

[Home](#)

## West's Annotated Code of West Virginia. Chapter 5A; Chapter 7. County Commissions and Officers; Chapter 19. Agriculture; Chapter 20. Natural Resources.

[+ Share](#) | [f](#) [✉](#) [★](#) [🖨](#)

- **Primary Citation:** W. Va. Code, §§ 5A-4-4; § 7-7-6d; § 19-9-1 - 40; § 19-20-1 - 26; § 19-20A-1 - 8; § 19-20B-1 - 6; § 19-20C-1 - 3; § 19-20D-1 - 3; § 20-2-5; § 20-2-5f; § 20-2-16; § 20-2-22a; § 20-2-56a
- **Country of Origin:** [United States](#)
- **Last Checked:** September, 2016

[more +](#)

### Summary:

These West Virginia statutes comprise the state's dog laws. Among the provisions include registration requirements, rabies control, and hunting laws that impact dogs.

## Statute Text

[Chapter 5A](#). Department of Administration. Article 4. General Services Division. (Dogs on capitol grounds)

[Chapter 7](#). County Commissions and Officers. Article 7. Compensation of Elected County Officials. (County dog taxes)

[Chapter 19](#). Agriculture. Article 9. Diseases Among Domestic Animals. General Provisions

[Chapter 19](#). Agriculture. Article 20. Dogs and Cats.

- [Taxation and Registration Provisions](#)
- [Dog Control and Impoundment Provisions](#)
- [Dogs as Personal Property](#)
- [Dogs Running at Large/Owner Liability for Damage by Dogs](#)
- [Vicious and Dangerous Dogs](#)

- [Miscellaneous Provisions](#) (confinement of female dog, prohibition against impounded dogs for research, injury to law enforcement dogs)

[Chapter 19](#). Agriculture. Article 20A. Vaccination of Dogs and Cats for Rabies.

[Article 20B](#). Spaying or Neutering of Dogs and Cats

[Chapter 20](#). Natural Resources. Article 2. Wildlife Resources. Part I. Wildlife Management. (Hunting with dogs)

**Chapter 5A. Department of Administration. Article 4. General Services Division.**

[§ 5A-4-4](#). Unlawful to kill or molest animals, birds or fowls upon grounds of capitol; powers and duties of security officers; penalties

**Chapter 7. County Commissions and Officers. Article 7. Compensation of Elected County Officials .**

[§ 7-7-6d](#). Collection of head tax on dogs; duties of assessor and sheriff; registration of dogs; disposition of head tax; taxes on dogs not collected by assessor

**Chapter 19. Agriculture. Article 9. Diseases Among Domestic Animals. General Provisions**

[§ 19-9-1](#). Definitions

[§ 19-9-2](#). Duties and powers of commissioner

[§ 19-9-3](#). Consulting veterinarians to assist commissioner

[§ 19-9-4](#). Inspectors of animals

[§ 19-9-5](#). Persons authorized to enter premises; powers thereof; refusal to enforce orders of commissioner

[§ 19-9-6](#). Report of communicable diseases by veterinarians and owners; failure to report

[§ 19-9-7](#). Commissioner may accept federal laws and regulations

[§ 19-9-7a](#). National Animal Identification System; rulemaking; exemption

[§ 19-9-8](#). Powers of federal inspectors

[§ 19-9-9](#). County court may cooperate in control and eradication of communicable diseases

[§ 19-9-10](#). Commissioner may prescribe tests for diseases

[§ 19-9-11](#). Reports of sales of and tests with diagnostic materials

[§ 19-9-12](#). Unlawful sale of diagnostic materials

[§ 19-9-12a](#). Sale, distribution or administration of unattenuated hog cholera virus

[§ 19-9-13](#). Quarantine of premises or animals; general and special quarantine defined

[§ 19-9-14](#). Establishment of special quarantine

[§ 19-9-15](#). Establishment of general quarantine

[§ 19-9-16](#). Unlawful to remove, deface or destroy quarantine notice

[§ 19-9-17](#). Care of quarantined animals; expense

[§ 19-9-18](#). Removal of animals, etc., from quarantined area; running at large of dogs in such area

[§ 19-9-19](#). Domestic animal within quarantined area running at large

[§ 19-9-20](#). Bringing animals into State; health certificate

[§ 19-9-21](#). Animals entering State without health certificate

[§ 19-9-22](#). Unlawful possession of animal brought into State

(§§ 19-9-23 – 39 omitted because related to bovine diseases)

[§ 19-9-40](#). Penalties

## **Chapter 19. Agriculture. Article 20. Dogs and Cats.**

### **Taxation and Registration Provisions:**

[§ 19-20-1](#). Dogs subject to taxation; declared to be personal property

[§ 19-20-2](#). Collection of head tax on dogs; duties of assessor and sheriff; registration of dogs; disposition of head tax; taxes on dogs not collected by assessor

[§ 19-20-3](#). Registration of dog kennels; application; fee; expiration of certificate of registration

[§ 19-20-4](#). Forms for registration; records; registration tags; loss thereof

[§ 19-20-5](#). Wearing of registration tag by dog

### **Dog Control and Impoundment Provisions:**

[§ 19-20-6](#). County dog warden; rules and regulations for dog control; prosecution and penalties for violation of ordinances

[§ 19-20-6a](#). Authority of county commission to contract with private society, other county or municipality for the care and control of dogs and cats

[§ 19-20-7](#). Dog pound and equipment to be provided by county court; exception

[§ 19-20-8](#). Impounding and disposition of dogs; costs and fees

[§ 19-20-8a](#). Joint ownership, etc., by counties and municipalities of dog pounds; joint employment of dog wardens

[§ 19-20-9](#). Failure to register dog or kennel; alteration or forging of registration certificate or tag; penalties

[§ 19-20-9a](#). Dogs, cats, etc.; rabies observation

[§ 19-20-10](#). Dog and kennel fund; disposition thereof

### **Dogs as Personal Property:**

[§ 19-20-11](#). Assessment of dogs as personal property

[§ 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

### **Dogs Running at Large/Owner Liability for Damage by Dogs:**

[§ 19-20-13](#). Dog running at large; liability of owner

[§ 19-20-14](#). Dog killing, wounding or worrying livestock or poultry--Recovery of damages

[§ 19-20-15](#). Same--Assessment of damages; appraisers

[§ 19-20-16](#). Same--When lawful to kill dog

[§ 19-20-17](#). Same--Unlawful to harbor dog; penalty

[§ 19-20-18](#). Same--Duty of owner to kill dog; proceeding before magistrate on failure of owner to kill

[§ 19-20-19](#). Offenses; criminal penalties; jurisdiction

[§ 19-20-19a](#). Dog warden and deputy dog wardens; power to issue citations

### **Vicious and Dangerous Dogs:**

[§ 19-20-20](#). Keeping vicious dogs; humane officers may kill such dogs

[§ 19-20-21](#). License fee for keeping vicious or dangerous dog

### **Miscellaneous Provisions (confinement of female dog, prohibition against impounded dogs for research, injury to law enforcement dogs):**

[§ 19-20-22](#). Confinement of female dogs

[§ 19-20-23](#). Prohibition of the use of impounded dogs and cats

[§ 19-20-24](#). Causing death or injury to animals used by law-enforcement officials or by fire prevention or investigation officials; criminal penalties

[§ 19-20-25](#). Retirement, transfer or disposal of state owned dogs and horses

[§ 19-20-26](#). Commercial dog-breeding operations

## **Chapter 19. Agriculture. Article 20A. Vaccination of Dogs and Cats for Rabies.**

[§ 19-20A-1](#). Purpose and policy

[§ 19-20A-2](#). Vaccination of dogs and cats

[§ 19-20A-3](#). Vaccination record and report

[§ 19-20A-4](#). Vaccination tag and certificate

[§ 19-20A-5](#). Type of vaccine to be furnished; fee

[§ 19-20A-6](#). Offenses and penalties

[§ 19-20A-7](#). Enforcement of article

[§ 19-20A-8](#). Vaccinated dogs and cats may run at large; confinement may be required by the commissioner of agriculture within the limits of any quarantine area or locality; and ordinances or rules may be promulgated by any county commission or municipality relating to the control and management of dogs within the county; providing limited exemption for hunting and farm dogs from county commission or municipality action

## **Chapter 19. Agriculture. Article 20B. Spaying or Neutering of Dogs and Cats**

[§ 19-20B-1](#). Short title

[§ 19-20B-2](#). Requirement for adoption

[§ 19-20B-3](#). Deposit

[§ 19-20B-4](#). Petition for compliance

[§ 19-20B-5](#). Penalty

[§ 19-20B-6](#). Dogs or cats claimed by owner

## **Article 20C. West Virginia Spay Neuter Assistance Program**

[§ 19-20C-1](#). West Virginia Spay Neuter Assistance Program

[§ 19-20C-2](#). Fund established; acceptance of funds

[§ 19-20C-3](#). Rulemaking; annual report

## **Article 20D. Private Cause of Action for the Humane Destruction of a Dog**

[§ 19-20D-1](#). Purpose

[§ 19-20D-2](#). Procedure; petition to magistrate court; elements of action; burden of proof; attorney fees; limitation of action

[§ 19-20D-3](#). Order of the magistrate court

## **Chapter 20. Natural Resources. Article 2. Wildlife Resources. Part I. Wildlife Management.**

[§ 20-2-5](#). Unlawful methods of hunting and fishing and other unlawful acts

[§ 20-2-5f](#). Nonresident dog training for coon hunting; training season

[§ 20-2-16](#). Dogs chasing deer

[§ 20-2-22a](#). Hunting, tagging and reporting bear; procedures applicable to property destruction by bear; penalties

[§ 20-2-56a](#). Bird dog training permit

Grabzt

## **Chapter 5A. Department of Administration. Article 4. General Services Division.**

**§ 5A-4-4. Unlawful to kill or molest animals, birds or fowls upon grounds of capitol; powers and duties of security officers; penalties**

In addition to the duties of persons appointed and qualified as security officers pursuant to section three, article four, chapter five-a of this code, to preserve law and order on any premises under the jurisdiction of the secretary to which he may be assigned by the secretary, such security officers shall have authority and it shall be the duty of such security officers to enforce the provisions of this section. This authority and duty of security officers shall not be deemed to supersede in any way the authority or duty of other peace officers to enforce the provisions of this section.

It shall be unlawful at any time to kill or molest in any manner, any animals, birds or fowls on the grounds of the capitol buildings or governor's mansion, except as may be deemed necessary by the secretary for the control or extermination of animals, birds or fowls deemed by him to be pests or a danger to the health and safety. Any person who kills or molests in any manner, or knowingly allows a dog or other animal owned by him to kill or molest in any manner any animals, birds or fowls on the grounds of the capitol buildings or governor's mansion shall be guilty of a misdemeanor, and, upon conviction thereof, be fined not less than fifty dollars nor more than five hundred dollars or, in the discretion of the court, be imprisoned in the county jail for not more than six months, or both such fine and imprisonment.

It shall be unlawful for any person to knowingly allow a dog owned by him to be upon the grounds of the capitol buildings or governor's mansion unless such dog is under control by leash. Any person who knowingly allows a dog owned by him to be upon the grounds of the capitol buildings or governor's mansion while not under control by leash shall be guilty of a misdemeanor, and, upon conviction thereof, be fined not less than twenty-five nor more than one hundred dollars.

