and not more than \$5,000, and imprisoned in a state correctional facility for not less than two nor more than five years, or both fined and imprisoned.*
- (e) *Any person convicted of a violation of this section shall be divested of ownership and control of such animals and liable for all costs of their care and maintenance pursuant to section four, article ten, chapter seven of this code [§ 7-10-4].*

W. VA. CODE § 61-8-19b. Attendance at animal fighting ventures prohibited; penalty.

- (a) *It is unlawful for any person to knowingly attend or knowingly cause an individual who has not attained the age of eighteen to attend, an animal fighting venture involving animals as defined in section nineteen-a, article eight of this chapter [§ 61-8-19a].*
- (b) *Any person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$300 and not more than \$2,000, or confined in the county or regional jail not more than one year, or both fined and imprisoned.*
- (c) *Notwithstanding the provisions of subsection (b) of this section, any person convicted of a third or subsequent violation of subsection (a) of this section is guilty of a felony and, shall be fined not less than \$2,500 and not more than \$5,000, imprisoned in a state correctional facility not less than one year nor more than five years, or both fined and imprisoned.*

W. VA. CODE § 61-8-19c. Wagering at animal fighting venture prohibited; penalty.

- (a) *It is unlawful for any person to bet or wager money or any other thing of value in any location or place where an animal fighting venture occurs.*
- (b) *Any person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$300 and not more than \$2,000, or confined in jail not more than one year, or both fined and imprisoned.*
- (c) *Notwithstanding the provisions of subsection (b) of this section, any person who is convicted of a third or subsequent violation of this section is guilty of a felony and, upon conviction thereof, shall be fined*

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not less than \$2,500 and not more than \$5,000, or imprisoned in a state correctional facility not less than one year nor more than five years, or both fined and imprisoned.

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4. SEXUAL ASSAULT

[None]

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5. CRUELTY TO WORKING ANIMALS

W. VA. CODE § 19-20-24. Causing death or injury to animals used by law-enforcement officials or by fire prevention or investigation officials; criminal penalties.

Any person who, without justification, and with the unlawful intent to inflict serious physical injury or death, causes the death of any trained dog or horse used by law-enforcement officials, the Department of Military Affairs and Public Safety or by fire prevention or investigation officials in the performance of their official duties is guilty of a felony and, upon conviction thereof, shall be fined not less than \$500 nor more than \$5,000 and imprisoned in a correctional facility for a definite term of not less than one year nor more than three years.

Any person who, without justification, willfully and unlawfully causes physical injury to any trained dog or horse used by law-enforcement officials, the Department of Military Affairs and Public Safety or by fire prevention or investigation officials in the performance of their official duties is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$500 or confined in jail not more than six months, or both.

Any person convicted of a violation of this section shall be ordered to make restitution to the law-enforcement agency, the Department of Military Affairs and Public Safety or to the State Fire Marshal or other fire prevention or investigation department or agency owning the animal for any veterinary bills, and replacement costs of any disabled or killed animal.

W. VA. CODE § 61-3E-6. Causing death or injury to an explosives detection animal; penalty.

Any person who violates the provisions of this article which violation causes death, serious or debilitating bodily injury to an explosives detection animal owned or used by a law-enforcement agency, shall be guilty of a felony and, upon conviction thereof, be committed to the custody of the Division of Corrections for not less than one year nor more than five years or fined not more than \$5,000 or both. Any person convicted of a violation of this section shall be ordered to make restitution to the law-enforcement agency, the Department of Military Affairs and Public Safety or to the State Fire Marshal or other fire prevention or investigation department or agency owning the animal for any veterinary bills, and replacement costs of any disabled or killed animal.

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6. LAWS SPECIFIC TO FARMED ANIMALS

EDITOR'S NOTE: This section does **not** contain all state or territorial laws regarding farmed animals. This section contains only criminal statutes with the primary purpose of preventing individual farmed animals from suffering unnecessary pain or suffering.

W. VA. CODE § 61-3-27. Malicious killing of animals by poison or otherwise; penalty.

If a person maliciously administers poison to, or exposes poison with the intent that it should be taken by, any horse, cow or other animal of another person, or if any person maliciously maims, kills, or causes the death of any horse, cow or other animal of another person, of the value of one hundred dollars or more, the person is guilty of a felony, and, upon conviction, shall be imprisoned in the penitentiary not less than one year nor more than ten years; and, if the horse, cow or other animal is of less value than one hundred dollars, the person is guilty of a misdemeanor, and, upon conviction, shall be confined in jail not more than three months and fined not more than five hundred dollars: Provided, That this section shall not be construed to include dogs.

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7. CRUEL HUNTING, TRAPPING, AND FISHING

EDITOR'S NOTE: This section does **not** contain all state or territorial laws regarding hunting, trapping, and fishing. This section contains only criminal statutes with the primary purpose of preventing individual wild animals from suffering unnecessary pain or suffering.

W. VA. CODE § 20-2-5. Unlawful methods of hunting and fishing and other unlawful acts; Sunday hunting.

- (a) Except as authorized by the director or by law, it is unlawful at any time for any person to:
- (1) Shoot at any wild bird or wild animal unless it is plainly visible;
 - (2) Dig out, cut out, smoke out, or in any manner take or attempt to take any live wild animal or wild bird out of its den or place of refuge;
 - (3) Use or attempt to use any artificial light or any night vision technology, including image intensification, thermal imaging, or active illumination while hunting, locating, attracting, taking, trapping, or killing any wild bird or wild animal: Provided, That it is lawful to hunt or take coyote, fox, raccoon, opossum, or skunk by the use of artificial light or night vision technology, including image intensification, thermal imaging, or active illumination. Any person violating this subdivision is guilty of a misdemeanor and, upon conviction thereof, shall for each offense be fined not less than \$100 nor more than \$500, and shall be confined in jail for not less than 10 days nor more than 100 days;
 - (4) Hunt, take, kill, wound, harass, or shoot at wild animals or wild birds from an airplane or other airborne conveyance, a drone or other unmanned aircraft, an automobile, or other land conveyance, or from a motor-driven water conveyance;
 - (5) Use a drone or other unmanned aircraft to hunt, take, wound, harass, transport, or kill a wild bird or wild animal, or to use a drone or other unmanned aircraft to drive or herd any wild bird or wild animal for the purposes of hunting, trapping, or killing;
 - (6) Take any beaver or muskrat by any means other than a trap;
 - (7) Catch, capture, take, hunt, or kill by seine, net, bait, trap, or snare or like device a wild turkey, ruffed grouse, pheasant, or quail;
 - (8) Intentionally destroy or attempt to destroy the nest or eggs of any wild bird or have in his or her possession the nest or eggs;
 - (9) Carry an uncased or loaded firearm in the woods of this state or in state parks, state forests, state wildlife management areas, or state rail trails with the following permissible exceptions:
 - (A) A person in possession of a valid license or permit during open firearms hunting season for wild animals and nonmigratory wild birds where hunting is lawful;
 - (B) A person hunting or taking unprotected species of wild animals, wild birds, and migratory wild birds during the open season, in the open fields, open water, and open marshes of the state where hunting is lawful;
 - (C) A person carrying a firearm pursuant to § 20-2-6 of this code;
 - (D) A person carrying a firearm for self-defense who is not prohibited from possessing firearms under state or federal law; or

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- (E) A person carrying a rifle or shotgun for self-defense who is not prohibited from possessing firearms under state or federal law: Provided, That this exception does not apply to an uncased rifle or shotgun carried specifically in state park or state forest recreational facilities and marked trails within state park or state forest borders;
- (10) *Hunt, catch, take, kill, injure, or pursue a wild animal or wild bird with the use of a ferret;*
- (11) Buy raw furs, pelts, or skins of fur-bearing animals unless licensed to do so;
- (12) *Catch, take, kill, or attempt to catch, take, or kill any fish by any means other than by rod, line, and hooks with natural or artificial lures, unless otherwise authorized by the director:* Provided, That snaring of any species of sucker, carp, fallfish, and creek chub and catching catfish by hand are lawful if done by a holder of a valid license issued pursuant to § 20-2-1 et seq. of this code or is exempted from licensure pursuant to § 20-2-27 or § 20-2-28 of this code;
- (13) Employ, hire, induce, or persuade, with money, things of value, or by any means, any person to hunt, take, catch, or kill any wild animal or wild bird except those species in which there is no closed season; or to fish for, catch, take, or kill any fish, amphibian, or aquatic life that is protected by rule, or the sale of which is otherwise prohibited;
- (14) *Hunt, catch, take, kill, capture, pursue, transport, possess, or use any migratory game or nongame birds except as permitted by the Migratory Bird Treaty Act, 16 U.S.C. § 703 et seq., and its regulations;*
- (15) Kill, take, catch, sell, transport, or have in his or her possession, living or dead, any wild bird other than a game bird, including the plumage, skin, or body of any protected bird, irrespective of whether the bird was captured in or out of this state, except the English or European sparrow (*Passer domesticus*), starling (*Sturnus vulgaris*), and cowbird (*Molothrus ater*), which may be killed at any time;
- (16) *Use dynamite, explosives, or any poison in any waters of the state for the purpose of killing or taking fish.* Any person violating this subdivision is guilty of a felony, and upon conviction thereof, shall be fined not more than \$500 or confined for not less than six months nor more than three years, or both fined and confined;
- (17) Have a bow and gun, or have a gun and any arrow, in the fields or woods at the same time;
- (18) Have a crossbow in the woods or fields, or use a crossbow to hunt, take, or attempt to take any wildlife except as otherwise provided in § 20-2-5g and § 20-2-42w of this code;
- (19) *Take or attempt to take turkey, bear, elk, or deer with any arrow unless the arrow is equipped with a point having at least two sharp cutting edges measuring in excess of three-fourths of an inch wide;*
- (20) *Take or attempt to take any wildlife with an arrow having an explosive head or shaft, a poisoned arrow, or an arrow which would affect wildlife by any chemical action;*
- (21) Shoot an arrow across any public highway;
- (22) *Permit any dog owned or under his or her control to chase, pursue, or follow the tracks of any wild animal or wild bird, day or night, between May 1 and August 15:* Provided, That dogs may be trained on wild animals and wild birds, except deer and wild turkeys, and field trials may be held or conducted on the grounds or lands of the owner, or by his or her bona fide tenant, or upon the grounds or lands of another person with his or her written permission, or on public lands at any time. Nonresidents may not train dogs in this state at any time except during the legal small game hunting season. A person training dogs may not have firearms or other

