

# West Virginia Cruelty to Animals Statutes

## WEST VIRGINIA STATUTES CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS. ARTICLE 10. HUMANE OFFICERS.

### **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.

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

It is the duty of such officers to prevent the perpetration or continuance of any act of cruelty upon any animal and to investigate, and upon probable cause, to 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 inspection of records and property as may be reasonably necessary to any investigation. Any person who interferes with, obstructs or resists any such officer in the discharge of his duty is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred nor more than five hundred dollars, or confined in the county jail not more than thirty days, or both so fined and confined. Any such penalties are in addition to any penalties such person may incur for cruel or inhumane treatment of any animal.

### **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.

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

(a) Subject to the exclusions of subsection (g) 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 or medical care or cruelly treated or used, as defined in sections nineteen and nineteen-a, article eight, chapter sixty-one of this code.

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

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

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

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

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

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

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

(g) Only in case of emergency, where humane euthanasia of an animal cannot be implemented expeditiously, the animal may be destroyed by shooting, if:

(i) The shooting is performed by someone properly trained, using a weapon and ammunition of suitable caliber and other characteristics to produce instantaneous death by a single shot; and

(ii) Maximum precaution is taken to minimize the animal's suffering and protect the general public, employees and other animals.

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

**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.

**7-10-5. Destruction of animals.**

Any humane officer or animal shelter may lawfully humanely destroy or cause to be humanely destroyed any animal in a manner consistent with the provisions of section four of this article, when in the judgment of the humane officer or director or supervisor of a animal shelter, and by the written certificate of a regularly licensed veterinary surgeon, the animal appears to be injured, disabled, diseased past recovery or the animal is unclaimed.

**CHAPTER 8. MUNICIPAL CORPORATIONS.  
ARTICLE 12. GENERAL AND SPECIFIC POWERS, DUTIES AND  
ALLIED**

**RELATIONS OF MUNICIPALITIES, GOVERNING BODIES AND  
MUNICIPAL  
OFFICERS AND EMPLOYEES;  
SUITS AGAINST MUNICIPALITIES.  
PART III. GENERAL POWERS OF MUNICIPALITIES AND  
GOVERNING BODIES.**

**8-12-5 General powers of every municipality and the governing body thereof.**

In addition to the powers and authority granted by (i) the constitution of this state, (ii) other provisions of this chapter, (iii) other general law, and (iv) any charter, and to the extent not inconsistent or in conflict with any of the foregoing except special legislative charters, every municipality and the governing body thereof shall have plenary power and authority therein by ordinance or resolution, as the case may require, and by appropriate action based thereon:

(26) To regulate or prohibit the keeping of animals or fowls and to provide for impounding, sale or destruction of animals or fowls kept contrary to law or found running at large;

(27) To arrest, convict and punish any person for cruelly, unnecessarily or needlessly beating, torturing, mutilating, killing or overloading or overdriving, or willfully depriving of necessary sustenance, any domestic animal;

**CHAPTER 61. CRIMES AND THEIR PUNISHMENT.  
ARTICLE 8. CRIMES AGAINST CHASTITY, MORALITY AND  
DECENCY.**

**61-8-19 Cruelty to animals; penalties; exclusions.**

(a) If any person cruelly mistreats, abandons or withholds proper sustenance, including food, water, shelter or medical treatment necessary to sustain normal health and fitness or to end suffering or abandons any animal to die, or uses, trains or possesses any domesticated animal for the purpose of seizing, detaining or maltreating any other domesticated animal, he or she is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred nor more than one thousand dollars, or confined in the county jail not more than six months, or both so fined and confined.

(b) Any 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 one hundred nor more than one thousand dollars.

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

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

(e) 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. s 2131 et seq. and the regulations promulgated thereunder, as both such statutes and regulations are in effect on the effective date of this section.

(f) Notwithstanding the provisions of subsection (a) of this section, any person convicted of a second violation of said subsection 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 one thousand dollars, or both. The incarceration set forth in this subsection shall be mandatory unless the provisions of subsection (g) are complied with.

(g) Notwithstanding any provision of this code to the contrary, no person who has been convicted of a second or subsequent violation of the provisions of subsection (a) of this section may be granted probation until the defendant has undergone a complete psychiatric or psychological evaluation and the court has reviewed such evaluation. Unless the defendant is determined by the court to be indigent, he or she shall be responsible for the cost of said evaluation.

(h) In addition to any other penalty which can be imposed for a violation of this section, a court may, as a condition of probation, prohibit any person so convicted from possessing or owning any animal or type of animal during the period of probation.

**Amended in 2001.**