It shall further be unlawful for any person to knowingly allow a dog or other animal owned by him or under his control to defecate upon the grounds of the capitol buildings or governor's mansion. In the event that a dog or other animal owned by or under the control of a person defecates upon the grounds of the capitol buildings or governor's mansion, the person shall remove such defecation. Any person who knowingly allows a dog or other animal owned by him or under his control to defecate upon the grounds of the capitol buildings or governor's mansion and who subsequently fails to remove said defecation, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than twenty-five nor more than one hundred dollars.

Acts 1990, c. 2.

## **Chapter 7. County Commissions and Officers. Article 7. Compensation of Elected County Officials.**

### **§ 7-7-6d. Collection of head tax on dogs; duties of assessor and sheriff; registration of dogs; disposition of head tax; taxes on dogs not collected by assessor**

(a) It shall be the duty of the county assessor and the assessor's deputies of each county within the state, at the time they are making assessment of the personal property within such county, to assess and collect a head tax of \$1 on each male or spayed female dog and of \$2 on each unspayed female dog; and in addition to the above, the assessor and the assessor's deputies shall have the further duty of collecting any such head tax on dogs as may be levied by the ordinances of each and every municipality within the county. In the event that the owner, keeper, or person having in his or her possession or allowing to remain on any premises under his or her control any dog above the age of six months, shall refuse or fail to pay such tax, when the same is assessed or within fifteen days thereafter, to the assessor or deputy assessor, then such assessor or deputy assessor shall certify such tax to the county dog warden; if there be no county dog warden he or she shall certify such tax to the county sheriff, who shall take charge of the dog for which the tax is delinquent and impound the same for a period of fifteen days, for which service he or she shall be allowed a fee of \$1.50 to be charged against such delinquent taxpayer in addition to the taxes herein provided for. In case the tax and impounding charge herein provided for shall not have been paid within the period of fifteen days, then the sheriff may sell the impounded dog and deduct the impounding charge and the delinquent tax from the amount received therefor, and return the balance, if any, to the delinquent taxpayer. Should the sheriff fail to sell the dog so impounded within the time specified herein, he or she shall turn the animal over to the local humane society or similar organization.

(b) At the same time as the head tax is assessed, the assessor and the assessor's deputies shall, on the forms prescribed under section four, article twenty, chapter nineteen of this code, take down the age, sex, color, character of hair (long or short) and breed (if known) and the name and address of the owner, keeper or harbinger thereof. When the head tax, and extra charges, if any, are paid, the officer to whom payment is made shall issue a certificate of registration and a registration tag for such dog.

(c) In addition to the assessment and registration above provided for, whenever a dog either is acquired or becomes six months of age after the assessment of the personal property of the owner, keeper or harbinger thereof, the said owner, keeper or harbinger of said dog shall, within ten days after the acquisition or maturation, register the said dog with the assessor, and pay the head tax thereon unless the prior owner, keeper or harbinger paid the head tax.

(d) All certificates of registration and registration tags issued pursuant to the provisions of this section shall be issued for the fiscal year and shall be valid from the date on which issued until June 30 of that fiscal year, or until reissued by the assessor or the assessor's deputy in the regular performance of his or her duties, but in no case shall previous registration tags be valid after September 30 of the next ensuing fiscal year.

(e) The assessor collecting the head tax on dogs shall be allowed a commission of ten percent upon all such taxes collected by the assessor and shall turn in to the county treasurer ninety percent of such taxes so collected, as are levied by this section; and the assessor shall turn over to the treasurer or other proper officer of each and every municipality within the county ninety percent of such taxes levied by the ordinances of such municipality. All such dog taxes, except those belonging to municipalities, shall be accredited to the dog and kennel fund provided for in section ten, article twenty, chapter nineteen of this code. Such dog taxes as are collected for and turned over to municipalities shall be deposited by the proper officer of such municipality to such fund and shall be expended in such manner as the law of such municipality may provide. All taxes on dogs not collected by the assessor shall be collected by the regular tax collecting officer of the county and placed to the credit of the dog and kennel fund.

CREDIT(S)

Acts 1980, c. 31; Acts 2011, c. 31, eff. July 1, 2011.

## **Chapter 19. Agriculture. Article 9. Diseases Among Domestic Animals. General Provisions**

### **§ 19-9-1. Definitions**

The following words, as used in this article, or in any rule or regulation authorized thereunder, unless the context otherwise requires or a different meaning is specifically prescribed, shall have the following meanings:

(a) "Commissioner," the state commissioner of agriculture;

(b) "Animal," any domestic equine or bovine animal, sheep, goat, swine, dog, cat or poultry;

(c) "Owner," any person who owns, leases or hires any domestic animal from another, or who allows a domestic animal habitually to remain about the premises inhabited by such person;

(d) "Premises," is to be taken in its widest sense, and shall include land, any structure, building, pen, coop or inclosure thereon, and any vehicle, car or vessel used in transporting passengers, goods or animals by land or water;



(e) "Communicable disease," actinobacillosis, actinomycosis, anaplasmosis, anthrax, apthous fever (foot-and-mouth disease), aujesky's disease (mad itch), bacillary hemoglobinuria, blackleg, brucellosis (cattle, swine and goats), contagious ecthyma (sheep sore mouth), contagious pleuropneumonia, dourine (horses), encephalomyelitis, equine encephalomyelitis, erysipelas (swine), glanders, hemorrhagic enteritis in swine, hemorrhagic septicemia (shipping fever), hog cholera, influenza (horses and swine), infectious equine anemia, infectious keratitis, Johne's disease (paratuberculosis in cattle), laryngo tracheitis (poultry), leptospirosis, listerellosis, malignant oedema, necrobacillosis, newcastle disease (avian pneumonencephalitis), psittacosis, pullorum disease, pox (chicken, cow, swine and horse), Q fever, rabies, rinderpest, Rocky Mountain spotted fever (in rodents and dogs), salmonellosis, scabies (mange--in all species), tick fever, tularemia, trichinosis, trichomoniasis, tuberculosis, vesicular exanthema (swine), vesicular stomatitis, vibrio foetus, X-disease (hyperkeratosis), or any other disease which has been or may hereafter be adjudged and proclaimed by the commissioner or the bureau of animal industry of the United States department of agriculture to be contagious, infectious or otherwise transmissible or communicable.

Acts 1915, c. 13, §§ 1, 2, 6; Acts 1949, c. 6.

## **§19-9-2. Duties and powers of commissioner**

It shall be the duty of the commissioner, and he shall have authority:

- (a) To prevent, suppress, control and eradicate any communicable diseases of animals or poultry;
- (b) To make and enforce such rules and regulations as may be necessary to effectuate the provisions of this article;
- (c) To collect and disseminate information and statistics by means of circulars and bulletins on the prevalence and control of animal and poultry diseases and their treatment, the proper care and sanitation of stables and other buildings, so as to prevent the existence and spread of communicable diseases among such animals and poultry, and such other information relative thereto as will be of value to the stock industry of the State;
- (d) To make or cause to be made any investigations he may deem advisable regarding the causes and methods of preventing, controlling and eradicating diseases of animals or poultry, and exercise such other powers and perform such other duties as may be proper or necessary to prevent the spread of, eradicate or control any communicable disease among animals or poultry, including the power to promulgate, issue, and enforce regulations prohibiting the feeding of garbage to swine unless said garbage has been thoroughly heated to a temperature of at least 212° F. for at least thirty minutes or treated in some other manner equally effective for the prevention of swine diseases and the protection of public health, such regulations not to apply to any individual who feeds only his own household garbage to swine which are raised for such individuals' own use;
- (e) To prohibit the importation into this State of animals and poultry, when necessary to prevent the spread of disease;
- (f) To cause general or special quarantine of premises and of animals and poultry to be established and maintained;

(g) To cause the disinfection of any premises;

(h) To cause the destruction of diseased animals, when such animals are deemed diseased as a result of physical examination or an approved test, and of infected personal property, and to regulate and prohibit the moving or transportation of such animals or property from one place to another in this State;

(i) To have charge of the enforcement of the provisions of this article and the laws of the State relating to diseases of animals and poultry, and the manufacture, preparation, storage, sale and offering for sale of the food and food products derived from diseased animals and poultry.

Acts 1915, c. 13, §§ 2, 3, 26; Acts 1919, c. 104, § 3; Acts 1953, c. 9.

### **§19-9-3. Consulting veterinarians to assist commissioner**

The commissioner shall have authority to appoint, subject to dismissal by him at any time, such consulting veterinarians as may be necessary from time to time to assist him in discharging the duties imposed upon him by this article. Each consulting veterinarian shall be registered as required by article ten, chapter thirty of this Code, and shall receive a per diem, and actual expenses, to be determined by the commissioner, for the time actually engaged in carrying out the directions of the commissioner, which per diem and expenses shall be paid out of the current appropriation made for the enforcement of this article.

Whenever any incorporated city of this State shall have in its employ any veterinary sanitary officer engaged in the inspection of meat, milk or animals, and such officer is a registered veterinarian as aforesaid, the commissioner may appoint such city veterinary sanitary officer a consulting veterinarian, but such officer shall not be entitled to compensation or expenses from both the State and city for the same service.

Acts 1915, c. 13, §§ 3, 4; Acts 1919, c. 104, § 3; Acts 1967, c. 6.

### **§19-9-4. Inspectors of animals**

The commissioner may appoint, at different points in the State, inspectors to examine and inspect any of the animals enumerated in this article which are to be moved to states where the sanitary laws require such examination and inspection, with authority to issue certificates of inspection in the name of the state department of agriculture in such form as the commissioner may prescribe. Such inspectors shall be registered veterinarians, and the appointment of any such inspector may, at any time, be revoked by the commissioner.

The commissioner shall regulate and fix the fees to be charged by the inspector, which fees shall be paid by the owner requesting such examination and inspection, and the inspector shall receive no compensation from the State for any such service he may render.

Upon the request of any owner for an examination and inspection of such animals and tender of the fees authorized to be charged therefor, it shall be the duty of the inspector to examine and inspect such

animals and to issue and deliver to such owner a certificate of inspection showing the results of such examination and inspection.

Acts 1915, c. 13, § 4.

#### **§19-9-5. Persons authorized to enter premises; powers thereof; refusal to enforce orders of commissioner**

The commissioner, the consulting veterinarians, and their duly appointed and authorized assistants or employees, in the performance of their duties under this article and the rules and regulations adopted by the commissioner, shall have the power to enter any premises, public or private, where they have reason to believe that diseased animals or poultry may be or may have been confined or kept in or on such premises, or for the purpose of making such examination or applying such tests as may be necessary to determine whether any contagious or infectious disease exists there. They shall have the same powers and protection as other peace officers of this State, and shall have power and authority to require all sheriffs and their deputies, constables, mayors of cities and towns, and State and municipal police officers, to assist them in carrying out the provisions of this article and the rules and regulations adopted thereunder. Any officer who fails or refuses to enforce the lawful orders and quarantine of the commissioner or anyone acting under him, in the proper execution of the powers conferred by this article, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than twenty-five nor more than two hundred dollars.

<Acts 1976, c. 33, abolished the office of the constable and transferred all duties and powers of the constables to deputy sheriffs. See § 50-1-17.>

Acts 1915, c. 13, § 5.