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implements for taking wildlife in his or her possession during the closed season on wild animals and wild birds, except a person carrying a firearm for self-defense who is not prohibited from possessing firearms under state or federal law;

- (23) Conduct or participate in a trial, including a field trial, shoot-to-retrieve field trial, water race, or wild hunt: Provided, That any person, group of persons, club, or organization may hold a trial upon obtaining a permit pursuant to § 20-2-56 of this code. The person responsible for obtaining the permit shall prepare and keep an accurate record of the names and addresses of all persons participating in the trial and make the records readily available for inspection by any natural resources police officer upon request;
 - (24) Hunt, catch, take, kill, or attempt to hunt, catch, take, or kill any wild animal, wild bird, or wild fowl except during open seasons;
 - (25) Hunt or conduct hunts for a fee when the person is not physically present in the same location as the wildlife being hunted within West Virginia; and
 - (26) Catch, take, kill, or attempt to catch, take, or kill any fish by any means within 200 feet of division personnel engaged in stocking fish in public waters.
- (b) Notwithstanding any ballot measure relating to Sunday hunting, it is lawful to hunt throughout the State of West Virginia on private lands on Sundays with the written consent of the private landowner pursuant to § 20-2-7 of this code, and it is lawful to hunt throughout the State of West Virginia on federal land where hunting is permitted, in state forests, on land owned or leased by the state for wildlife purposes, and on land managed by the state for wildlife purposes pursuant to a cooperative agreement.

W. VA. CODE § 20-2-16. Dogs chasing deer.

Except as provided in § 20-2-5j of this code, no person may permit or use his or her dog to hunt or chase deer. A natural resources police officer shall take into possession any dog known to have unlawfully hunted or chased deer. If the owner of the dog can be determined, the dog shall be returned to the owner. If the owner of the dog cannot be determined, the natural resources police officer shall deliver the dog to the appropriate county humane officer or facility consistent with the provisions of this code.

W. VA. CODE § 20-2-17. Hunting fur-bearing animals; possession of fur; disturbing traps of another.

No person shall hunt, capture, trap, take or kill fur-bearing animals except as authorized by regulation of the director. Except as authorized by the director, no person shall have in his possession the fresh skin, or part thereof, of any fur-bearing animal, except beaver, within the period beginning ten days after the end of the open season on such fur-bearing animal and ending with the first day of the next succeeding open season. No person shall disturb properly marked traps of another person, kill, remove or take a fur-bearing animal from the trap of another person without specific authorization of the owner of the trap, except upon land where the owner of such trap may have placed it without right or permission.

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W. VA. CODE § 20-2-22a. Hunting, tagging and reporting bear; procedures applicable to property destruction by bear; penalties.

- (a) A person may not hunt, capture, or kill any bear, or have in his or her possession any bear or bear parts, except during the hunting season for bear in the manner designated by rule or law. For the purposes of this section, bear parts include, but are not limited to, the pelt, gallbladder, skull and claws of bear.
- (b) A person who kills a bear shall, within twenty-four hours after the killing, electronically register the bear. A game tag number shall be issued to the person and recorded in writing with the person's name and address, or on a field tag and shall remain on the skin until it is tanned or mounted. Any bear or bear parts not properly tagged shall be forfeited to the state for disposal to a charitable institution, school or as otherwise designated by the director.
- (c) Training dogs on bears or pursuing bears with dogs is the hunting of bear for all purposes of this chapter, including all applicable regulations and license requirements.
- (d) It is unlawful:
 - (1) To hunt bear without a bear damage stamp, as prescribed in section forty-four-b of this article, in addition to a hunting license as prescribed in this article;
 - (2) To hunt a bear with:
 - (A) A shotgun using ammunition loaded with more than one solid ball; or
 - (B) A rifle of less than twenty-five caliber using rimfire ammunition;
 - (3) *To kill or attempt to kill, or wound or attempt to wound, any bear through the use of bait, poison, explosives, traps or deadfalls or to feed bears at any time.* For purposes of this section, bait includes, but is not limited to, corn and other grains, animal carcasses or animal remains, grease, sugars in any form, scent attractants and other edible enticements, and an area is considered baited for ten days after all bait has been removed;
 - (4) *To shoot at or kill:*
 - (A) *A bear weighing less than seventy-five pounds live weight or fifty pounds field dressed weight, after removal of all internal organs;*
 - (B) *Any bear accompanied by a cub; or*
 - (C) *Any bear cub so accompanied, regardless of its weight;*
 - (5) To transport or possess any part of a bear not tagged in accordance with the provisions of this section;
 - (6) To possess, harvest, sell or purchase bear parts obtained from bear killed in violation of this section; or
 - (7) *Except as provided in § 20-2-5j of this code, to organize for commercial purposes or to professionally outfit a bear hunt, or to give or receive any consideration whatsoever or any donation in money, goods or services in connection with a bear hunt, notwithstanding the provisions of sections twenty-three and twenty-four of this article.*
- (e) The following provisions apply to bear damaging or destroying property:
 - (1)
 - (A) Any property owner or lessee who has suffered damage to real or personal property, including loss occasioned by the death or injury of livestock or the unborn issue of livestock, caused by an act of a bear may complain to any natural resources police officer of the division for protection against the bear.

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- (B) Upon receipt of the complaint, the officer shall immediately investigate the circumstances of the complaint. If the officer is unable to personally investigate the complaint, he or she shall designate a wildlife biologist to investigate on his or her behalf.
- (C) If the complaint is found to be justified, the officer or designated wildlife biologist may issue a permit to kill the bear that caused the property damage or may authorize the owner and other residents to proceed to hunt, destroy or capture the bear that caused the property damage: *Provided*, That only the natural resources police officer or the wildlife biologist may recommend other measures to end or minimize property damage: *Provided, however*, That, if out-of-state dogs are used in the hunt, the owners of the dogs are the only nonresidents permitted to participate in hunting the bear.
- (2)
- (A) When a property owner has suffered damage to real or personal property as the result of an act by a bear, the owner shall file a report with the director of the division. A bear damage report shall be completed by a representative of the division and shall state whether or not the bear was hunted and destroyed or killed under authorization of a depredation permit and, if so, the sex and weight shall be recorded and a premolar tooth collected from the bear, all of which shall be submitted with the report. The report shall also include an appraisal of the property damage occasioned by the bear fixing the value of the property lost. Bear damage claims will not be accepted for personal and real property which is commonly used for the purposes of feeding, baiting, observing or hunting wildlife, including, but not limited to, hunting blinds, tree stands, artificial feeders, game or trail cameras and crops planted for the purposes of feeding or baiting wildlife.
- (B) The report shall be ruled upon and the alleged damages examined by a commission comprised of the complaining property owner, an officer of the division and a person to be jointly selected by the officer and the complaining property owner.
- (C) The division shall establish the procedures to be followed in presenting and deciding claims, issuing bear depredation permits and organizing bear hunts under this section in accordance with § 29A-3-1 *et seq.* of this code.
- (D) All claims shall be paid in the first instance from the Bear Damage Fund provided in section forty-four-b of this article: *Provided*, That the claimant shall submit accurate information as to whether he or she is insured for the damages caused by the acts of bear on forms prescribed by the director, and all damage claims shall first be made by the claimant against any insurance policies before payment may be approved from the Bear Damage Fund. Claims for an award of compensation from the Bear Damage Fund shall be reduced or denied in the amount the claimant is actually reimbursed by insurance for the economic loss upon which the claim is based. In the event the fund is insufficient to pay all claims determined by the commission to be just and proper, the remainder due to owners of lost or destroyed property shall be paid from the special revenue account of the division.
- (3) In all cases where the act of the bear complained of by the property owner is the killing of livestock, the value to be established is the fair market value of the livestock at the date of death. In cases where the livestock killed is pregnant, the total value is the sum of the values of

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the mother and the unborn issue, with the value of the unborn issue to be determined on the basis of the fair market value of the issue had it been born.

(f) *Criminal penalties.*

- (1) *Any person who commits a violation of the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500 nor more than \$1,000, which is not subject to suspension by the court, confined in jail not less than 10 nor more than 30 days, or both fined and confined. Further, the person's hunting and fishing licenses shall be assigned six points, however, the hunting and fishing licenses of any person convicted of a violation of this section which results in the killing or death of a bear shall be suspended for two years.*
- (2) *Any person who commits a second violation of the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$3,000, which is not subject to suspension by the court, confined in jail not less than 30 days nor more than 100 days, or both fined and confined. The person's hunting and fishing licenses shall be suspended for five years.*
- (3) *Any person who commits a third or subsequent violation of the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$2,500 nor more than \$5,000, which is not subject to suspension by the court, confined in jail not less than six months nor more than one year, or both fined and confined. The person's hunting and fishing licenses shall be suspended for 10 years.*

W. VA. CODE § 61-8-20. Keeping or using live birds to be shot at; penalty.

Whoever keeps or uses a live bird to be shot at either for amusement or as a test of skill in marksmanship, or shoots at a bird kept or used as aforesaid, or is a party to such shooting, or lets any building, room, field, or premises, or knowingly permits the use thereof, for the purpose of such shooting, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by fine of not more than fifty dollars or by imprisonment for not more than one month, or by both. Nothing herein contained shall apply to the shooting of wild game.

