

Senate Bill No. 560

(By Senator Boley)

[Introduced February 4, 2008; referred to the Committee on Agriculture;
and then to the Committee on the Judiciary.]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-20-26, relating to the care and management of feral cats.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §19-20-26, to read as follows:

ARTICLE 20. DOGS AND CATS.

§19-20-26. Care and management of feral cats.

(a) Intent:

The intent of this section is to regulate the care and management of feral cats in as much as there are no government or privately operated facilities in the State of West Virginia to manage these cats. The population of feral and homeless cats has been increasing in the state at an uncontrollable rate and communities throughout West Virginia have determined that the practice of trapping and euthanizing feral cats is not effective in reducing their numbers. A present goal of (TNR) trap, neuter, return is to decrease the number of cats in the environment and thereby reduce feral cat predation on wildlife. The establishment of programs for the care of feral and homeless cats that include trap, neutering and returning feral cats to their habitats have proven to be effective in reducing the number of cats and is more humane than trapping and euthanizing. Benefits communities and the general public health by placing cats in managed colonies, vaccinating them against rabies, spaying and neutering them, and with other efforts results in control of the population of feral and homeless cats and other positive consequences.

(b) Definitions:

As used in this article the following terms mean:

- (1) "Abandoned" means that an owner or caretaker has forsaken a domesticated cat entirely, or has neglected or refused to provide care and support of the cat.
- (2) "Animal Control Officer" means any person employed or appointed, who is authorized to investigate violations of laws and regulations concerning animals, and to issue citations in accordance with this code.
- (3) "Caretaker" means any person who provides food, water and shelter to otherwise care for a cat.
- (4) "Domesticated cat" means a cat that is socialized to humans and is appropriate as a companion for humans.
- (5) "Eartipping" means straight-line cutting of a one fourth inch tip of the left ear of a cat while the cat is anesthetized.
- (6) "Feral Cat" means a cat that exists in a wild or untamed state, either due to birth or reversion to a wild state from domestication. The usual and consistent characteristic of a feral cat is extreme fear and resistance to contact with humans.
- (7) "Nuisance" means disturbing the peace by habitually or continually howling, crying or screaming, or the habitual and significant destruction, desecration or soiling of property against the wishes of the property owner.
- (8) "Owner" means any person, firm, corporation, partnership, association, trust, estate or any other legal entity.
- (9) "Rescue group" is a for-profit or not-for-profit entity, or collaboration of individuals with at least one of its purposes being the adoption or placement of cats in homes with humans to serve as companion animals.
- (10) "Stray cat" means a cat that is regularly off the property of the owner, is not under the physical control and restraint of the owner and is not regularly provided with food or monitoring of said owner.
- (11) "Suitable shelter" means shelter that provides protection from rain, sun and other elements, i.e. snow, cold,

storms, etc., that is adequate to protect the health and safety of the cat.

(12) "TNR" means Trap, Neuter and Return.

(13) "TNR Program" means a program whose purpose it is to trap, neuter or spay, vaccinate against rabies and return to the location where they congregate.

(14) "Zoonotic Disease" means those diseases transmittable to humans from animals, including parasitic, bacterial, fungal and viral diseases.

(c) Responsibilities of owners of domesticated cats:

(1) Owners of domesticated cats shall provide appropriate and adequate food, water and shelter for their cats;

(2) The owner of a domesticated cat shall exercise reasonable care to guard against the cat creating a nuisance;

(3) The owner of a sexually intact (not spayed or neutered) domesticated cat shall not permit his or her cat to roam unsupervised;

(4) An owner shall not abandon a domesticated cat.

(d) Feral cat colonies:

(1) Feral cat colonies shall be permitted and caretakers shall be entitled to maintain them in accordance with the terms and conditions of this section.