#### **§19-9-6. Report of communicable diseases by veterinarians and owners; failure to report**

Every veterinarian engaged in the practice of his profession in this State, immediately upon receiving information thereof, shall report to the commissioner each case of any communicable disease, or of any animal reacting to a tuberculosis or mallein test; and every person who has upon his premises or in his possession any domestic animal which is, or which he has good reason to suspect to be, infected with any communicable disease, shall immediately report the same to the commissioner. The reports shall be in writing and shall include a description of each animal affected, with the name and address of the owner or person in charge of the animal, the locality, and the number of susceptible domestic animals that have been exposed to the disease.

Any veterinarian or other person who shall knowingly fail to report such a case or who shall attempt to conceal the existence of such disease shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than one hundred dollars.

Acts 1915, c. 13, § 6.

### **§19-9-7. Commissioner may accept federal laws and regulations**

The commissioner shall have authority to accept on behalf of the State the laws, rules and regulations of the United States bureau of animal industry for the prevention, control and eradication of communicable diseases among animals and poultry.

Acts 1915, c. 13, § 26.

### **§ 19-9-7a. National Animal Identification System; rulemaking; exemption**

West Virginia shall be a participating state in the United States Department of Agriculture's National Animal Identification System. The Commissioner may propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code governing the collection of farm premises and animal identification data.

The premises and animal identification data collected by the Commissioner in accordance with the requirements of the National Animal Identification System are specifically exempt from disclosure under the provisions of article one, chapter twenty-nine-b of this code.

Acts 2005, c. 15, eff. 90 days after April 8, 2005.

### **§ 19-9-8. Powers of federal inspectors**

The inspectors of the bureau of animal industry of the United States shall have the right to inspect, quarantine and condemn animals infected with any communicable disease, or suspected to be so infected, or that have been exposed to any such disease, and for these purposes are hereby authorized and empowered to enter upon any ground or premises. Such inspectors shall have power and authority to require sheriffs, constables or peace officers to assist them in the discharge of their duties in carrying out the provisions of the acts of Congress, approved May twenty-ninth, eighteen hundred and eighty-four, establishing the bureau of animal industry, and all acts amendatory thereof, and shall have the same powers and protection as peace officers while engaged in the discharge of their duties.

Acts 1891, c. 59.

### **§ 19-9-9. County court may cooperate in control and eradication of communicable diseases**

The county court of any county is hereby authorized to cooperate with the commissioner of agriculture and the United States department of agriculture in the control and eradication of bovine tuberculosis, or any other communicable disease of livestock, and in creating modified accredited free areas, and all expenses incurred by such county through this cooperative agreement shall be paid out of the county treasury as other claims against the county.

<W.Va. Const., art. IX, § 9, redesignated the office of the county court as county commission.>

Acts 1925, c. 82, § 1.

#### **§ 19-9-10. Commissioner may prescribe tests for diseases**

The commissioner may prescribe methods of making tests with tuberculin, mallein or other recognized tests for the diagnosis of animal diseases.

Acts 1951, c. 13, § 20.

#### **§ 19-9-11. Reports of sales of and tests with diagnostic materials**

Every sale in this State of a biological product intended for diagnostic or therapeutic purposes with animals, and each injection or test made therewith, shall be reported in writing to the commissioner within one week after such sale or test. Each such report shall be signed by the person who made the sale or test. In the case of a sale, the report shall state the name of the purchaser of the biological product, with the amount sold, and the date of sale. In the case of a test, the report shall state the name and address of the owner of the animal tested or treated, the locality where such test or treatment was made, a description of the animal or animals tested or treated, and a complete statement of the actual result of such test or treatment. Any person whose duty it is to make such report, who shall fail or refuse to do so, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not exceeding one hundred dollars.

Acts 1915, c. 13, § 21.

#### **§19-9-12. Unlawful sale of diagnostic materials**

It shall be unlawful for any person to manufacture for sale, or sell or offer for sale, any biological product intended for diagnostic or therapeutic purposes with animals unless such product is officially approved by the bureau of animal industry of the United States.

Acts 1915, c. 13, § 22.

#### **§ 19-9-12a. Sale, distribution or administration of unattenuated hog cholera virus**

It shall be unlawful for any person, firm, corporation or association to sell or offer for sale, distribute, administer, barter, exchange, give away or otherwise dispose of unattenuated hog cholera virus except upon a special written permit issued by the commissioner of agriculture.

"Hog cholera virus" means an unattenuated virus administered to swine for the purpose of immunizing such swine against the disease known as hog cholera.

Acts 1959, c. 11.

### **§19-9-13. Quarantine of premises or animals; general and special quarantine defined**

Whenever any communicable disease shall exist anywhere in the State a quarantine of any locality or premises, or of any infected or exposed animals, may be established.

Quarantine shall be of two kinds:

(a) "Special quarantine," which shall mean a quarantine of a single animal; or a quarantine of a single building, structure, pen, coop, car, vessel, vehicle, field or inclosure; or a quarantine of any number of animals when confined or contained in the same building, structure, pen, coop, car, vessel, vehicle, field or inclosure;

(b) "General quarantine," which shall include all quarantines not included under the term "special quarantine" as herein defined.

Acts 1915, c. 13, § 10.

### **§19-9-14. Establishment of special quarantine**

The commissioner or his authorized agent shall have the power to establish and maintain a special quarantine, whenever any domestic animal shall be affected with or exposed to any communicable disease, or whenever he deems it necessary to have any animal examined or tested. When a special quarantine is established, the commissioner, or his agent, shall post on the building, structure, pen, coop, car, vessel, vehicle, field, or enclosure wherein the animal or animals quarantined are confined or contained, a notice declaring the quarantine and containing a description of the animal or animals and of the premises where quarantined. Such quarantine may continue for such time as the commissioner, or his agent, may deem advisable.

Acts 1915, c. 13, § 10; Acts 1967, c. 7.

### **§19-9-15. Establishment of general quarantine**

A general quarantine may be established and maintained whenever any communicable disease of domestic animals shall exist in any locality in the State larger in extent than that which may be included in a special quarantine. A general quarantine shall be established and maintained by order of the commissioner only; but in establishing and maintaining such quarantine the commissioner may act through and by an officer or agent employed by him, to whom such power is delegated, and the establishment and maintenance of such quarantine by any officer, agent or employee of the commissioner shall be prima facie the establishment and maintenance of quarantine by the commissioner. Such quarantine shall include such premises, locality or territorial district, and such animals, and shall continue for such time, as may be deemed necessary by the commissioner. Whenever any premises or any locality or territorial district shall be placed under a general quarantine, it shall be the duty of the officer, agent or employee by whom the order of quarantine is executed, to post at least ten notices in the most public

places within the premises, locality or territorial district quarantined, declaring the quarantine and the duration thereof, the extent and limits of the premises, locality, or territorial district so quarantined, and the animals subject thereto. A copy of such notice shall be published as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this Code, and the publication area for such publication shall be the quarantined area. If the quarantine shall be for the purpose of preventing the spread of rabies or hydrophobia, and in the case of other communicable diseases, if the commissioner deems such action necessary, the notice shall require all dogs within the quarantined area to be confined by their owners.

Acts 1915, c. 13, § 10; Acts 1967, c. 105.

#### **§19-9-16. Unlawful to remove, deface or destroy quarantine notice**

It shall be unlawful for any person, during the continuance of any quarantine, to tear down, deface or destroy any notice of quarantine posted by any officer, agent, or employee of the commissioner, or to remove or destroy any portion of a building or tree or fence whereon the same shall have been posted.

Acts 1915, c. 13, § 12.

#### **§19-9-17. Care of quarantined animals; expense**

The owner of animals placed in quarantine by the commissioner or his agents shall provide suitable quarters for them and feed and water them. If he fails or refuses to do so, the commissioner or his agents shall provide such quarters and feed and water such animals at the expense of the owner. If such expense shall not be paid within ten days after the lifting of the quarantine, the commissioner may sell or cause to be sold any such animal, at public sale, after ten days' notice thereof, and shall apply the proceeds of such sale, first to the payment of the costs and expenses aforesaid, and the residue to the owner. No animal shall be removed from a quarantined area prior to such sale, except upon payment of such expense.

Acts 1915, c. 13, § 14.

#### **§19-9-18. Removal of animals, etc., from quarantined area; running at large of dogs in such area**

After the establishment of any quarantine authorized by this article, and the posting of the notices required by law, it shall be unlawful for any person, during the continuance of such quarantine, without a special permit in writing from the commissioner, to remove any animal from or to any premises within the limits of the quarantine, or to remove from any quarantined area or premises any hay, straw, grain, fodder, or other food, or to remove any coop, car, wagon, vehicle, vessel or premises so quarantined, or to sell, exchange, give away, lease, lend or remove, or allow to be removed, any quarantined domestic animal or animals. It shall be unlawful, during the continuance of such quarantine, after notice as aforesaid, for the owner of any dog to permit such dog to run at large in any such quarantined locality, or for any person to remove, or permit to be removed, any dog from such quarantined area. Any dog found running at large in

such quarantined area, or known to have been removed from or to have escaped from such area, as aforesaid, may be secured and confined, or may be shot or otherwise destroyed by any person, without liability therefor.

Acts 1915, c. 13, § 11.

#### **§19-9-19. Domestic animal within quarantined area running at large**

When any quarantine shall be established under this article, it shall be unlawful for the owner of any domestic animal within the limits of the quarantined area to allow such domestic animal to run at large during the continuance of the quarantine. Any animal so found running at large shall be taken up by any constable or deputy sheriff of the county knowing the facts, or by an agent or employee of the commissioner, and kept at the expense of the owner until the lifting of the quarantine. For such service he shall be entitled to one dollar for each animal. Each animal shall be kept until such fee and all cost of keeping such animal shall have been paid. If not paid within two weeks after the lifting of the quarantine, the animal may be sold as provided in section seventeen of this article; and after the deduction of all fees, costs and expenses, the residue shall be paid to the owner, if known, and if not known, shall be paid into the state treasury. This section shall not apply to dogs, or affect the special provisions of this article with reference to dogs.

<Acts 1976, c. 33, abolished the office of the constable and transferred all duties and powers of the constables to deputy sheriffs. See § 50-1-17.>

Acts 1915, c. 13, § 13.

#### **§19-9-20. Bringing animals into State; health certificate**

It shall be unlawful for any person or his agents or employees knowingly to drive, cause to be driven, bring or cause to be brought into this State any domestic animal infected with any communicable disease. Every domestic animal being brought into the State for any purpose, by any means of transportation, shall be subject to the restrictions imposed by section twenty-one of this article, unless such animal is accompanied by a certificate of good health issued by the state veterinarian or other accredited authority of the state from which such animal originates, or the certificate of a veterinary inspector of the bureau of animal industry of the United States department of agriculture, setting forth that such animal is free from all communicable diseases and does not originate from a district of quarantine or infection, and showing inspection to have been made within a period of thirty days prior to the arrival of such animal: Provided, however, That in the case of bovine animals the duration of such period of test shall be sixty days or such other period as shall conform to the regulations of the United States department of agriculture. Such certificate shall be made in triplicate, the original to be retained by the owner or person in charge of such animal, and by him attached to the bill of lading accompanying shipment of the animal, the duplicate to be forwarded to the commissioner, and the triplicate to be retained by the veterinarian making the inspection.