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8. CROSS REPORTING

W. VA. CODE § 7-10-2. Duty of humane officers; reporting requirement when abuse or neglect of individuals suspected; prohibition against interference with humane officers; penalties.

- (a) Humane officers shall prevent the perpetration or continuance of any act of cruelty upon any animal and investigate and, upon probable cause, cause the arrest and assist in the prosecution of any person engaging in such cruel and forbidden practices. Upon reasonable cause, and as provided by law, such officers have the right to access and inspect records and property reasonably necessary to any investigation.
- (b) *Whenever a humane officer, pursuant to an investigation of animal cruelty, forms a reasonable suspicion that a minor child, or incapacitated or elderly person, is the victim of abuse or neglect or has a suspicion of domestic violence, he or she shall report the suspicion and the grounds for the suspicion. In the event of suspected child abuse or neglect, the humane officer shall report to the local child protective services agency of the Department of Human Services in accordance with the provisions § 49-2-809 of this code. In the event of suspected abuse or neglect of an incapacitated or elderly person, he or she shall report to the department's local adult protective services agency in accordance with the provisions of § 9-6-11 of this code. In the event of suspected domestic violence, he or she shall report to the State Police in accordance with the provisions of § 48-27-101 et seq. of this code.*
- (c) Any person who interferes with, obstructs or resists any humane officer in the discharge of his or her duty is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$500 or confined in jail not more than 30 days, or both fined and confined. Any penalties imposed for a violation of this subsection shall be imposed in addition to any penalties the person incurs for cruel or inhumane treatment of any animal.

W. VA. CODE § 9-6-9. Mandatory reporting of incidences of abuse, neglect or emergency situation.

- (a) *If any medical, dental or mental health professional, Christian Science practitioner, religious healer, social service worker, law-enforcement officer, humane officer or any employee of any nursing home or other residential facility has reasonable cause to believe that a vulnerable adult or facility resident is or has been neglected, abused or placed in an emergency situation, or if such person observes a vulnerable adult or facility resident being subjected to conditions that are likely to result in abuse, neglect or an emergency situation, the person shall immediately report the circumstances pursuant to the provisions of § 9-6-11 of this code: Provided, That nothing in this article is intended to prevent individuals from reporting on their own behalf.*
- (b) In addition to those persons and officials specifically required to report situations involving suspected abuse, neglect, or financial exploitation of a vulnerable adult or facility resident or the existence of an emergency situation, any other person may make such a report.
- (c) The Department of Human Services shall develop and implement a procedure to notify any person mandated to report suspected abuse and neglect of a vulnerable adult or facility resident of whether

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an investigation into the reported suspected abuse, neglect, or financial exploitation has been initiated and when the investigation is completed.

- (d) Financial institutions and their employees, as defined by § 31A-2A-1 of this code and as permitted by § 31A-2A-4(13) of this code, others engaged in financially related activities, as defined by § 31A-8C-1 of this code, caregivers, relatives, and other concerned persons are permitted to report suspected cases of financial exploitation to state or federal law-enforcement authorities, the county prosecuting attorney, and to the Adult Protective Services Division, or Medicaid Fraud Division, as appropriate. Public officers and employees are required to report suspected cases of financial exploitation to the appropriate entities as stated above. The requisite agencies shall investigate or cause the investigation of the allegations.

W. VA. CODE § 9-6-9a. Mandatory reporting suspected animal cruelty by adult protective service workers.

In the event an adult protective service worker, in response to a report mandated by section nine of this article, forms a reasonable suspicion that an animal is the victim of cruel or inhumane treatment, he or she shall report the suspicion and the basis therefor to the county humane officer provided under section one, article ten, chapter seven of this code within twenty-four hours of the response to the report.

W. VA. CODE § 48-27-702. Law-enforcement officers to provide information, transportation and to report suspicions of animal cruelty.

- (a) Any law-enforcement officer responding to an alleged incident of domestic violence shall inform the parties of the availability of the possible remedies provided by this article and the possible applicability of the criminal laws of this state. Any law-enforcement officer investigating an alleged incident of domestic violence shall advise the victim of such violence of the availability of the family protection shelter to which such person may be admitted.
- (b) If there is reasonable cause to believe that a person is a victim of domestic violence or is likely to be a victim of domestic violence, a law-enforcement officer responding to an alleged incident of domestic violence shall, in addition to providing the information required in subsection (a) of this section, provide transportation for or facilitate transportation of the victim, upon the request of such victim, to a shelter or an appropriate court.
- (c) *Whenever a law-enforcement officer, pursuant to a response to an alleged incident of domestic violence, forms a reasonable suspicion that an animal is a victim of cruel or inhumane treatment, he or she shall report the suspicion and the grounds therefor to the county humane officer within twenty-four hours of the response to the alleged incident of domestic violence.*

W. VA. CODE § 49-2-803. Persons mandated to report suspected abuse and neglect.

- (a) Any medical, dental or mental health professional, Christian Science practitioner, religious healer, school teacher or other school personnel, social service worker, child care or foster care worker,

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emergency medical services personnel, peace officer or law-enforcement official, *humane officer*, member of the clergy, circuit court judge, family court judge, employee of the Division of Juvenile Services, magistrate, youth camp administrator or counselor, employee, coach or volunteer of an entity that provides organized activities for children, or commercial film or photographic print processor *who has reasonable cause to suspect that a child is neglected or abused, including sexual abuse or sexual assault, or observes the child being subjected to conditions that are likely to result in abuse or neglect shall immediately, and not more than 24 hours after suspecting this abuse or neglect, report the circumstances or cause a report to be made to the Department of Human Services. In any case where the reporter believes that the child suffered serious physical abuse or sexual abuse or sexual assault, the reporter shall also immediately report to the State Police and any law-enforcement agency having jurisdiction to investigate the complaint. Any person required to report under this article who is a member of the staff or volunteer of a public or private institution, school, entity that provides organized activities for children, facility or agency shall also immediately notify the person in charge of the institution, school, entity that provides organized activities for children, facility, or agency, or a designated agent thereof, who may supplement the report or cause an additional report to be made. Provided, That notifying a person in charge, supervisor, or superior does not exempt a person from his or her mandate to report suspected abuse or neglect.*

- (b) County boards of education and private school administrators shall provide all employees with a written statement setting forth the requirement contained in this subsection and shall obtain and preserve a signed acknowledgment from school employees that they have received and understand the reporting requirement.
- (c) Nothing in this article is intended to prevent individuals from reporting suspected abuse or neglect on their own behalf. In addition to those persons and officials specifically required to report situations involving suspected abuse or neglect of children, any other person may make a report if such person has reasonable cause to suspect that a child has been abused or neglected in a home or institution or observes the child being subjected to conditions or circumstances that would reasonably result in abuse or neglect.
- (d) The provisions of this section are not applicable to persons under the age of 18.

W. VA. CODE § 49-2-806. Mandatory reporting of suspected animal cruelty by child protective service workers.

In the event a child protective service worker, in response to a report mandated by section eight hundred two and eight hundred three of this article, forms a reasonable suspicion that an animal is the victim of cruel or inhumane treatment, he or she shall report the suspicion and the basis therefor to the county humane officer provided under section one, article ten, chapter seven of this code within twenty-four hours of the response to the report.

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9. VETERINARY REPORTING

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

- (a) *It is the duty of any licensed veterinarian and the right of any other person to report to a humane officer any animal found, reasonably known or believed to be abandoned, neglected or cruelly treated as set forth in this article, and such veterinarian or other person may not be subject to any civil or criminal liability as a result of such reporting.*
- (b) Any person who, with force, assaults, resists, or impedes any other person engaged in the reporting of abandoned, neglected or cruelly treated animals as provided for in this section is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than two hundred fifty nor more than one thousand dollars, or confined in the county jail not more than one year, or both so fined and confined.

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10. "AG-GAG" LAWS

[None]

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11. EMERGENCY RESCUE AND RELIEF

[None]

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12. CIVIL ENFORCEMENT

[None]

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13. DOMESTIC RELATIONS

W. VA. CODE § 48-27-503. Permissive provisions in protective order.

The terms of a protective order may include:

- (1) Granting possession to the petitioner of the residence or household jointly resided in at the time the abuse occurred;
- (2) Ordering the respondent to refrain from entering or being present in the immediate environs of the residence of the petitioner;
- (3) Awarding temporary custody of or establishing temporary visitation rights with regard to minor children named in the order;
- (4) Establishing terms of temporary visitation with regard to the minor children named in the order including, but not limited to, requiring third party supervision of visitations if necessary to protect the petitioner and/or the minor children;
- (5) Ordering the noncustodial parent to pay to the caretaker parent a sum for temporary support and maintenance of the petitioner and children, if any;
- (6) Ordering the respondent to pay to the petitioner a sum for temporary support and maintenance of the petitioner, where appropriate;
- (7) Ordering the respondent to refrain from entering the school, business or place of employment of the petitioner or household or family members for the purpose of violating the protective order;
- (8) Ordering the respondent to participate in an intervention program for perpetrators;
- (9) Ordering the respondent to refrain from contacting, telephoning, communicating, harassing or verbally abusing the petitioner;
- (10) Providing for either party to obtain personal property or other items from a location, including granting temporary possession of motor vehicles owned by either or both of the parties, and providing for the safety of the parties while this occurs, including ordering a law-enforcement officer to accompany one or both of the parties;
- (11) Ordering the respondent to reimburse the petitioner or other person for any expenses incurred as a result of the domestic violence, including, but not limited to, medical expenses, transportation and shelter;
- (12) Ordering the petitioner and respondent to refrain from transferring, conveying, alienating, encumbering or otherwise dealing with property which could otherwise be subject to the jurisdiction of the court or another court in an action for divorce or support, partition or in any other action affecting their interests in property;
- (13) *Awarding the petitioner the exclusive care, possession, or control of any animal owned, possessed, leased, kept or held by either the petitioner or the respondent or a minor child residing in the residence or household of either the petitioner or the respondent and prohibiting the respondent from taking, concealing, molesting, physically injuring, killing or otherwise disposing of the animal and limiting or precluding contact by the respondent with the animal;* and
- (14) Ordering any other relief the court deems necessary to protect the physical safety of petitioner or those persons for whom a petition may be filed as provided in subdivision (2), section three hundred five of this article.