(2) Feral cat colonies shall be under the sponsorship of appropriate approved TNR programs such as the "Save a Kitty Feral Cat Program" based in Parkersburg, WV, a nonprofit organization, established July 2004, and approved to administer a program. The sponsoring organization agrees to perform the following responsibilities:

(A) Review and approve of colony caretakers;

(B) Help to resolve any complaints over the conduct of a colony caretaker or of cats within a colony;

(C) Maintain records provided by colony caretakers on the size and location of the colonies as well as the vaccination and sterilization records of cats in the said colonies; and

(D) Report annually to the state or township on the following:

(i) Number of colonies in the township;

(ii) Total number of cats in colonies;

(iii) Number of cats and kittens spayed and neutered pursuant to the TNR program; and

(iv) Number of cats and kittens placed in permanent homes.

(e) Feral cat caretaker requirements; Caretakers are responsible for the following:

(1) Registering the feral cat colony with the administrator of the TNR program;

(2) Taking steps that are reasonably likely to result in the vaccination of the colony population for rabies and making reasonable efforts to update the vaccinations on cats that may be recaptured;

(3) Taking steps that are reasonably likely to result in the spay/neuter, by a licensed veterinarian, of at least ninety percent of the colony population.

(4) Providing the administrator with descriptions of each cat in the colony and copies of documents evidencing that the cats have been vaccinated and sterilized;

(5) Providing food, water and shelter for colony;

(6) Observing the colony cats at least twice per week and keeping a record of any illnesses or unusual behavior noticed in the colony cats requiring medical attention;

(7) Obtaining the approval of the owner of any property, to which the caretaker requires access to provide colony care;

(8) Remove kittens from the colony after they have been weaned and the placement of the kittens in homes or foster homes for the purpose of subsequent permanent placement or sterilizing any kittens prior to their return to the colony;

(9) Report annually in writing to the administrator on the status of the colony, including data on the number and gender of all cats in the colony, the number of cats that die or otherwise ceased being a part of the colony during the year; the number of kittens born to colony cats and their disposition and the number of cats and kittens placed in permanent homes as companion cats; and

(10) Obtain proper medical attention for any colony cat that appears to require it.

(f) Colony cat requirements:

- (1) The left ear of a colony cat that has been spayed or neutered and vaccinated shall be eartipped.
 - (2) A written description of the colony cats shall be maintained and reported to the administrator with any changes.
- 3.6 Disposition of colony cats.
- (3) An animal control officer, who has trapped a cat whose left ear has been tipped or which bears some other distinguishing mark indicating that it belongs to a managed feral cat colony, shall record the location of the trapping and then contact the administrator of the program, who will then contact the caretaker. If a trapped cat is brought to the animal shelter and is ear tipped, the shelter shall record the location of trapping and contact the administrator (or caretaker) to retrieve said cat.
 - (4) If the caretaker or sponsor of the program is not able to immediately take custody of the cat, the officer shall transport the cat to the local animal shelter. The caretaker or sponsor shall be responsible for retrieving the cat from the shelter within three business days or advising the shelter if the caretaker or sponsor does not intend to retrieve the cat while indicating any special circumstances involved.

(g) Enforcement:

The Township shall have the following rights:

- (1) The right to seize or remove cats from a colony that have not been vaccinated against rabies and which are demonstrating signs of the disease;
- (2) The right to seize or remove a cat from a colony that is creating a nuisance as defined above and the caretaker and sponsor have been given sixty days to remove and relocate the cat and have failed to do so;
- (3) The right to seize or remove a colony of cats when the caretaker regularly fails to comply with the requirements of subsection three of this section and the sponsor has not been able to obtain a replacement or substitute caretaker within sixty days of the township's notice to the sponsor or the caretaker's failure to comply with this ordinance;
- (4) The right of all animal control officers and police officers to investigate any nuisance complaints of feral cats.

NOTE: The purpose of this bill is to regulate and control the management of feral and abandoned cats.

This bill is new, therefore, strike-throughs and underscoring have been omitted.