Acts 1915, c. 13, § 7.



### **§19-9-21. Animals entering State without health certificate**

It shall be the duty of the owner or owners of any domestic animal, which is to enter this State without a certificate of health, to notify the commissioner in writing stating when, where and how the animal is to be brought into this State. Such notice must reach the commissioner before the animal arrives at the point of destination. Any animal entering the State without a certificate of health may be placed in quarantine by the commissioner under such rules and regulations as he may approve, and held therein at the expense of the owner, and if such animal is found infected with any communicable disease, it shall, at the option of the owner, be killed, without compensation to the owner, or continued in quarantine at the expense of the owner. The expenses incurred in providing such animal or animals with proper quarters, food and water may be recovered by the commissioner from the owner in a suit in the name of the State, as other debts are by law collectible. It shall be unlawful to remove any such domestic animal from quarantine unless it shall have passed a satisfactory examination, and the tuberculin test in the case of bovine animals for dairy or breeding purposes, and unless the charge for the quarters, feed, water and attendance have been paid to the person entitled thereto.

Acts 1915, c. 13, § 7.

### **§19-9-22. Unlawful possession of animal brought into State**

When notified by the commissioner, or any of his agents or employees, not to do so, it shall be unlawful for any person to receive, keep or have in his possession any domestic animal imported or brought into this State in violation of any of the provisions of this article, or to allow any such domestic animal to come in contact with any other domestic animal.

Acts 1915, c. 13, § 7.

**(§§ 19-9-23 – 39 omitted because related to bovine diseases)**

### **§19-9-40. Penalties**

Any person who shall violate any of the provisions of this article, or who shall obstruct or hinder the commissioner, or any officer or employee, in the performance of his duties under this article, shall be guilty of a misdemeanor, and, upon conviction thereof, shall, for the first offense, be fined not more than one hundred dollars, and upon conviction for each subsequent offense fined not more than five hundred dollars, and in addition to such fine may be confined in the county jail for not more than ninety days.

Acts 1915, c. 13, §§ 6, 24.

## **Chapter 19. Agriculture. Article 20. Dogs and Cats.**

### **§ 19-20-1. Dogs subject to taxation; declared to be personal property**

Any dog shall be and is hereby declared to be personal property within the meaning and construction of the laws of this State, and any dog above the age of six months shall be subject to taxation.

Acts 1925, c. 83, § 1; Acts 1951, c. 69; Acts 1975, c. 7.

### **§ 19-20-2. Collection of head tax on dogs; duties of assessor and sheriff; registration of dogs; disposition of head tax; taxes on dogs not collected by assessor**

It shall be the duty of the county assessor and his or her deputies of each county within this state, at the time they are making assessment of the personal property within such county, to assess and collect a head tax of three dollars on each dog, male or female; and in addition to the above, the assessor and his or her deputies shall have the further duty of collecting any such head tax on dogs as may be levied by the ordinances of each and every municipality within the county. However, no head tax may be levied against any guide or support dog especially trained for the purpose of serving as a guide, leader, listener or support for a blind person, deaf person or a person who is physically or mentally disabled because of any neurological, muscular, skeletal or psychological disorder that causes weakness or inability to perform any function. Guide or support dogs must be registered as provided by this section. In the event that the owner, keeper or person having in his or her possession or allowing to remain on any premises under his or her control any dog above the age of six months, shall refuse or fail to pay such tax, when the same is assessed or within fifteen days thereafter, to the assessor or deputy assessor, then such assessor or deputy assessor shall certify such tax to the county dog warden; if there be no county dog warden he or she shall certify such tax to the county sheriff, who shall take charge of the dog for which the tax is delinquent and impound the same for a period of fifteen days, for which service he or she shall be allowed a fee of one dollar and fifty cents to be charged against such delinquent taxpayer in addition to the taxes herein provided for. In case the tax and impounding charge herein provided for shall not have been paid within the period of fifteen days, then the sheriff may sell the impounded dog and deduct the impounding charge and the delinquent tax from the amount received therefor, and return the balance, if any, to the delinquent taxpayer. Should the sheriff fail to sell the dog so impounded within the time specified herein, he or she shall kill such dog and dispose of its body.

At the same time as the head tax is assessed, the assessor and his or her deputies shall, on the forms prescribed under section four of this article, take down the age, sex, color, character of hair (long or short) and breed (if known) and the name and address of the owner, keeper or harbinger thereof. When the head tax, and extra charges, if any, are paid, the officer to whom payment is made shall issue a certificate of registration and a registration tag for such dog.

In addition to the assessment and registration above provided for, whenever a dog either is acquired or becomes six months of age after the assessment of the personal property of the owner, keeper or harbinger thereof, the said owner, keeper or harbinger of said dog shall, within ten days after the acquisition or maturation, register the said dog with the assessor, and pay the head tax thereon unless the prior owner, keeper or harbinger paid the head tax.

All certificates of registration and registration tags issued pursuant to the provisions of this section shall be issued for the fiscal year and shall be valid from the date on which issued until the thirtieth day of June of that fiscal year, or until reissued by the assessor or his or her deputy in the regular performance of his or her duties, but in no case shall previous registration tags be valid after September thirtieth of the next ensuing fiscal year.

The assessor collecting the head tax on dogs shall be allowed a commission of ten percent upon all such taxes collected by him or her, and shall turn in to the county treasury ninety percent of such taxes so collected, as are levied by this section; and the assessor shall turn over to the treasurer or other proper officer of each and every municipality within the county ninety percent of such taxes levied by the ordinances of such municipality. All such dog taxes, except those belonging to municipalities, shall be accredited to the dog and kennel fund provided for in section ten of this article. Such dog taxes as are collected for and turned over to municipalities shall be deposited by the proper officer of such municipalities to such fund and shall be expended in such manner as the law of such municipality may provide. All taxes on dogs not collected by the assessor shall be collected by the regular tax collecting officer of the county and placed to the credit of the dog and kennel fund.

Acts 1925, c. 83, §§ 1, 7; Acts 1933, 2nd Ex. Sess., c. 58; Acts 1951, c. 69; Acts 1965, c. 6; Acts 1980, c. 31; Acts 1981, c. 70; Acts 1998, c. 162, eff. July 1, 1998.

### **§ 19-20-3. Registration of dog kennels; application; fee; expiration of certificate of registration**

Every owner or operator of a kennel, wherein dogs are bred, kept, boarded or sold as a commercial venture for profit shall annually, between the first day of July and the thirtieth day of September of each year, file with the assessor of the county in which such kennel is located, kept or maintained, an application for the registration of such kennel for the fiscal year. Such application shall state the location of the kennel, the name and address of the person actually in charge of and supervising it, and the name and address of the owner of the kennel. Upon the filing of such application, together with the payment to the assessor of a fee of ten dollars the assessor shall issue a certificate of registration for such kennel. The registration of a kennel, as herein provided, shall entitle the registrant to register and receive certificates and tags for not more than five dogs without the payment of a separate head tax on such dogs. The head tax provided for in section two of this article shall, on such five or less dogs, be included in and charged against the kennel registration fee herein provided.

Every person upon becoming the owner or operator of a kennel of dogs as herein described after the thirtieth day of September of any year shall, within three days after becoming such owner or operator, register such kennel for the remainder of the current fiscal year in the manner, and upon the payment of the registration fee, herein provided.

All certificates of registration issued pursuant to the provisions of this section shall be issued for the fiscal year, and shall be valid from the date on which issued until the thirtieth day of June of that fiscal year.

Acts 1951, c. 69; Acts 1965, c. 6.

#### **§ 19-20-4. Forms for registration; records; registration tags; loss thereof**

The commissioner of agriculture shall prescribe the form of all applications, certificates of registration, and registration tags required by this article. Certificates of registration and registration tags shall bear identifying numbers.

A public record of all certificates of registration and registration tags issued under the provisions of this article shall be kept by the assessor of each county. Such record shall be kept intact and available for inspection for a period of not less than two years following the end of the registration year.

Registration tags shall be made of metal or some other suitable substance of a permanent nature. The design of such tags shall be changed from year to year so that identification of the year of issue of any tag may be made without close visual examination. If any registration tag be lost, a duplicate shall be furnished by such assessor upon proper proof of loss and the payment to him of a fee of twenty-five cents.

Acts 1951, c. 69.

#### **§ 19-20-5. Wearing of registration tag by dog**

Every registered dog shall at all times wear a valid registration tag issued as provided in this article. The failure to have displayed or worn on any dog, at any time, of such valid tag shall be prima facie evidence that such dog is not registered and such dog shall be subject to be, and shall be, impounded, sold, or destroyed as hereinbefore or hereinafter provided.

Acts 1951, c. 69.

#### **§ 19-20-6. County dog warden; rules and regulations for dog control; prosecution and penalties for violation of ordinances**

(a) The county commission of each county may appoint and employ a county dog warden, and such number of deputies, for such time, and at such compensation, as such county commission shall deem reasonable and necessary to enforce the provisions of this Code with respect to the control and registration of dogs, the impounding, care and destruction of unlicensed dogs. Such county dog warden may be appointed a deputy assessor for the purpose of collecting the dog tax and registration fees, taking the dog registration and providing the tags authorized by this article. The county dog warden or any deputies may, in the discretion of the county commission, be regularly employed officers or agents of any humane society or society for the prevention of cruelty to animals, organized and operating under the laws of this State and owning, controlling and operating a suitable place within the county for impounding and destroying dogs. In addition to the compensation provided for above, a bounty of fifty cents per dog shall be paid to the county dog warden or deputy who captures an unregistered dog. Such county dog warden and deputy wardens shall each give bond in a sum of not less than one thousand dollars and not more than two thousand dollars conditioned on the faithful performance of their duties. Such bonds shall be filed with the county commission by which such persons are appointed.

The county dog warden and his deputies shall patrol the county in which they are appointed and shall seize on sight and impound any dog more than six months of age found not wearing a valid registration tag, except dogs kept constantly confined in a registered dog kennel. They shall be responsible for the proper care and final disposition of all impounded dogs. The county dog warden shall make a monthly report, in writing, to the county commission of his county. When any dog shall have been seized and impounded, the county dog warden shall forthwith give notice to the owner of such dog, if such owner be known to the warden, that such dog has been impounded and that it will be sold or destroyed if not redeemed within five days. If the owner of such dog be not known to the dog warden, he shall post a notice in the county courthouse. The notice shall describe the dog and the place where seized and shall advise the unknown owner that such dog will be sold or destroyed if not redeemed within five days.

(b) Any county commission may promulgate and enforce such ordinances, rules and regulations, not inconsistent with the provisions of this article, as it considers necessary or convenient for the control and management of all dogs in the county, or any portion thereof, regardless of the age of any such dog: Provided, that the county commissions may promulgate and enforce such ordinances, rules and regulations to the extent necessary for the implementation of the provisions contained in this article.

(c) The county commission of each county may provide in such ordinance for the arrest, conviction and punishment of any person who violates the provisions thereof. The county commission of each county may provide in any such ordinance that any person who violates the provisions of the ordinance is guilty of a misdemeanor, and, upon conviction thereof, that such person is subject to a fine or fines. The amount of such fine for a single violation of any such ordinance may not exceed one hundred dollars. Magistrate courts and circuit courts shall have concurrent jurisdiction with respect to such misdemeanors.