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14. MAXIMUM PENALTIES AND STATUTE OF LIMITATIONS

NOTE: All penalties are defined in the substantive statutes, available in the Substantive Prohibitions and Exemptions sections of this document.

W. VA. CODE § 61-11-9. Limitation of prosecution; lost indictment.

A prosecution for committing or procuring another person to commit perjury shall be commenced within three years next after the perjury was committed. *A prosecution for a misdemeanor shall be commenced within one year after the offense was committed:* Provided, That whenever the indictment in any case shall be stolen, lost or destroyed, a new indictment may be found for the same offense mentioned in the former indictment, at the first term of the court after such theft, loss or destruction is discovered, or at the next term thereafter, and as often as any such new indictment is stolen, lost or destroyed, another indictment for the same offense may be found at the first term of the court after such theft, loss or destruction is discovered, or at the next term thereafter; and the court shall, in every case where any such indictment has been stolen, lost or destroyed, enter such fact on its record. Whenever such new indictment is found, the clerk shall add to the entry of the finding thereof the following: "This is the second (or third, etc., as the case may be) indictment found against the said for the same offense"; and the same proceedings shall be had in all respects on any such new indictment as might have been had on the first indictment if it had not been stolen, lost or destroyed. And if the offense mentioned in any such indictment is barred by the statute of limitations, the time between the finding of the first and last of such indictments shall not be computed or taken into consideration in the computation of the time in which any such indictment, after the first, should have been found.

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15. LAW ENFORCEMENT POLICIES

W. VA. CODE § 7-1-14. Custody and care of animals abandoned, neglected or cruelly treated; animals causing public nuisance, health risk or safety hazard; authority of county commission.

- (a) *Notwithstanding any provision of this code to the contrary, any county commission may adopt ordinances, rules and regulations providing for the custody and care of animals that have been abandoned, neglected or cruelly treated for the protection of any such animal and to prevent it from becoming a public nuisance or risk to public health or safety or the environment.*
- (b) Any such ordinance, rule or regulation may require each owner to provide for each of his or her animals:
 - (1) Adequate food which provides sufficient quantity and nutritive value to maintain each animal in good health;
 - (2) Adequate water which provides easy access to clean, fresh, potable water of a drinkable temperature in sufficient volume and suitable intervals to maintain normal hydration for each animal;
 - (3) Adequate shelter to protect the animal from the elements and other animals;
 - (4) Adequate space in the primary enclosure for the particular animal depending upon its age, size, species and weight which is regularly cleaned to prevent an unsanitary accumulation of urine and feces;
 - (5) Adequate exercise to assure that the animal maintains normal muscle tone and mass for the age, species, size and condition of the animal; and
 - (6) Veterinary care when needed or to prevent suffering or disease transmission.
- (c) Any such ordinance, rule or regulation may limit the number of animals owned, kept or maintained by an individual, group or organization, whether public or private based on the person's ability to provide for the animals as set forth in subsection (b) of this section.
- (d) Any such ordinance, rule or regulation shall provide appropriate penalties for violations and shall authorize humane officers to take possession of any animal that is not properly cared for as required by such ordinance, rule or regulation.

W. VA. CODE § 7-4-1. Duties of prosecuting attorney; further duties upon request of Attorney General.

- (a) *The prosecuting attorney shall attend to the criminal business of the State in the county in which he or she is elected and qualified and when the prosecuting attorney has information of the violation of any penal law committed within the county, the prosecuting attorney shall institute and prosecute all necessary and proper proceedings against the offender and may, in such case, issue or cause to be issued a summons for any witness the prosecuting attorney considers material. Every public officer shall give the prosecuting attorney information regarding the commission of any criminal offense committed within his or her county. The prosecuting attorney shall also attend to civil suits in the county in which the state or any department, commission or board thereof, is interested, and to advise, attend to, bring, prosecute or defend, as the case may be, all matters, actions, suits and proceedings in which such*

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county or any county board of education is interested.

(b)

- (1) In furtherance of a prosecuting attorney's duty to investigate and prosecute criminal offenses, a prosecuting attorney and assistant prosecuting attorneys under his or her supervision shall have the authority to arrest any person committing a violation of the criminal laws of the State of West Virginia, the United States or a violation of Rule 42 of the West Virginia Rules of Criminal Procedure which occur within the office of the prosecuting attorney and committed in the presence of the prosecuting attorney or assistant prosecuting attorney.
- (2) For purposes of subdivision (1) of this subsection, the arrest authority of a prosecuting attorney or assistant prosecuting attorney shall be consistent with that authority vested in a deputy sheriff within the geographic limitations set forth in said subdivision.
- (3) Should a prosecuting attorney desire to establish a program authorizing prosecuting attorneys and assistant prosecuting attorneys to carry a concealed firearm for self-defense purposes pursuant to the provisions of 18 U. S. C. § 926B, the following criteria must be met:
 - (A) The prosecuting attorney's office shall have a written policy authorizing the prosecuting attorney and his or her assistant prosecuting attorneys to carry a concealed firearm for self-defense purposes;
 - (B) There shall be in place in the office of the prosecuting attorney a requirement that the prosecuting attorney and assistant prosecuting attorneys must regularly qualify in the use of a firearm with standards therefor which are equal to or exceed those required of sheriff's deputies in the county in which the prosecuting attorney was elected or appointed;
 - (C) The office of the prosecuting attorney shall issue a photographic identification and certification card which identify the prosecuting attorney or assistant prosecuting attorneys as law-enforcement employees of the prosecuting attorney's office pursuant to the provisions of section twelve, article twenty-nine, chapter thirty of this code.
- (4) Any policy instituted pursuant to paragraph (A), subdivision (3) of this subsection shall include provisions which: (i) Preclude or remove a person from participation in the concealed firearm program who is subject to any disciplinary or legal action which could result in the loss of the authority to participate in the program; (ii) preclude from participation persons prohibited by federal or state law from possessing or receiving a firearm and; (iii) prohibit persons from carrying a firearm pursuant to the provisions of this subsection while in an impaired state as defined in section two, article five, chapter seventeen-c of this code.
- (5) Any prosecuting attorney or assistant prosecuting attorney who participates in a program authorized by the provisions of this subsection shall be responsible, at his or her expense, for obtaining and maintaining a suitable firearm and ammunition.
- (6) It is the intent of the Legislature in enacting the amendments to this section during the 2017 regular session of the Legislature to authorize prosecuting attorney's offices wishing to do so to allow prosecuting attorneys and assistant prosecuting attorneys to meet the requirements of the federal Law-Enforcement Officer's Safety Act, 18 U. S. C. § 926B

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(c) The prosecuting attorney shall keep his or her office open in the charge of a responsible person during the hours when polls are open during general, primary and special countywide election days, and the prosecuting attorney, or the prosecuting attorney's assistant, if any, shall be available for the purpose of advising election officials. The prosecuting attorney, when requested by the Attorney General, shall perform or to assist the Attorney General in performing, in the county in which the prosecuting attorney is elected, any legal duties required to be performed by the Attorney General, and which are not inconsistent with the duties of the prosecuting attorney as the legal representative of such county. The prosecuting attorney, when requested by the Attorney General, shall perform or to assist the Attorney General in performing, any legal duties required to be performed by the Attorney General in any county other than that in which such prosecuting attorney is elected and for the performance of any these duties in any county other than that in which the prosecuting attorney is elected, the prosecuting attorney shall be paid his or her actual expenses.

Upon the request of the Attorney General, the prosecuting attorney shall make a written report of the state and condition of the several causes in which the state is a party, pending in his or her county, and upon any matters referred to the prosecuting attorney by the Attorney General as provided by law.

W. VA. CODE § 7-10-1. Deputy sheriffs as humane officers.

The sheriff of each county of this state shall annually designate, by a record made in the office of the clerk of the county commission, one of his or her deputies to act as humane officer of the county; or, if the county commission and sheriff agree, the county dog warden may be designated to act as the humane officer or as an additional humane officer; any person designated to act as a humane officer and all peace officers designated by law as a humane officer or an additional humane officer shall investigate all complaints made to him or her of cruel or inhumane treatment of animals within the county and he or she shall personally see that the law relating to the prevention of cruelty to animals is enforced. The wilful failure of such designee to investigate any complaint made to him or her and to take proper measures in such case or to perform his or her duty in any other respect may constitute good cause for removal from employment.

W. VA. CODE § 7-10-2. Duty of humane officers; reporting requirement when abuse or neglect of individuals suspected; prohibition against interference with humane officers; penalties.