Acts 1951, c. 69; Acts 1981, c. 70; Acts 1982, c. 43.

#### **§ 19-20-6a. Authority of county commission to contract with private society, other county or municipality for the care and control of dogs and cats**

In addition to the powers granted to county commissions by section six of this article, the county commission of each county may contract with or reimburse any private incorporated society or association, county commission or municipality for the care, maintenance, control or destruction of dogs and cats.

Acts 1967, c. 11; Acts 1992, c. 11.

#### **§ 19-20-7. Dog pound and equipment to be provided by county court; exception**

The county court of each county, if the court appoints a county dog warden, shall provide the dog warden with nets and other suitable devices for taking dogs in a humane manner, and with facilities for transporting any dog seized to the dog pound, a suitable place for impounding dogs with proper provisions for their feeding and care, and humane equipment, devices and methods for destroying dogs: Provided, That in any county in which there is a society for the prevention of cruelty to animals or a humane society, incorporated and organized under the laws of this State, and having one or more duly appointed agents,

and maintaining an animal home or shelter suitable for impounding dogs and possessing devices for humanely destroying dogs, the county court shall not be required to provide a dog pound, but it may designate such animal home or shelter as the county dog pound, and the county dog warden shall in such case deliver all dogs seized by him and his deputies to such animal home or shelter for impounding and disposition in the manner provided by this article. The county court shall provide for the payment of reasonable compensation, not to exceed the fees and costs provided for in this article, to such society for the use of its facilities and services in impounding and disposing of dogs. Such compensation to such society shall be paid from the fund provided for in this article.

<W.Va. Const., art. IX, § 9, redesignated the office of the county court as county commission.>

Acts 1951, c. 69.

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

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

(b)(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, 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 a dog or cat 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, article three, chapter twenty-nine-a of this code.

(c) In an emergency or in a situation in which a dog cannot be humanely destroyed in an expeditious manner, a dog may be destroyed by shooting if:

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

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

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

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

(f) A record of all dogs impounded, the disposition of the dogs and a statement of costs assessed against each dog shall be kept by the dog warden and a transcript thereof shall be furnished to the sheriff quarterly.

(g) 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.

#### CREDIT(S)

Acts 1951, c. 69; Acts 1980, c. 35; Acts 2001, c. 8, eff. 90 days after April 16, 2001; Acts 2009, c. 9, eff. Aug. 27, 2009.

#### **§ 19-20-8a. Joint ownership, etc., by counties and municipalities of dog pounds; joint employment of dog wardens**

The county court of any county may contract with any municipality within the county for the joint ownership, leasing, operation and maintenance within the county of a dog pound and may jointly employ a dog warden or dog wardens.

<W.Va. Const., art. IX, § 9, redesignated the office of the county court as county commission.>

Acts 1953, c. 68.

#### **§ 19-20-9. Failure to register dog or kennel; alteration or forging of registration certificate or tag; penalties**

Any person who owns, keeps, or harbors a dog, or who owns or operates a kennel, subject to registration under the provisions of this article, and who fails, refuses, or neglects to register such dog or kennel, shall

be guilty of a misdemeanor and upon conviction thereof, shall be fined not less than twenty-five nor more than one hundred dollars.

Any person who shall alter, or forge any certificate or tag, provided for in this article, or display, present, or utter such certificate as valid with knowledge that it has been altered or forged, or who knowingly causes or permits any dog owned, kept or harbored by him to wear any fictitious, altered, or invalid registration tag in place of a valid tag as required under the provisions of this article, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by imprisonment in the county jail for not more than thirty days or by a fine of not less than one hundred dollars nor more than five hundred dollars, or by both such fine and imprisonment.

Acts 1951, c. 69.

### **§ 19-20-9a. Dogs, cats, etc.; rabies observation**

(a) Any person who owns or harbors any dog, cat or other domesticated animal, whether licensed or unlicensed, which bites any person, shall forthwith confine and quarantine the animal for a period of ten days for rabies observation.

(b) If any unvaccinated domesticated animal is bitten by a rabid animal, the owner shall confine the bitten animal for a period of six months. The animal shall be vaccinated or revaccinated after five months.

(c) If the animal is not confined and quarantined as directed in subsections (a) and (b) of this section, the humane officer, dog warden or sheriff may cause the animal to be placed in the custody and care of a licensed veterinarian for that purpose at the owner's expense. The penalty for any violation of this section is a fine of fifty dollars or confinement in the county or regional jail for a period of no less than two nor more than three days.

Acts 1981, c. 70; Acts 1984, c. 8; Acts 1996, c. 5, eff. 90 days after March 8, 1996; Acts 1999, c. 6, eff. 90 days after March 13, 1999.

### **§ 19-20-10. Dog and kennel fund; disposition thereof**

All registration fees, head taxes, and fees and costs for impounding and disposing of dogs, as provided in this article, and collected thereunder, shall be paid into the county treasury where they shall constitute and be set aside as a special fund to be designated the "dog and kennel fund."

The county commission shall expend such fund, and issue drafts payable therefrom, for the following purposes, and no others: To pay the actual expenses incurred by the county commission, the county assessor, and the sheriff in carrying out the provisions of this article; to pay for the services of the dog warden, his deputies, poundkeepers, and such other persons as may be employed, if any, or may render services, in actually carrying out the provisions of this article; to pay in its discretion to the dog warden and his deputies mileage at the rate up to fifteen cents per mile for the use of their privately owned vehicles actually used in carrying out the provisions of this article; to pay for the purchase, procurement,



rental, construction, operation, maintenance and repair of any property, devices or facilities reasonably necessary and required to carry out the provisions of this article; to compensate any department of the state government or any local board of health for any necessary service rendered in connection with this article; to pay the costs of any rabies control project or program authorized by law; to compensate any persons who have suffered loss or damage on account of the destruction, loss, or injury by dogs of any sheep, lamb, goat, kid or poultry, when such claims have been proved and allowed as provided in this article: Provided, however, that such compensation authorized by the county commission shall not exceed an amount double the assessed value of the destroyed or injured animals or poultry as shown on the assessor's records, and in the event such animals are not assessed, then compensation authorized by said court shall not exceed the average assessed value of like animals or poultry, or if no like animal or poultry is assessed, then not to exceed the fair market value as determined by the county commission.

In the event that the dog and kennel fund shall in any year be insufficient to pay the several items set forth in this section, then the county commission may be, and it is hereby, authorized and empowered to pay such items out of the county general fund. Any surplus of the dog and kennel fund remaining unexpended in the county treasury, and, in the opinion of the county commission, not needed for the payment and satisfaction of claims and expenses as herein provided, shall annually be paid into and credited to the county school fund, but the funds thus used shall be in an amount deemed proper and safe in the judgment and discretion of the county commission.

Acts 1951, c. 69; Acts 1967, c. 12; Acts 1976, c. 44.

### **§ 19-20-11. Assessment of dogs as personal property**

In addition to the head tax on dogs provided for in this article, the owner of any dog above the age of six months shall be permitted to place a value on such dog and have such dog assessed as personal property in the same manner and at the same rate as other personal property.

Acts 1951, c. 69.

### **§ 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.

(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.

Acts 1925, c. 83, § 2; Acts 1951, c. 69; Acts 1973, c. 3; Acts 1984, c. 9; Acts 2003, c. 17, eff. 90 days after Feb. 27, 2003; Acts 2007, c. 78, eff. June 8, 2007.

### **§ 19-20-13. Dog running at large; liability of owner**

Any owner or keeper of any dog who permits such dog to run at large shall be liable for any damages inflicted upon the person or property of another by such dog while so running at large.

Acts 1925, c. 83, § 5; Acts 1951, c. 69.

## **§ 19-20-14. Dog killing, wounding or worrying livestock or poultry--Recovery of damages**

If any dog has killed or assisted in killing, wounding or worrying any sheep, lambs, goats, kids, calves, cattle, swine, show or breeding rabbits, horses, colts or poultry out of the enclosure of the owner of the dog, the owner or keeper of the dog shall be liable for the sheep, lambs, goats, kids, calves, cattle, swine, show or breeding rabbits, horses, colts or poultry in the amount of the damages sustained, to be recovered in an action before any court or magistrate having jurisdiction of the action. It shall not be necessary to sustain the action to prove that the owner of the dog knew the dog was accustomed to worrying, killing or wounding. A recovery under this section shall bar and preclude the owner of the sheep, lambs, goats, kids, calves, cattle, swine, show or breeding rabbits, horses, colts or poultry from obtaining compensation from the county commission under the provisions of this article. If the person suffering the loss or damage cannot ascertain the owner or keeper of the dog, or if the owner or keeper is not financially responsible, then the person suffering the loss or damage may file his claim with and prove the same before the county commission of the county in which the loss or damage is sustained, in the manner provided in this article, and the commission shall pay the loss or damage out of the fund provided for such purposes and according to the provisions of this article. When compensation is so obtained from the county commission, the county commission is authorized to sue under this section and recover as the owner of the sheep, lambs, goats, kids, calves, cattle, swine, show or breeding rabbits, horses, colts or poultry. The amount so recovered shall be paid into the county treasury; but no suit shall be commenced unless authorized by the county commission.

Acts 1925, c. 83, § 1; Acts 1929, c. 13, § 50; Acts 1951, c. 69; Acts 1971, c. 5; Acts 1981, c. 71; Acts 1986, c. 2.

## **§ 19-20-15. Same--Assessment of damages; appraisers**

Authority is hereby given to magistrates and notaries public within this state, and within their respective jurisdictions, to summon three substantial, upright and worthy bona fide residents, citizens and taxpayers of his county to assess the damages suffered by any person on account of the destruction, loss or injury of any sheep, lambs, goats, kids, calves, cattle, swine, show or breeding rabbits, horses, colts or poultry by dogs within the county. The appraisers shall be appointed upon the request of a person suffering damages on account of such destruction, loss or injury. The appraisers shall go upon the ground and investigate fully the extent of the destruction, loss or injury, taking all the evidence deemed necessary to arrive at the facts to be passed upon in arriving at the amount of damage, if any, suffered by the party making the complaint. Before the appraisers may be summoned by the magistrate or notary public, the complainant shall be required to make a sworn complaint before the magistrate or notary public, setting out in plain, easily comprehensible terms the facts concerning his damages to the best of his knowledge. After making a full investigation of the facts involved, the appraisers, with the assistance of the magistrate or notary public, shall make a sworn statement and report the facts ascertained and the damages suffered. The report and statement shall be filed with the county commission or the clerk thereof in vacation. The fees and mileage for services allowed in such cases shall be the same as are allowed magistrates, witnesses and arbitrators in magistrates' courts in this state for similar services. In the event that the appraisers find that the complainant has suffered no damage, then the complainant shall be responsible for and pay all the costs and expenses of the proceeding. In the event that the complainant has suffered damages on account of the

destruction, loss or injury of his domestic animals, according to the finding of the appraisers, the owner, keeper or person permitting the dog, or dogs, causing the damage to remain upon the premises under his control shall be liable for all damages sustained by the complainant, including all costs and necessary expenses. All of the damages shall be collectible by an action at law before any court or magistrate having jurisdiction of the matter. All papers in connection with any claim shall be filed and preserved in the office of the clerk of the county commission.