- (a) Humane officers shall prevent the perpetration or continuance of any act of cruelty upon any animal and investigate and, upon probable cause, cause the arrest and assist in the prosecution of any person engaging in such cruel and forbidden practices. Upon reasonable cause, and as provided by law, such officers have the right to access and inspect of records and property reasonably necessary to any investigation.
- (b) *Whenever a humane officer, pursuant to an investigation of animal cruelty, forms a reasonable suspicion that a minor child, or incapacitated or elderly person, is the victim of abuse or neglect or has a suspicion of domestic violence, he or she shall report the suspicion and the grounds for the suspicion. In the event of suspected child abuse or neglect, the humane officer shall report to the local child*

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protective services agency of the Department Human Services in accordance with the provisions § 49-2-809 of this code. In the event of suspected abuse or neglect of an incapacitated or elderly person, he or she shall report to the department's local adult protective services agency in accordance with the provisions of § 9-6-11 of this code. In the event of suspected domestic violence, he or she shall report to the State Police in accordance with the provisions of § 48-27-101 et seq. of this code.

- (c) Any person who interferes with, obstructs or resists any humane officer in the discharge of his or her duty is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$500 or confined in jail not more than 30 days, or both fined and confined. Any penalties imposed for a violation of this subsection shall be imposed in addition to any penalties the person incurs for cruel or inhumane treatment of any animal.

W. VA. CODE § 19-20-12. Dogs, other animals and reptiles protected by law; unlawful killing thereof; aggrieved owner's remedy; penalties; penalties for unlawful stealing of companion animals.

- (a) Any dog which is registered, kept and controlled as provided in this article or any dog, cat or other animal or any reptile which is owned, kept and maintained as a companion animal by any person, irrespective of age, is protected by law; and, except as otherwise authorized by law, any person who shall intentionally, knowingly or recklessly kill, injure, poison or in any other manner, cause the death or injury of any dog, cat, other animal or any reptile is guilty of a misdemeanor and, upon conviction thereof, shall be ordered to provide public service for not less than thirty nor more than ninety days or fined not less than three hundred dollars nor more than five hundred dollars, or both. However, this section does not apply to a dog who is killed while attacking a person, a companion animal or livestock. Any person whose dog, cat, other animal or reptile as specified herein is killed or injured wrongfully or unlawfully by any other person shall have a right of action against the person who shall so kill or injure any dog, cat, animal or reptile.
- (b) Any person who shall intentionally and unlawfully steal a dog, cat, other animal or reptile as specified in subsection (a) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be ordered to provide public service for not less than thirty nor more than ninety days or fined not less than three hundred nor more than five hundred dollars, or both. Any person violating the provisions of this subsection, for second or subsequent offense, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for a period of not less than ninety days nor more than six months, or shall be ordered to provide public service for not more than one year, and fined not less than one thousand dollars. In no case can any action or prosecution relating to a dog under the provisions of this section be maintained if the dog concerned has not been duly registered pursuant to the provisions of this article or owned and kept pursuant to the provisions of this section or owned and kept pursuant to the provisions of this section at the time the cause of action shall have arisen.
- (c) No person other than the owner of a registered dog may remove a tag, collar or other identifying apparel from the registered dog, nor remove or turn off a radio transmitting collar on the registered dog, without the permission of the owner, unless removal of the tag, collar or apparel is necessary to prevent or treat an injury to the dog or is done by a law-enforcement officer for a legitimate law-enforcement purpose. Any person who intentionally removes a tag, collar or other apparel from a registered dog in violation of the provisions of this subsection is guilty of a misdemeanor and, upon

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conviction thereof, shall be ordered to provide community service for not less than eight hours nor more than forty hours or fined not less than fifty dollars nor more than one hundred fifty dollars, or both.

- (d) *The Commissioner of Agriculture is hereby authorized to designate a reasonable number of his or her present employees as may be necessary to investigate alleged incidents of the unlawful stealing of dogs, other domestic animals or reptiles, alleged incidents of cruelty to animals or reptiles and the alleged incidents of the unlawful stealing of animals or reptiles for the purpose of sale to medical or other research companies. The deputies shall make the results of their investigations known to any law-enforcement officers who have authority to enforce the provisions of this article.*
- (e) *It shall be the duty of all members of the West Virginia State Police, sheriffs and police officers to aid in the enforcement of the provisions of this article and, for services rendered in the enforcement thereof, those persons shall be entitled to fees in the amounts set forth in section eight of this article. The fees shall be paid by the county commission from the dog and kennel fund.*

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16. SEIZURE

W. VA. CODE § 7-10-3. Cruel treatment of animal drawing or in vehicle; custody and care thereof by humane officers.

When any person arrested is, at the time of such arrest, in charge of any vehicle drawn by or containing any animal cruelly treated, such officer shall take charge of such animal and of such vehicle and its contents, and of the animal or animals drawing the same, and shall, if the person in charge thereof be not the owner, give notice of such seizure to the owner, and provide for them until their owner shall take charge of the same; and if the person in charge of or driving such animals be the owner thereof, the same shall not be returned to him until he has been tried for the offense and acquitted, or if convicted, until he shall give bond in the penalty of five hundred dollars with approved security before the tribunal trying the case conditioned not to again cruelly treat such animals; and the officer shall have a lien upon such animals and the vehicle and its contents for the expenses of such care and provision, or such expenses or any part thereof remaining unpaid may be recovered by such humane officer in a civil action.

W. VA. CODE § 7-10-4. Custody and care of animals abandoned, neglected or cruelly treated; hearing; bonds; liability for costs; liens; 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 [§ 61-8-19] and nineteen-a [§ 61-8-19a], article eight, chapter sixty-one of this code.*
- (b) *The owner or persons in possession, if his or her identity and residence are 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 in writing 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 by a preponderance of the evidence if the animal was abandoned, neglected 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)
 - (1) *If a hearing is requested and the magistrate finds by a preponderance of the evidence that the owner did abandon, neglect or cruelly treat the animal, or if no hearing is requested and the magistrate finds by a preponderance of the evidence, based upon the affidavit of the humane officer, that the owner did abandon, neglect or cruelly treat the animal, the magistrate shall enter an order awarding custody of the animal to any humane officer for further disposition in accordance with reasonable practices for the humane treatment of animals. After hearing the*

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evidence, if the magistrate is not convinced the animal was neglected or cruelly treated, he or she may dismiss the action and order the animal be returned to the owner. If the magistrate finds in favor of the humane officer, the owner of the animal shall post a bond with the court in an amount sufficient to provide for the reasonable costs of care, medical treatment and provisions for the animal for at least thirty days. The bond shall be filed with the court within five days following the court's finding against the owner. At the end of the time for which expenses are covered by the original bond if the animal remains in the care of the humane officer and the owner desires to prevent disposition of the animal by the humane officer, the owner shall post an additional bond with the court within five days of the expiration of the original bond. 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.

- (2) If a bond has been posted in accordance with subdivision (1) of this subsection, the custodial animal care agency may draw from the bond the actual reasonable costs incurred by the agency in providing care, medical treatment and provisions to the impounded animal from the date of the initial impoundment to the date of the final disposition of the animal.
- (d) Any person whose animal is seized and against whom the magistrate enters a finding pursuant to this section is liable during any period it remains in the possession of the humane officer for the reasonable costs of care, medical treatment and provisions for the animal not covered by the posting of the bond as provided in subdivision (1), subsection (c) of this section. The magistrate shall require the person liable for these costs to post bond to provide for the maintenance of the seized animal. This expense, if any, becomes a lien on the animal and must be discharged before the animal is released to the owner. Upon dismissal or withdrawal of the complaint, any unused portion of posted bonds shall be returned to the owner. Upon a finding in favor of the humane officer, all interest in the impounded animal shall transfer to the humane officer for disposition in accordance with reasonable practices for the humane treatment of animals. Any additional expense above the value of the animal may be recovered by the humane officer or custodial agency.
- (e) After the humane officer takes possession of the animal pursuant to a finding by a magistrate that the animal has been abandoned, neglected or cruelly treated and 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 the action.
- (f)
 - (1) The term "humanely destroyed" as used in this section means:
 - (A) 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 [§§ 30-10A-1 et seq.], chapter thirty of this code; or
 - (B) Any other humane euthanasia procedure approved by the American Veterinary Medical Association, the Humane Society of the United States or the American Humane Association.
 - (2) The term "humanely destroyed" does not include euthanizing an animal by means of a gas chamber: *Provided*, That any county which has a gas chamber in operation as of the effective date of this section may continue to operate the gas chamber subject to the following: (1) The

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gas chamber shall be operated by an animal euthanasia technician certified pursuant to article ten-a, chapter thirty of this code; and (2) the gas chamber shall have been manufactured and installed by a person who regularly manufactures and installs gas chambers. The Board of Veterinary Medicine shall promulgate emergency rules regarding the inspection of gas chambers, pursuant to section fifteen [§ 29A-3-15], article three, chapter twenty-nine-a of this code.

- (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, as defined in subsection (d), section two [§ 19-10B-2], article ten-b, chapter nineteen of this code; 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.
- (i) All persons or entities in the state performing euthanasia under this article shall register with the Board of Veterinary Medicine by December 31, 2009, in a manner to be prescribed by the board. The Board of Veterinary Medicine shall promulgate emergency rules relating to the registration of those performing animal euthanasia, pursuant to section fifteen, article three, chapter twenty-nine-a of this code.

W. VA. CODE § 61-8-21. Search warrants relating to cruelty to animals.

If complaint is made to a court or magistrate which is authorized to issue warrants in criminal cases that the complainant believes, and has reasonable cause to believe, that the laws relative to cruelty to animals have been or are violated in any particular building or place, such court or magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant authorizing any sheriff, deputy sheriff, constable or police officer to search such building or place; but no such search shall be made after sunset, unless specially authorized by the magistrate upon satisfactory cause shown.