Acts 1925, c. 83, § 7; Acts 1951, c. 69; Acts 1971, c. 5; Acts 1981, c. 71; Acts 1986, c. 2.

#### **§ 19-20-16. Same--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 or horses and colts or poultry.

Acts 1929, c. 13, § 49; Acts 1951, c. 69; Acts 1971, c. 5; Acts 1981, c. 71; Acts 1986, c. 2.

#### **§ 19-20-17. Same--Unlawful to harbor dog; penalty**

A person who shall harbor or secrete or aid in secreting a dog which he knows or has reasons to believe has worried, chased or killed any sheep, lambs, goats, kids, calves, cattle, swine, show or breeding rabbits, horses, colts or poultry not the property of the owner of the dog, out of his enclosure, or knowingly permits the same to be done on any premises under his control, is guilty of a misdemeanor, and, upon conviction thereof, before any court or magistrate having jurisdiction thereof in the county in which the offense is committed, shall be fined not less than ten dollars nor more than fifty dollars, and, at the discretion of the court or magistrate, imprisoned in the county jail not more than thirty days. Each day that the dog is harbored, kept or secreted shall constitute a separate offense.

Acts 1929, c. 13, § 50; Acts 1951, c. 69; Acts 1971, c. 5; Acts 1981, c. 71; Acts 1986, c. 2.

#### **§ 19-20-18. Same--Duty of owner to kill dog; proceeding before magistrate on failure of owner to kill**

The owner or keeper of a dog that has been worrying, wounding, chasing or killing any sheep, lambs, goats, kids, calves, cattle, swine, show or breeding rabbits, horses, colts or poultry not the property of the owner or keeper, out of his enclosure, shall, within forty-eight hours, after having received notice thereof in writing from a reliable and trustworthy source, under oath, kill the dog or direct that the dog be killed. If the owner or keeper refuses to kill the dog as hereinbefore provided, the magistrate, upon information, shall summon the owner or keeper of the dog, and, after receiving satisfactory proof that this dog did the mischief, shall issue a warrant on application being made by the owner of the sheep, lambs, goats, kids, calves, cattle, swine, show or breeding rabbits, horses, colts or poultry killed; and give it into the hands of the sheriff, who shall kill the dog forthwith or dispose of by other available methods. The cost of the

proceedings shall be paid by the owner or keeper of the dog so killed, including a fee of fifty cents to the officer killing the dog. The owner or keeper of the dog so killed shall, in addition to the costs, be liable to the owner of the sheep, lambs, goats, kids, calves, cattle, swine, show or breeding rabbits, horses, colts or poultry or to the county commission for the value of the sheep, lambs, goats, kids, calves, cattle, swine, show or breeding rabbits, horses or colts or poultry so killed or injured.

Acts 1925, c. 83, § 4; Acts 1929, c. 13, § 51; Acts 1951, c. 69; Acts 1971, c. 5; Acts 1981, c. 71; Acts 1986, c. 2.

#### **§ 19-20-19. Offenses; criminal penalties; jurisdiction**

A person who violates any of the provisions of this article for which no specific penalty is prescribed is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than one hundred dollars, or imprisoned in the county jail not more than thirty days, or both fined and imprisoned. Magistrates shall have concurrent jurisdiction with the circuit courts to enforce the penalties prescribed by this article.

Acts 1929, c. 13, § 52; Acts 1951, c. 69; Acts 1981, c. 71.

#### **§ 19-20-19a. Dog warden and deputy dog wardens; power to issue citations**

The county commission may, at its discretion, empower county dog wardens and deputy dog wardens to issue citations for violation of provisions of this article.

Acts 1986, c. 3.

#### **§ 19-20-20. Keeping vicious dogs; humane officers may kill such dogs**

Except as provided in section twenty-one of this article, no person shall own, keep or harbor any dog known by him to be vicious, dangerous, or in the habit of biting or attacking other persons, whether or not such dog wears a tag or muzzle. Upon satisfactory proof before a circuit court or magistrate that such dog is vicious, dangerous, or in the habit of biting or attacking other persons or other dogs or animals, the judge may authorize the humane officer to cause such dog to be killed.

Acts 1981, c. 70.

#### **§ 19-20-21. License fee for keeping vicious or dangerous dog**

Any person who keeps a dog which is generally considered to be vicious, for the purpose of protection, shall acquire a special license therefor from the county assessor. The assessor shall charge ten dollars for such license. Such license shall be required in addition to the license required under section two of this article. The keeper or owner shall properly secure such dog in such a manner so as to prevent injury to a

person who lawfully passes through or enters upon the property of the keeper or owner. Nothing contained in this section shall constitute a defense to any action for personal injury, wrongful death or damage to property.

Acts 1981, c. 70.

#### **§ 19-20-22. Confinement of female dogs**

Every person owning or harboring a female dog, whether licensed or unlicensed, shall keep such dog confined in a building or secure enclosure for twenty-five days during the period of estrus.

Acts 1981, c. 70.

#### **§ 19-20-23. Prohibition of the use of impounded dogs and cats**

On and after the first day of September, one thousand nine hundred eighty-nine, any dog or cat impounded under the provisions of this article may not be sold, given, transferred or otherwise made available directly or indirectly to any person, institution, corporation or other entity for use in educational or scientific research or related activities. Disposition of impounded dogs or cats may only be by adoption as pets or humanely destroyed. Any person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than four hundred fifty dollars nor more than two thousand dollars.

Acts 1989, c. 51.

#### **§ 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.

CREDIT(S)

Acts 1995, c. 86, eff. 90 days after March 10, 1995; Acts 1997, c. 69, eff. 90 days after April 12, 1997; Acts 2011, c. 3, eff. June 10, 2011.

### **§ 19-20-25. Retirement, transfer or disposal of state owned dogs and horses**

(a) Whenever any dog or horse, which is the property of the state, is unable to perform its duties as a service animal, the responsible governmental agency may:

(1) Transfer ownership of the dog or horse to another governmental agency within West Virginia;

(2) Transfer ownership of the dog or horse to the animal's handler;

(3) Transfer ownership of the dog or horse to a person who wishes to maintain the animal; or

(4) Transfer the dog or horse to the care and custody of any animal shelter, humane society or society for the prevention of cruelty to animals, organized and operating under the laws of this state, so that the dog or horse may be adopted. If the animal shelter, humane society or society for the prevention of cruelty to animals determines that the dog or horse is not suitable for adoption, then the animal may be humanely euthanized by a person licensed under the provisions of article ten or ten-a, chapter thirty of this code.

(b) In the event ownership of a dog or horse is transferred pursuant to subdivision (2), (3) or (4), subsection (a) of this section, the transfer documents must include provisions, signed by the person accepting ownership of the dog or horse, which hold the state harmless from any liability after the date of transfer.

Acts 2003, c. 19, eff. March 5, 2003.

### **§ 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 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. 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

(I) 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.

CREDIT(S)

Acts 2013, c. 47, eff. July 11, 2013.

GrabzIt

## **Chapter 19. Agriculture. Article 20A. Vaccination of Dogs and Cats for Rabies.**

### **§ 19-20A-1. Purpose and policy**

The purpose of this article is to establish a rabies vaccination procedure for dogs and cats and to check the spread of rabies for the immediate preservation of life, health and safety for the reason that rabies is spreading among dogs and cats, and becoming a menace and danger to people, livestock, poultry and game, and the provisions herein are designated to prevent the spread of rabies.

Acts 1955, c. 6; Acts 1987, c. 112.

### **§ 19-20A-2. Vaccination of dogs and cats**

(a) A person who owns, obtains or possesses a dog or cat within the State of West Virginia shall have the dog or cat properly vaccinated against rabies with a vaccine capable of producing immunity for three years, boosted one year after initial vaccination and every third year thereafter. Dogs and cats need not be vaccinated before the age of three months, but must be vaccinated by the age of six months.

(b) Dogs and cats over six months of age entering the State of West Virginia must have been vaccinated for rabies as set forth in subsection (a) of this section prior to entry.

(c) A dog or cat may be vaccinated by any licensed veterinarian or his or her assistant. If there is no licensed veterinarian practicing in the county, a qualified person may be appointed by the county health department to administer vaccinations.

CREDIT(S)

Acts 1955, c. 6; Acts 1957, c. 54; Acts 1987, c. 112; Acts 2010, c. 7, eff. June 6, 2010.

### **§ 19-20A-3. Vaccination record and report**

Whoever vaccinates or revaccinates a dog or cat against rabies shall keep a record of such vaccination or revaccination, and on or before the first day of each calendar month thereafter, shall mail to or deliver to the county clerk of the county where the vaccination takes place a report of such vaccination or revaccination which shall include a number identifying the individual record of the dog or cat vaccinated, a complete description of the dog or cat, place where the dog or cat is kept or harbored, name of the owner, keeper or harborer, his or her address, date and type of vaccination or revaccination and such other information as may be required by the county health department or the county commission over the signature of the person reporting.

Acts 1955, c. 6; Acts 1987, c. 112.

GrabzIt

### **§ 19-20A-4. Vaccination tag and certificate**

Each person vaccinating a dog or cat for rabies shall provide a "certificate of rabies vaccination" which shall contain the following information:

- (a) Name of the county where the owner of the animal resides;
- (b) Vaccination tag number;
- (c) Identification of the animal by color, weight, breed, age and sex;
- (d) Name, address and telephone number of the owner;
- (e) Type of vaccine, the manufacturer of the vaccine and the serial number;
- (f) Date of the vaccination;
- (g) Identification of the veterinarian, doctor of medicine or person administering the vaccination;
- (h) Such other information as the commissioner of agriculture may require.

The owner of the animal shall retain the original certificate of vaccination in his or her records. Copies of the certificate or a computer printout that contains the information required above shall be filed with the person administering the vaccination and the clerk of the county commission in the county where the owner of the animal resides.

Tags to be furnished by the county commission shall be of a distinctive and easily recognized color, and shall have thereon engraved, or stamped, the year of vaccination and the number indicating the record above described. Such tag shall be securely fastened to the collar worn by the dog and shall be given to the owner by the veterinarian, the doctor of medicine or the person vaccinating the dog or cat at the time of vaccination.

Acts 1955, c. 6; Acts 1987, c. 112; Acts 1992, c. 179.

#### **§ 19-20A-5. Type of vaccine to be furnished; fee**

It is the duty of the veterinarian, or person vaccinating each animal to furnish vaccine of a type capable of establishing and maintaining immunity for a period of not less than thirty-six months and he or she shall charge and collect a fee of not more than \$8 for each animal vaccinated, if done at a clinic established by a county commission or, if vaccinated at any other place, he or she shall charge and collect a reasonable fee for his or her services.

CREDIT(S)

Acts 1955, c. 6; Acts 1957, c. 54; Acts 1967, c. 11; Acts 1975, c. 8; Acts 1981, c. 72; Acts 2005, c. 81, eff. 90 days after April 8, 2005; Acts 2010, c. 7, eff. June 6, 2010.

#### **§ 19-20A-6. Offenses and penalties**

Whoever owns, keeps or harbors a dog or cat and fails to have such dog or cat vaccinated or revaccinated against rabies, and whoever vaccinates a dog or cat against rabies and fails or refuses to keep and report the required record of such vaccination, or fails or refuses to provide the required tag, or whoever obstructs or interferes in any way with the enforcement of any section of this article shall, upon conviction, be fined not less than ten dollars nor more than fifty dollars, or be confined in the county jail not less than ten days nor more than sixty days, or both.

Acts 1955, c. 6; Acts 1987, c. 112.

#### **§ 19-20A-7. Enforcement of article**

The enforcement of the provisions of this article is in the hands of the sheriff of each county, any of his or her deputies, constables, natural resources police officers, and, if considered necessary, there shall be a special officer to be appointed by the county commission, who is authorized, empowered, and directed to inspect rabies, pick up dogs and cats and dispose of dogs which are not taxable or not vaccinated according to this article. The sheriff of each county can have one or more sittings, if considered necessary, in each district of the county, at which he or she shall be present or have present one of his or her deputies or the special officer above provided for, to take charge of all delinquent dogs and cats and homeless dogs and cats that are not vaccinated. The assessor of each county, or one of his or her deputies, shall accompany the veterinarian, doctor, or the one who administers the vaccine in these sittings for the

purpose of collecting taxes on dogs. All dogs which are not vaccinated and for which taxes are unpaid become the responsibility of the sheriff to catch and dispose of as is provided by law.

CREDIT(S)

Acts 1955, c. 6; Acts 1987, c. 112; Acts 2010, 1st Ex. Sess., c. 15, eff. May 16, 2010.

**§ 19-20A-8. Vaccinated dogs and cats may run at large; confinement may be required by the commissioner of agriculture within the limits of any quarantine area or locality; and ordinances or rules may be promulgated by any county commission or municipality relating to the control and management of dogs within the county; providing limited exemption for hunting and farm dogs from county commission or municipality action**

Dogs or cats vaccinated in compliance with the provisions of this article may run at large in any area or locality: Provided, That the commissioner of agriculture may, pursuant to article nine of this chapter, exercise his discretion to establish a quarantined area or locality and to require all dogs and cats within the limits of any quarantined area or locality to be confined as provided in article nine: Provided, however, That a county commission or a municipality may adopt and enforce ordinances not inconsistent with the provisions of article twenty of this chapter of the code, as it considers necessary or convenient for the control and management of all dogs in the county, or a portion thereof, vaccinated or not, except as further provided herein: Provided further, That any county commission or municipality may not adopt any ordinance which purports to keep any vaccinated dog from running at large while engaged in any lawful hunting activity; from running at large while engaged in any lawful training activity; or from running at large while engaged in any lawful herding or other farm related activity: And provided further, That the provisions of this section shall not exempt any dog from any quarantine established by or any confinement order required by the commissioner relating to the establishment of a quarantine.

Acts 1955, c. 6; Acts 1987, c. 112; Acts 1995, c. 87, eff. 90 days after March 10, 1995.

**Chapter 19. Agriculture. Article 20B. Spaying or Neutering of Dogs and Cats.**

**§ 19-20B-1. Short title**

This article may be cited as the “West Virginia Spay/Neuter Act.”

CREDIT(S)

Acts 2005, c. 82, eff. 90 days after April 7, 2005.

**§ 19-20B-2. Requirement for adoption**

(a) No person may adopt a dog or cat from an agency, including, but not limited to, an animal shelter, animal control agency or humane shelter operated by a municipality, county, or other governmental agency within the state, or a private organization operating a shelter from which animals are adopted or reclaimed, unless:

(1) The dog or cat has already been spayed or neutered;

(2) The dog or cat has been spayed or neutered by a licensed veterinarian while in the custody of the agency; or

(3) The new owner signs a written agreement with the agency stating that the new owner will have the dog or cat spayed or neutered by a licensed veterinarian:

(A) Within thirty days of the date of the adoption, if the dog or cat is sexually mature; or

(B) Within thirty days after the dog or cat reaches six months of age, if the dog or cat is not sexually mature at the time of the adoption.

(b) Any agency as set forth in subsection (a) of this section which has written policy of not permitting the adopted dog or cat from being released from the custody of the agency to the new owner until the dog or cat has been spayed or neutered, does not have to comply with the provisions of subdivision (3), subsection (a) of this section.

(c) Nothing in this section precludes the spaying or neutering of a sexually immature dog or cat at the discretion of a licensed veterinarian with the consent of the new owner.

CREDIT(S)

Acts 2005, c. 82, eff. 90 days after April 7, 2005.

### **§ 19-20B-3. Deposit**

(a) If the dog or cat being adopted has not been spayed or neutered, the agency may require a deposit of not more than fifty dollars from the new owner prior to the adoption to ensure that the dog or cat is spayed or neutered. The new owner shall receive a refund of the deposit from the agency upon providing confirmation of the spaying or neutering.

(b) If the new owner fails to have the dog or cat spayed or neutered within the time frame established in section two of this article, or if the spaying or neutering is timely performed, but the new owner fails to request the return of the deposit within an additional thirty days after the date by which the spaying or neutering is required to be performed, the deposit shall be forfeited to the agency holding the deposit and shall be used by the agency to conduct programs to spay or neuter dogs and cats or to conduct educational programs in support of the spaying and neutering of dogs and cats.

CREDIT(S)

Acts 2005, c. 82, eff. 90 days after April 7, 2005.

#### **§ 19-20B-4. Petition for compliance**

If a person fails to comply with the provisions of this article, the agency may file a petition with a court of competent jurisdiction seeking compliance or requesting return of the dog or cat to the agency from which it was adopted.

CREDIT(S)

Acts 2005, c. 82, eff. 90 days after April 7, 2005.

#### **§ 19-20B-5. Penalty**

A person failing to have a dog or cat spayed or neutered within the time frame established in section two of this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one hundred fifty dollars nor more than two hundred fifty dollars.

CREDIT(S)

Acts 2005, c. 82, eff. 90 days after April 7, 2005.

#### **§ 19-20B-6. Dogs or cats claimed by owner**

Nothing in this article authorizes an agency to spay or neuter a dog or cat if the dog or cat is claimed by and returned to its lawful owner within five days of being taken into custody by the agency.

CREDIT(S)

Acts 2005, c. 82, eff. 90 days after April 7, 2005.

### **Article 20C. West Virginia Spay Neuter Assistance Program**

#### **§ 19-20C-1. West Virginia Spay Neuter Assistance Program**

The Department of Agriculture shall establish a spay neuter assistance program that provides grants to nonprofit spay neuter organizations and programs in the state. The purpose of this program is to have more dogs and cats sterilized, thereby reducing shelter populations and costs, euthanasia rates and threats to public health and safety from rabies and other problems posed by the growing population of stray, feral and abandoned dogs and cats.

CREDIT(S)

Acts 2013, c. 178, eff. July 12, 2013.

## **§ 19-20C-2. Fund established; acceptance of funds**

(a) There is created in the State Treasury a special revenue account to be designated the West Virginia Spay Neuter Assistance Fund and administered by the Commissioner of Agriculture. Expenditures from the fund are for the purposes set forth in this article and are to be made in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon the fulfillment of the provisions set forth in article two, chapter eleven-b of this code.

(b) All moneys received and collected pursuant to this article shall be deposited into the fund. The fund may receive any appropriations, gifts, grants, contributions or other money from any source that is designated for deposit into the fund.

(c) Administrative expenses of the department may not exceed ten percent of the funds deposited in any fiscal year. The remainder shall be used exclusively for implementation of the program.

CREDIT(S)

Acts 2013, c. 178, eff. July 12, 2013.

## **§ 19-20C-3. Rulemaking; annual report**

(a) The commissioner shall propose rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code, to implement the provisions of this article.

(b) Rules promulgated under this section shall, at a minimum:

- (1) Identify the types of nonprofit organizations and programs that qualify for spay neuter grants;
- (2) Establish parameters for spay neuter grants;
- (3) Establish procedures and requirements for grant applications; and
- (4) Establish administration, record-keeping and reporting requirements for nonprofit organizations and programs that receive spay neuter grants.

(c) Beginning the year following the program's inception, the commissioner shall file an annual report with the Joint Committee on Government and Finance regarding the program, funds received and grants awarded, the number of dogs and cats sterilized and other pertinent data.

CREDIT(S)

Acts 2013, c. 178, eff. July 12, 2013.

## **Article 20D. Private Cause of Action for the Humane Destruction of a Dog**

### **§ 19-20D-1. Purpose**



The purpose of this article is to protect the public by providing a private cause of action seeking euthanasia of a dog in magistrate court to a person who has been attacked by a dog resulting in personal injuries requiring medical treatment which cost \$2,000 or more, or who has been attacked by the dog and the dog had attacked a person causing personal injury which required medical treatment within the previous twelve months.

Credits

Acts 2014, c. 41, eff. June 6, 2014.

**§ 19-20D-2. Procedure; petition to magistrate court; elements of action; burden of proof; attorney fees; limitation of action**

(a) A person seeking relief under this article may apply to the magistrate court in the county where the dog owner resides, or the county where the injury occurred, by verified petition setting forth and affirming the following:

(1) That the owner of the dog resides in the county where the petition is filed or the attack giving rise to the action occurred in the county where the petition is filed;

(2) That the petitioner was:

(A) Attacked by the dog and the attack resulted in personal injuries requiring medical treatment in the amount of \$2,000 or more; or

(B) Attacked by the dog and the dog had engaged in a separate attack on a person causing personal injury requiring medical treatment within the previous twelve months; and

(3) That the petitioner did nothing to provoke the dog.

(b) The petition and summons shall be served on the respondent in the manner set forth in Rule 4 of the West Virginia Rules of Civil Procedure.

(c) The petitioner must prove the allegations in the petition by clear and convincing evidence.

(d) The prevailing party is entitled to an award of reasonable attorney fees and costs.

(e) The limitations of the cause of action in this article are as follows:

(1) Relief, other than attorney fees and costs in subsection (d) of this section, is limited to an order directing that the owner of the dog have the dog euthanized; and

(2) The cause of action provided by this article does not establish statutory liability nor does it supplant a common law negligence cause of action.

Credits

Acts 2014, c. 41, eff. June 6, 2014.

### **§ 19-20D-3. Order of the magistrate court**

(a) If the trier of fact finds by clear and convincing evidence that the dog which is the subject of the action under this article has attacked the petitioner and caused personal injuries requiring medical treatment in the amount of \$2,000 or more or that the dog attacked the petitioner and within the twelve month period prior to the attack had engaged in a separate attack causing personal injury requiring medical treatment, then the court shall order the owner of the dog to have the dog euthanized.

(b) The magistrate court shall issue and file a written order that sets forth the following:

(1) Findings of fact and conclusions of law; and

(2) If the court orders euthanasia, a specific date upon which the owner of the dog must have the euthanasia performed and a direction that documentation be mailed to the petitioner and filed with the court by a specific date showing that the procedure was performed.

(c) If the court does not order euthanasia, the court shall order that the petition be dismissed with prejudice.

(d) The court may award reasonable attorney fees and costs to the prevailing party.

Credits

Acts 2014, c. 41, eff. June 6, 2014.

### **Chapter 20. Natural Resources. Article 2. Wildlife Resources. Part I. Wildlife Management.**

#### **§ 20-2-5. Unlawful methods of hunting and fishing and other unlawful acts [see section 23 for hunting with dogs]**

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.