W. VA. CODE § 61-8-22. Search warrants relating to birds and animals kept for fighting.

If complaint is made to a court or magistrate authorized to issue warrants in criminal cases that the complainant believes, and has reasonable cause to believe, that preparations are being made for an exhibition of the fighting of birds, dogs, or other animals, or that such exhibition is in progress, or that birds, dogs, or other animals are kept or trained for fighting at any place or in any building or tenement, such court or magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant authorizing

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any sheriff, deputy sheriff, constable, or police officer, to search such place, building, or tenement at any hour of the day or night, and take possession of all such birds, dogs or other animals there found, and to arrest all persons there present at any such exhibition or where preparations for such an exhibition are being made, or where birds, dogs, or other animals are kept or trained for fighting.

W. VA. CODE § 61-8-23. Search without warrant where there is an exhibition of the fighting of birds or animals.

Any officer authorized to serve criminal process may, without warrant, enter any place, building, or tenement in which there is an exhibition of the fighting of birds, dogs, or other animals, or in which preparations are being made for such an exhibition and arrest all persons there present and take possession of and remove from the place of seizure the birds, dogs, or other animals engaged in fighting or there found and intended to be used or engaged in fighting, or kept or trained for fighting and hold the same in custody subject to the order of the court as hereinafter provided.

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17. COURTROOM ANIMAL ADVOCATE PROGRAM

[None]

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18. RESTITUTION AND REIMBURSEMENT

W. VA. CODE § 7-10-4. Custody and care of animals abandoned, neglected or cruelly treated: hearing; bonds; liability for costs; liens; 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 [§ 61-8-19] and nineteen-a [§ 61-8-19a], article eight, chapter sixty-one of this code.
- (b) *The owner or persons in possession, if his or her identity and residence are 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 in writing 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 by a preponderance of the evidence if the animal was abandoned, neglected 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)
- (1) *If a hearing is requested and the magistrate finds by a preponderance of the evidence that the owner did abandon, neglect or cruelly treat the animal, or if no hearing is requested and the magistrate finds by a preponderance of the evidence, based upon the affidavit of the humane officer, that the owner did abandon, neglect or cruelly treat the animal, the magistrate shall enter an order awarding custody of the animal to any humane officer for further disposition in accordance with reasonable practices for the humane treatment of animals. After hearing the evidence, if the magistrate is not convinced the animal was neglected or cruelly treated, he or she may dismiss the action and order the animal be returned to the owner. If the magistrate finds in favor of the humane officer, the owner of the animal shall post a bond with the court in an amount sufficient to provide for the reasonable costs of care, medical treatment and provisions for the animal for at least thirty days. The bond shall be filed with the court within five days following the court's finding against the owner. At the end of the time for which expenses are covered by the original bond if the animal remains in the care of the humane officer and the owner desires to prevent disposition of the animal by the humane officer, the owner shall post an additional bond with the court within five days of the expiration of the original bond. 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.*
 - (2) *If a bond has been posted in accordance with subdivision (1) of this subsection, the custodial animal care agency may draw from the bond the actual reasonable costs incurred by the agency*

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in providing care, medical treatment and provisions to the impounded animal from the date of the initial impoundment to the date of the final disposition of the animal.

- (d) *Any person whose animal is seized and against whom the magistrate enters a finding pursuant to this section is liable during any period it remains in the possession of the humane officer for the reasonable costs of care, medical treatment and provisions for the animal not covered by the posting of the bond as provided in subdivision (1), subsection (c) of this section. The magistrate shall require the person liable for these costs to post bond to provide for the maintenance of the seized animal. This expense, if any, becomes a lien on the animal and must be discharged before the animal is released to the owner. Upon dismissal or withdrawal of the complaint, any unused portion of posted bonds shall be returned to the owner. Upon a finding in favor of the humane officer, all interest in the impounded animal shall transfer to the humane officer for disposition in accordance with reasonable practices for the humane treatment of animals. Any additional expense above the value of the animal may be recovered by the humane officer or custodial agency.*
- (e) After the humane officer takes possession of the animal pursuant to a finding by a magistrate that the animal has been abandoned, neglected or cruelly treated and 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 the action.
- (f)
- (1) The term “humanely destroyed” as used in this section means:
 - (A) 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 [§§ 30-10A-1 et seq.], chapter thirty of this code; or
 - (B) Any other humane euthanasia procedure approved by the American Veterinary Medical Association, the Humane Society of the United States or the American Humane Association.
 - (2) The term “humanely destroyed” does not include euthanizing an animal by means of a gas chamber: *Provided*, That any county which has a gas chamber in operation as of the effective date of this section may continue to operate the gas chamber subject to the following: (1) The gas chamber shall be operated by an animal euthanasia technician certified pursuant to article ten-a, chapter thirty of this code; and (2) the gas chamber shall have been manufactured and installed by a person who regularly manufactures and installs gas chambers. The Board of Veterinary Medicine shall promulgate emergency rules regarding the inspection of gas chambers, pursuant to section fifteen [§ 29A-3-15], article three, chapter twenty-nine-a of this code.
- (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.

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- (h) The provisions of this section do not apply to farm livestock, as defined in subsection (d), section two [§ 19-10B-2], article ten-b, chapter nineteen of this code; 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.
- (i) All persons or entities in the state performing euthanasia under this article shall register with the Board of Veterinary Medicine by December 31, 2009, in a manner to be prescribed by the board. The Board of Veterinary Medicine shall promulgate emergency rules relating to the registration of those performing animal euthanasia, pursuant to section fifteen, article three, chapter twenty-nine-a of this code.

W. VA. CODE § 19-20-12. Dogs, other animals and reptiles protected by law; unlawful killing thereof; aggrieved owner's remedy; penalties; penalties for unlawful stealing of companion animals.

- (a) Any dog which is registered, kept and controlled as provided in this article or any dog, cat or other animal or any reptile which is owned, kept and maintained as a companion animal by any person, irrespective of age, is protected by law; and, except as otherwise authorized by law, any person who shall intentionally, knowingly or recklessly kill, injure, poison or in any other manner, cause the death or injury of any dog, cat, other animal or any reptile is guilty of a misdemeanor and, upon conviction thereof, shall be ordered to provide public service for not less than thirty nor more than ninety days or fined not less than three hundred dollars nor more than five hundred dollars, or both. However, this section does not apply to a dog who is killed while attacking a person, a companion animal or livestock. *Any person whose dog, cat, other animal or reptile as specified herein is killed or injured wrongfully or unlawfully by any other person shall have a right of action against the person who shall so kill or injure any dog, cat, animal or reptile.*
- (b) Any person who shall intentionally and unlawfully steal a dog, cat, other animal or reptile as specified in subsection (a) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be ordered to provide public service for not less than thirty nor more than ninety days or fined not less than three hundred nor more than five hundred dollars, or both. Any person violating the provisions of this subsection, for second or subsequent offense, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for a period of not less than ninety days nor more than six months, or shall be ordered to provide public service for not more than one year, and fined not less than one thousand dollars. In no case can any action or prosecution relating to a dog under the provisions of this section be maintained if the dog concerned has not been duly registered pursuant to the provisions of this article or owned and kept pursuant to the provisions of this section or owned and kept pursuant to the provisions of this section at the time the cause of action shall have arisen.
- (c) No person other than the owner of a registered dog may remove a tag, collar or other identifying apparel from the registered dog, nor remove or turn off a radio transmitting collar on the registered dog, without the permission of the owner, unless removal of the tag, collar or apparel is necessary to prevent or treat an injury to the dog or is done by a law-enforcement officer for a legitimate law-enforcement purpose. Any person who intentionally removes a tag, collar or other apparel from a

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registered dog in violation of the provisions of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be ordered to provide community service for not less than eight hours nor more than forty hours or fined not less than fifty dollars nor more than one hundred fifty dollars, or both.

- (d) The Commissioner of Agriculture is hereby authorized to designate a reasonable number of his or her present employees as may be necessary to investigate alleged incidents of the unlawful stealing of dogs, other domestic animals or reptiles, alleged incidents of cruelty to animals or reptiles and the alleged incidents of the unlawful stealing of animals or reptiles for the purpose of sale to medical or other research companies. The deputies shall make the results of their investigations known to any law-enforcement officers who have authority to enforce the provisions of this article.
- (e) It shall be the duty of all members of the West Virginia State Police, sheriffs and police officers to aid in the enforcement of the provisions of this article and, for services rendered in the enforcement thereof, those persons shall be entitled to fees in the amounts set forth in section eight of this article. The fees shall be paid by the county commission from the dog and kennel fund.

W. VA. CODE § 19-20-24. Causing death or injury to animals used by law-enforcement officials or by fire prevention or investigation officials; criminal penalties.

Any person who, without justification, and with the unlawful intent to inflict serious physical injury or death, causes the death of any trained dog or horse used by law-enforcement officials, the Department of Military Affairs and Public Safety or by fire prevention or investigation officials in the performance of their official duties is guilty of a felony and, upon conviction thereof, shall be fined not less than \$500 nor more than \$5,000 and imprisoned in a correctional facility for a definite term of not less than one year nor more than three years.

Any person who, without justification, willfully and unlawfully causes physical injury to any trained dog or horse used by law-enforcement officials, the Department of Military Affairs and Public Safety or by fire prevention or investigation officials in the performance of their official duties is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$500 or confined in jail not more than six months, or both.

Any person convicted of a violation of this section shall be ordered to make restitution to the law-enforcement agency, the Department of Military Affairs and Public Safety or to the State Fire Marshal or other fire prevention or investigation department or agency owning the animal for any veterinary bills, and replacement costs of any disabled or killed animal.

W. VA. CODE § 61-3E-6. Causing death or injury to an explosives detection animal; penalty.

Any person who violates the provisions of this article which violation causes death, serious or debilitating bodily injury to an explosives detection animal owned or used by a law-enforcement agency, shall be guilty of a felony and, upon conviction thereof, be committed to the custody of the Division of Corrections for not less

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than one year nor more than five years or fined not more than \$5,000 or both. *Any person convicted of a violation of this section shall be ordered to make restitution to the law-enforcement agency, the Department of Military Affairs and Public Safety or to the State Fire Marshal or other fire prevention or investigation department or agency owning the animal for any veterinary bills, and replacement costs of any disabled or killed animal.*

W. VA. CODE § 61-8-19. Cruelty to animals; penalties; exclusions.

- (a)
- (1) It is unlawful for any person to intentionally, knowingly or recklessly,
 - (A) Mistreat an animal in cruel manner;
 - (B) Abandon an animal;
 - (C) Withhold;
 - (i) Proper sustenance, including food or water;
 - (ii) Shelter that protects from the elements of weather; or
 - (iii) Medical treatment, necessary to sustain normal health and fitness or to end the suffering of any animal;
 - (D) Abandon an animal to die;
 - (E) Leave an animal unattended and confined in a motor vehicle when physical injury to or death of the animal is likely to result;
 - (F) Ride an animal when it is physically unfit;
 - (G) Bait or harass an animal for the purpose of making it perform for a person's amusement;
 - (H) Cruelly chain or tether an animal; or
 - (I) Use, train or possess a domesticated animal for the purpose of seizing, detaining or maltreating any other domesticated animal.
 - (2) Any person in violation of subdivision (1) of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than three hundred nor more than two thousand dollars or confined in jail not more than six months, or both.
- (b) A person who intentionally tortures, or mutilates or maliciously kills an animal, or causes, procures or authorizes any other person to torture, mutilate or maliciously kill an animal, is guilty of a felony and, upon conviction thereof, shall be confined in a correctional facility not less than one nor more than five years and be fined not less than one thousand dollars nor more than five thousand dollars. For the purposes of this subsection, "torture" means an action taken for the primary purpose of inflicting pain.
- (c) A person, other than a licensed veterinarian or a person acting under the direction or with the approval of a licensed veterinarian, who knowingly and willfully administers or causes to be administered to any animal participating in any contest any controlled substance or any other drug for the purpose of altering or otherwise affecting said animal's performance is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than five hundred nor more than two thousand dollars.
- (d) *Any person convicted of a violation of this section* forfeits his or her interest in any animal and all interest in the animal vests in the humane society or county pound of the county in which the

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conviction was rendered and the person is, in addition to any fine imposed, *liable for any costs incurred or to be incurred by the humane society or county pound as a result.*

- (e) For the purpose of this section, the term “controlled substance” has the same meaning ascribed to it by subsection (d), section one hundred one, article one, chapter sixty-a of this code.
- (f) The provisions of this section do not apply to lawful acts of hunting, fishing, trapping or animal training or 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 or wildlife or game farm production and management, nor to 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, as both statutes and regulations are in effect on the effective date of this section.
- (g) Notwithstanding the provisions of subsection (a) of this section, any person convicted of a second or subsequent violation of subsection (a) is guilty of a misdemeanor and shall be confined in jail for a period of not less than ninety days nor more than one year, fined not less than five hundred dollars nor more than three thousand dollars, or both. The incarceration set forth in this subsection is mandatory unless the provisions of subsection (h) of this section are complied with.
- (h)
 - (1) Notwithstanding any provision of this code to the contrary, no person who has been convicted of a violation of the provisions of subsection (a) or (b) of this section may be granted probation until the defendant has undergone a complete psychiatric or psychological evaluation and the court has reviewed the evaluation. Unless the defendant is determined by the court to be indigent, he or she is responsible for the cost of the evaluation.
 - (2) For any person convicted of a violation of subsection (a) or (b) of this section, the court may, in addition to the penalties provided in this section, impose a requirement that he or she complete a program of anger management intervention for perpetrators of animal cruelty. Unless the defendant is determined by the court to be indigent, he or she is responsible for the cost of the program.
- (i) In addition to any other penalty which can be imposed for a violation of this section, a court shall prohibit any person so convicted from possessing, owning or residing with any animal or type of animal for a period of five years following entry of a misdemeanor conviction and fifteen years following entry of a felony conviction. A violation under this subsection is a misdemeanor punishable by a fine not exceeding two thousand dollars and forfeiture of the animal.

W. VA. CODE § 61-8-19a. Animal fighting ventures prohibited.

- (a) For the purpose of this article, “animal fighting venture” means any event that involves a fight conducted or to be conducted between at least two animals for purposes of sport, wagering, or entertainment: Provided, That it shall not be deemed to include any lawful activity the primary purpose of which involves the use of one or more animals in racing or in hunting another animal: Provided, however, That “animal fighting venture” does not include the lawful use of livestock as such is defined in section two, article ten-b, chapter nineteen of this code [§ 19-10B-2] or exotic species of animals bred or possessed for exhibition purposes when such exhibition purposes do not include animal fighting or training therefor.

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- (b) It is unlawful for any person to conduct, finance, manage, supervise, direct, engage in, be employed at, or sell an admission to any animal fighting venture or to knowingly allow property under his care, custody or control to be so used.
- (c) It is unlawful for any person to possess an animal with the intent to engage the animal in an animal fighting venture.
- (d) Any person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$300 and not more than \$2,000, or confined in the county jail not exceeding one year, or both so fined and confined: Provided, That if the animal is a wild animal, game animal or fur-bearing animal, as defined in section two, article one, chapter twenty of this code [§ 20-1-2], or wildlife not indigenous to West Virginia, or of a canine, feline, porcine, bovine, or equine species whether wild or domesticated, the person who violates the provisions of this section is guilty of a felony and, upon conviction thereof, shall be fined not less than \$2,500 and not more than \$5,000, and imprisoned in a state correctional facility for not less than two nor more than five years, or both fined and imprisoned.
- (e) *Any person convicted of a violation of this section shall be divested of ownership and control of such animals and liable for all costs of their care and maintenance pursuant to section four, article ten, chapter seven of this code [§ 7-10-4].*

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19. FORFEITURE AND POSSESSION BANS

W. VA. CODE § 7-10-4. Custody and care of animals abandoned, neglected or cruelly treated: hearing; bonds; liability for costs; liens; 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 [§ 61-8-19] and nineteen-a [§ 61-8-19a], article eight, chapter sixty-one of this code.
- (b) The owner or persons in possession, if his or her identity and residence are 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 in writing 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 by a preponderance of the evidence if the animal was abandoned, neglected 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)
- (1) *If a hearing is requested and the magistrate finds by a preponderance of the evidence that the owner did abandon, neglect or cruelly treat the animal, or if no hearing is requested and the magistrate finds by a preponderance of the evidence, based upon the affidavit of the humane officer, that the owner did abandon, neglect or cruelly treat the animal, the magistrate shall enter an order awarding custody of the animal to any humane officer for further disposition in accordance with reasonable practices for the humane treatment of animals. After hearing the evidence, if the magistrate is not convinced the animal was neglected or cruelly treated, he or she may dismiss the action and order the animal be returned to the owner.* If the magistrate finds in favor of the humane officer, the owner of the animal shall post a bond with the court in an amount sufficient to provide for the reasonable costs of care, medical treatment and provisions for the animal for at least thirty days. The bond shall be filed with the court within five days following the court's finding against the owner. *At the end of the time for which expenses are covered by the original bond if the animal remains in the care of the humane officer and the owner desires to prevent disposition of the animal by the humane officer, the owner shall post an additional bond with the court within five days of the expiration of the original bond.* 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.
 - (2) If a bond has been posted in accordance with subdivision (1) of this subsection, the custodial animal care agency may draw from the bond the actual reasonable costs incurred by the agency

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in providing care, medical treatment and provisions to the impounded animal from the date of the initial impoundment to the date of the final disposition of the animal.

- (d) Any person whose animal is seized and against whom the magistrate enters a finding pursuant to this section is liable during any period it remains in the possession of the humane officer for the reasonable costs of care, medical treatment and provisions for the animal not covered by the posting of the bond as provided in subdivision (1), subsection (c) of this section. The magistrate shall require the person liable for these costs to post bond to provide for the maintenance of the seized animal. This expense, if any, becomes a lien on the animal and must be discharged before the animal is released to the owner. Upon dismissal or withdrawal of the complaint, any unused portion of posted bonds shall be returned to the owner. Upon a finding in favor of the humane officer, all interest in the impounded animal shall transfer to the humane officer for disposition in accordance with reasonable practices for the humane treatment of animals. Any additional expense above the value of the animal may be recovered by the humane officer or custodial agency.
- (e) After the humane officer takes possession of the animal pursuant to a finding by a magistrate that the animal has been abandoned, neglected or cruelly treated and 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 the action.
- (f)
- (1) The term “humanely destroyed” as used in this section means:
 - (A) 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 [§§ 30-10A-1 et seq.], chapter thirty of this code; or
 - (B) Any other humane euthanasia procedure approved by the American Veterinary Medical Association, the Humane Society of the United States or the American Humane Association.
 - (2) The term “humanely destroyed” does not include euthanizing an animal by means of a gas chamber: *Provided*, That any county which has a gas chamber in operation as of the effective date of this section may continue to operate the gas chamber subject to the following: (1) The gas chamber shall be operated by an animal euthanasia technician certified pursuant to article ten-a, chapter thirty of this code; and (2) the gas chamber shall have been manufactured and installed by a person who regularly manufactures and installs gas chambers. The Board of Veterinary Medicine shall promulgate emergency rules regarding the inspection of gas chambers, pursuant to section fifteen [§ 29A-3-15], article three, chapter twenty-nine-a of this code.
- (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.