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 ten days nor more than one hundred days;

(4) Hunt, take, kill, wound 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 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 bear, 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 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;

(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;

(C) A person carrying a firearm pursuant to sections six and six-a of this article; or

(D) A person carrying a firearm for self defense who is not prohibited from possessing firearms by section seven, article seven, chapter sixty-one of this code;

(10) Have in his or her possession a crossbow with a nocked bolt, or a rifle or shotgun with cartridges that have not been removed or a magazine that has not been detached, in or on any vehicle or conveyance, or its attachments,. For the purposes of this section, a rifle or shotgun whose magazine readily detaches is considered unloaded if the magazine is detached and no cartridges remain in the rifle or shotgun itself. Except that between five o'clock post meridian of day one and seven o'clock ante meridian, Eastern Standard Time, of the following day, any unloaded firearm or crossbow may be carried only when in a case or taken apart and securely wrapped. During the period from July 1 to September 30, inclusive, of each year, the requirements relative to carrying unloaded firearms are permissible only from eight-thirty o'clock post meridian to five o'clock ante meridian, Eastern Standard Time: Provided, That the time periods for carrying unloaded and uncased firearms are extended for one hour after the post meridian times and one hour before the ante meridian times established in this subdivision, if a person is transporting or transferring the firearms to or from a hunting site, campsite, home or other abode;

(11) Hunt, catch, take, kill, trap, injure or pursue with firearms or other implement by which wildlife may be taken after the hour of five o'clock ante meridian on Sunday on private land without the written consent of the landowner any wild animals or wild birds except when a big game season opens on a Monday, the Sunday prior to that opening day will be closed for any taking of wild animals or birds after five o'clock ante meridian on that Sunday: Provided, That traps previously and legally set may be tended after the hour of

five o'clock ante meridian on Sunday and the person tending the traps may carry firearms for the purpose of humanely dispatching trapped animals. Any person violating this subdivision is guilty of a misdemeanor and, upon conviction thereof, in addition to any fines that may be imposed by this or other sections of this code, is subject to a \$100 fine;

(12) Hunt, catch, take, kill, injure or pursue a wild animal or wild bird with the use of a ferret;

(13) Buy raw furs, pelts or skins of fur-bearing animals unless licensed to do so;

(14) 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: Provided, That snaring of any species of suckers, carp, fallfish and creek chubs is lawful;

(15) 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;

(16) 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;

(17) 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;

(18) 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 imprisoned for not less than six months nor more than three years, or both fined and imprisoned;

(19) Have a bow and gun, or have a gun and any arrow, in the fields or woods at the same time;

(20) Have a crossbow in the woods or fields, or use a crossbow to hunt for, take or attempt to take any wildlife except as otherwise provided in sections five-g and forty-two-w of this article;

(21) 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;

(22) 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;

(23) Shoot an arrow across any public highway;

(24) 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 implements in his or her possession during the closed season on wild animals and wild birds;

(25) 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 section fifty-six of this article. 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;

(26) Hunt, catch, take, kill or attempt to hunt, catch, take or kill any wild animal, wild bird or wild fowl except during open seasons;

(27) Hunting on public lands on Sunday after five o'clock ante meridian is prohibited;

(28) Hunt, catch, take, kill, trap, injure or pursue with firearms or other implement which wildlife can be taken, on private lands on Sunday after the hour of five o'clock ante meridian: Provided, That the provisions of this subdivision do not apply in any county until the county commission of the county holds an election on the question of whether the provisions of this subdivision prohibiting hunting on Sunday shall apply within the county and the voters approve the allowance of hunting on Sunday in the county. The election is determined by a vote of the resident voters of the county in which the hunting on Sunday is proposed to be authorized. The county commission of the county in which Sunday hunting is proposed shall give notice to the public of the election by publication of the notice as a Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code and the publication area for the publication is the county in which the election is to be held. The date of the last publication of the notice shall fall on a date within the period of the fourteen consecutive days next preceding the election.

On the local option election ballot shall be printed the following:

Shall hunting on Sunday be authorized on private lands only with the consent of the land owner in \_\_\_\_\_ County?

Yes

No

(Place a cross mark in the square opposite your choice.)

Any local option election to approve or disapprove of the proposed authorization of Sunday hunting within a county shall be in accordance with procedures adopted by the commission. The local option election may be held in conjunction with a primary or general election or at a special election. Approval shall be by a majority of the voters casting votes on the question of approval or disapproval of Sunday hunting at the election.

If a majority votes against allowing Sunday hunting, an election on the issue may not be held for a period of one hundred four weeks. If a majority votes "yes", an election reconsidering the action may not be held for a period of five years. A local option election may thereafter be held if a written petition of qualified voters residing within the county equal to at least five percent of the number of persons who were registered to vote in the next preceding general election is received by the county commission of the county in which

Sunday hunting is authorized. The petition may be in any number of counterparts. The election shall take place at the next primary or general election scheduled more than ninety days following receipt by the county commission of the petition required by this subsection: Provided, That the issue may not be placed on the ballot until all statutory notice requirements have been met. No local law or regulation providing any penalty, disability, restriction, regulation or prohibition of Sunday hunting may be enacted and the provisions of this article preempt all regulations, rules, ordinances and laws of any county or municipality in conflict with this subdivision.

Amendments to this subdivision promulgated during the 2015 regular session of the Legislature shall have no effect upon the results of elections held prior to their enactment; and

(29) 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.

#### Credits

Acts 1929, c. 13, §§ 20, 21, 27, 43, 44, 61-63, 68, 80, 89; Acts 1931, c. 27; Acts 1933, c. 5; Acts 1933, Ex. Sess., c. 43; Acts 1937, c. 37; Acts 1939, c. 64; Acts 1939, c. 65; Acts 1947, c. 96; Acts 1951, c. 98; Acts 1951, c. 102; Acts 1955, c. 73; Acts 1957, c. 90; Acts 1961, c. 133; Acts 1963, c. 131; Acts 1965, c. 112; Acts 1967, c. 129; Acts 1969, c. 89; Acts 1971, c. 108; Acts 1974, c. 81; Acts 1977, c. 137; Acts 1983, c. 109; Acts 1989, c. 136; Acts 1992, c. 103; Acts 1994, c. 121; Acts 1996, c. 195, eff. 90 days after March 9, 1996; Acts 1997, c. 146, eff. 90 days after April 7, 1997; Acts 2001, c. 270, eff. 90 days after April 14, 2001; Acts 2003, c. 167, eff. March 8, 2003; Acts 2004, c. 135, eff. 90 days after March 13, 2004; Acts 2005, c. 126, eff. 90 days after April 9, 2005; Acts 2007, c. 129, eff. June 8, 2007; Acts 2010, 1st Ex. Sess., c. 15, eff. May 16, 2010; Acts 2011, c. 94, eff. June 9, 2011; Acts 2012, c. 91, eff. June 8, 2012; Acts 2015, c. 242, eff. June 12, 2015.

#### **§ 20-2-5f. Nonresident dog training for coon hunting; training season**

Notwithstanding subdivision (24), section five of this article or any other provision to the contrary, the director is authorized to allow a nonresident to train dogs for coon hunting in West Virginia, if the state in which the nonresident resides allows residents from West Virginia to train dogs for coon hunting. The dog training season for a nonresident to train dogs for coon hunting is from the fifteenth day of August of each year through the legal small game hunting season.

Acts 2004, c. 136, eff. 90 days after March 13, 2004.

#### **§ 20-2-16. Dogs chasing deer**

No person may permit his or her dog to hunt or chase deer. A natural resources police officer shall take into possession any dog known to have hunted or chased deer and the director shall advertise that the dog is in his or her possession, giving a description of the dog and stating the circumstances under which it was taken. The notice shall be published as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for the publication is the county. He or she shall hold the dog for a period of ten days after the date of the publication. If, within ten days, the

owner does not claim the dog, the director shall destroy it. In this event the cost of keeping and advertising shall be paid by the director. If, within ten days, the owner claims the dog, he or she may repossess it on the payment of costs of advertising and the cost of keep, not exceeding 50s per day. A natural resources police officer, or any officer or employee of the director authorized to enforce the provisions of this section, after a bona fide but unsuccessful effort to capture dogs detected chasing or pursuing deer, may kill the dogs.

#### CREDIT(S)

Acts 1939, c. 64; Acts 1945, c. 69; Acts 1961, c. 133; Acts 1967, c. 105; Acts 2010, 1st Ex. Sess., c. 15, eff. May 16, 2010.

### **§ 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) 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.

(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 article three, chapter twenty-nine-a 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 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 ten nor more than thirty 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 thirty days nor more than one hundred days, or both fined and confined. The persons 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 ten years.

#### Credits

Acts 1969, c. 87; Acts 1974, c. 82; Acts 1985, c. 101; Acts 1989, c. 137; Acts 2001, c. 215, eff. 90 days after April 12, 2001; Acts 2007, c. 192, eff. May 31, 2007; Acts 2009, c. 124, eff. July 10, 2009; Acts 2010, 1st

Ex. Sess., c. 15, eff. May 16, 2010; Acts 2015, c. 242, eff. June 12, 2015; Acts 2016, c. 169, eff. March 10, 2016.

### **§ 20-2-56a. Bird dog training permit**

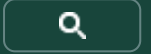
The director may issue a permit to train bird dogs on wild birds or game birds, provided:

- (1) The fee for the permit is \$10.
- (2) The training shall be on private land containing a minimum of five acres in a single tract. The permittee must own the land, lease the land or have written permission of landowner for the training.
- (3) The birds permitted to be used for the training of dogs are quail and pigeons. The quail must be purchased from a licensed commercial game farm. Pigeons may be purchased from a licensed commercial game farm or trapped within the state at any time as long as the person conducting the trapping is legally licensed to do so and also holds the appropriate permit. Each trap must be identified by a waterproof tag attached to the trap that bears the name, address and telephone number of the trapper.
- (4) The permittee must retain the receipt for two years of all birds purchased from a commercial game farm licensee.
- (5) The location where the birds are held and all records pertaining to the purchase and dates of training may be inspected by a natural resources police officer.
- (6) No more than thirty birds may be held by the permittee at any given time. All birds must have a uniquely numbered leg band attached. The leg band must remain with the birds until consumption or until the birds are legally disposed.
- (7) Birds held under this permit shall be housed and cared for in accordance with the requirements of applicable rules.
- (8) The use of the birds held under this permit shall include the release, recapture and/or the shooting of the birds in conjunction with the training of bird dogs.
- (9) The person holding birds in captivity under the authority of this permit and the person training his or her bird dog must possess a bird dog training permit.
- (10) All other laws and rules governing hunting, trapping, shooting and training apply.
- (11) The director may propose rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code, to further restrict bird dog training.
- (12) Any person violating any provision of this law is subject to the penalties prescribed in section nine, article seven, chapter twenty of this code.

CREDIT(S)

Acts 2006, c. 24, eff. 90 days after March 11, 2006; Acts 2010, 1st Ex. Sess., c. 15, eff. May 16, 2010.

## Full Site Search



## Main menu

- [Legal Topics](#)
- [Search Materials](#)
- [Articles](#)
- [Frequently Asked Questions \(FAQs\)](#)
- [Donations](#)

- [Site Information](#)
- [Contact Us](#)
- [Make a donation](#)
- [Home](#)

# GrabzIt

College of **Law**

**MICHIGAN STATE UNIVERSITY**

© 2016 Michigan State University College of Law. This site is not a law firm and cannot offer legal advice.