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- (h) The provisions of this section do not apply to farm livestock, as defined in subsection (d), section two [§ 19-10B-2], article ten-b, chapter nineteen of this code; 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.
- (i) All persons or entities in the state performing euthanasia under this article shall register with the Board of Veterinary Medicine by December 31, 2009, in a manner to be prescribed by the board. The Board of Veterinary Medicine shall promulgate emergency rules relating to the registration of those performing animal euthanasia, pursuant to section fifteen, article three, chapter twenty-nine-a of this code.

W. VA. CODE § 61-8-19. Cruelty to animals; penalties; exclusions.

- (a)
 - (1) It is unlawful for any person to intentionally, knowingly or recklessly,
 - (A) Mistreat an animal in cruel manner;
 - (B) Abandon an animal;
 - (C) Withhold;
 - (i) Proper sustenance, including food or water;
 - (ii) Shelter that protects from the elements of weather; or
 - (iii) Medical treatment, necessary to sustain normal health and fitness or to end the suffering of any animal;
 - (D) Abandon an animal to die;
 - (E) Leave an animal unattended and confined in a motor vehicle when physical injury to or death of the animal is likely to result;
 - (F) Ride an animal when it is physically unfit;
 - (G) Bait or harass an animal for the purpose of making it perform for a person's amusement;
 - (H) Cruelly chain or tether an animal; or
 - (I) Use, train or possess a domesticated animal for the purpose of seizing, detaining or mistreating any other domesticated animal.
 - (2) Any person in violation of subdivision (1) of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than three hundred nor more than two thousand dollars or confined in jail not more than six months, or both.
- (b) A person who intentionally tortures, or mutilates or maliciously kills an animal, or causes, procures or authorizes any other person to torture, mutilate or maliciously kill an animal, is guilty of a felony and, upon conviction thereof, shall be confined in a correctional facility not less than one nor more than five years and be fined not less than one thousand dollars nor more than five thousand dollars. For the purposes of this subsection, "torture" means an action taken for the primary purpose of inflicting pain.
- (c) A person, other than a licensed veterinarian or a person acting under the direction or with the approval of a licensed veterinarian, who knowingly and willfully administers or causes to be administered to any

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animal participating in any contest any controlled substance or any other drug for the purpose of altering or otherwise affecting said animal's performance is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than five hundred nor more than two thousand dollars.

- (d) *Any person convicted of a violation of this section forfeits his or her interest in any animal and all interest in the animal vests in the humane society or county pound of the county in which the conviction was rendered* and the person is, in addition to any fine imposed, liable for any costs incurred or to be incurred by the humane society or county pound as a result.
- (e) For the purpose of this section, the term "controlled substance" has the same meaning ascribed to it by subsection (d), section one hundred one, article one, chapter sixty-a of this code.
- (f) The provisions of this section do not apply to lawful acts of hunting, fishing, trapping or animal training or 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 or wildlife or game farm production and management, nor to 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, as both statutes and regulations are in effect on the effective date of this section.
- (g) Notwithstanding the provisions of subsection (a) of this section, any person convicted of a second or subsequent violation of subsection (a) is guilty of a misdemeanor and shall be confined in jail for a period of not less than ninety days nor more than one year, fined not less than five hundred dollars nor more than three thousand dollars, or both. The incarceration set forth in this subsection is mandatory unless the provisions of subsection (h) of this section are complied with.
- (h)
- (1) Notwithstanding any provision of this code to the contrary, no person who has been convicted of a violation of the provisions of subsection (a) or (b) of this section may be granted probation until the defendant has undergone a complete psychiatric or psychological evaluation and the court has reviewed the evaluation. Unless the defendant is determined by the court to be indigent, he or she is responsible for the cost of the evaluation.
 - (2) For any person convicted of a violation of subsection (a) or (b) of this section, the court may, in addition to the penalties provided in this section, impose a requirement that he or she complete a program of anger management intervention for perpetrators of animal cruelty. Unless the defendant is determined by the court to be indigent, he or she is responsible for the cost of the program.
- (i) *In addition to any other penalty which can be imposed for a violation of this section, a court shall prohibit any person so convicted from possessing, owning or residing with any animal or type of animal for a period of five years following entry of a misdemeanor conviction and fifteen years following entry of a felony conviction. A violation under this subsection is a misdemeanor punishable by a fine not exceeding two thousand dollars and forfeiture of the animal.*

W. VA. CODE § 61-8-19a. Animal fighting ventures prohibited.

- (a) For the purpose of this article, "animal fighting venture" means any event that involves a fight conducted or to be conducted between at least two animals for purposes of sport, wagering, or entertainment: Provided, That it shall not be deemed to include any lawful activity the primary

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purpose of which involves the use of one or more animals in racing or in hunting another animal: Provided, however, That “animal fighting venture” does not include the lawful use of livestock as such is defined in section two, article ten-b, chapter nineteen of this code [§ 19-10B-2] or exotic species of animals bred or possessed for exhibition purposes when such exhibition purposes do not include animal fighting or training therefor.

- (b) It is unlawful for any person to conduct, finance, manage, supervise, direct, engage in, be employed at, or sell an admission to any animal fighting venture or to knowingly allow property under his care, custody or control to be so used.
- (c) It is unlawful for any person to possess an animal with the intent to engage the animal in an animal fighting venture.
- (d) Any person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$300 and not more than \$2,000, or confined in the county jail not exceeding one year, or both so fined and confined: Provided, That if the animal is a wild animal, game animal or fur-bearing animal, as defined in section two, article one, chapter twenty of this code [§ 20-1-2], or wildlife not indigenous to West Virginia, or of a canine, feline, porcine, bovine, or equine species whether wild or domesticated, the person who violates the provisions of this section is guilty of a felony and, upon conviction thereof, shall be fined not less than \$2,500 and not more than \$5,000, and imprisoned in a state correctional facility for not less than two nor more than five years, or both fined and imprisoned.
- (e) *Any person convicted of a violation of this section shall be divested of ownership and control of such animals and liable for all costs of their care and maintenance pursuant to section four, article ten, chapter seven of this code [§ 7-10-4].*

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20. REHABILITATIVE SENTENCING

W. VA. CODE § 61-8-19. Cruelty to animals; penalties; exclusions.

- (a)
- (1) It is unlawful for any person to intentionally, knowingly or recklessly,
 - (A) Mistreat an animal in cruel manner;
 - (B) Abandon an animal;
 - (C) Withhold;
 - (i) Proper sustenance, including food or water;
 - (ii) Shelter that protects from the elements of weather; or
 - (iii) Medical treatment, necessary to sustain normal health and fitness or to end the suffering of any animal;
 - (D) Abandon an animal to die;
 - (E) Leave an animal unattended and confined in a motor vehicle when physical injury to or death of the animal is likely to result;
 - (F) Ride an animal when it is physically unfit;
 - (G) Bait or harass an animal for the purpose of making it perform for a person's amusement;
 - (H) Cruelly chain or tether an animal; or
 - (I) Use, train or possess a domesticated animal for the purpose of seizing, detaining or mistreating any other domesticated animal.
 - (2) Any person in violation of subdivision (1) of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than three hundred nor more than two thousand dollars or confined in jail not more than six months, or both.
- (b) A person who intentionally tortures, or mutilates or maliciously kills an animal, or causes, procures or authorizes any other person to torture, mutilate or maliciously kill an animal, is guilty of a felony and, upon conviction thereof, shall be confined in a correctional facility not less than one nor more than five years and be fined not less than one thousand dollars nor more than five thousand dollars. For the purposes of this subsection, "torture" means an action taken for the primary purpose of inflicting pain.
- (c) A person, other than a licensed veterinarian or a person acting under the direction or with the approval of a licensed veterinarian, who knowingly and willfully administers or causes to be administered to any animal participating in any contest any controlled substance or any other drug for the purpose of altering or otherwise affecting said animal's performance is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than five hundred nor more than two thousand dollars.
- (d) Any person convicted of a violation of this section forfeits his or her interest in any animal and all interest in the animal vests in the humane society or county pound of the county in which the conviction was rendered and the person is, in addition to any fine imposed, liable for any costs incurred or to be incurred by the humane society or county pound as a result.
- (e) For the purpose of this section, the term "controlled substance" has the same meaning ascribed to it by subsection (d), section one hundred one, article one, chapter sixty-a of this code.

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- (f) The provisions of this section do not apply to lawful acts of hunting, fishing, trapping or animal training or 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 or wildlife or game farm production and management, nor to 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, as both statutes and regulations are in effect on the effective date of this section.
- (g) Notwithstanding the provisions of subsection (a) of this section, any person convicted of a second or subsequent violation of subsection (a) is guilty of a misdemeanor and shall be confined in jail for a period of not less than ninety days nor more than one year, fined not less than five hundred dollars nor more than three thousand dollars, or both. The incarceration set forth in this subsection is mandatory unless the provisions of subsection (h) of this section are complied with.
- (h)
- (1) *Notwithstanding any provision of this code to the contrary, no person who has been convicted of a violation of the provisions of subsection (a) or (b) of this section may be granted probation until the defendant has undergone a complete psychiatric or psychological evaluation and the court has reviewed the evaluation. Unless the defendant is determined by the court to be indigent, he or she is responsible for the cost of the evaluation.*
 - (2) *For any person convicted of a violation of subsection (a) or (b) of this section, the court may, in addition to the penalties provided in this section, impose a requirement that he or she complete a program of anger management intervention for perpetrators of animal cruelty. Unless the defendant is determined by the court to be indigent, he or she is responsible for the cost of the program.*
- (i) In addition to any other penalty which can be imposed for a violation of this section, a court shall prohibit any person so convicted from possessing, owning or residing with any animal or type of animal for a period of five years following entry of a misdemeanor conviction and fifteen years following entry of a felony conviction. A violation under this subsection is a misdemeanor punishable by a fine not exceeding two thousand dollars and forfeiture of the animal.