

**H. B. 2398**

(By Delegates Manypenny, Guthrie, Brown,  
D. Walker, Skaff, Rowan, Caputo  
and Mahan)

[Introduced January 12, 2011; referred to the  
Committee on Agriculture then the Judiciary.]

**FISCAL  
NOTE**

A BILL to amend and reenact §19-14-5 of the Code of West Virginia,  
1931, as amended, relating to providing moneys from an  
additional commercial feed distributor fee assessed to  
commercial feed distributors to fund a statewide spay and  
neuter program; and creating the Spay Neuter Assistance Fund.

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

That §19-14-5 of the Code of West Virginia, 1931, as amended,  
be amended and reenacted to read as follows:

**ARTICLE 14. WEST VIRGINIA COMMERCIAL FEED LAW.**

**§19-14-5. Permits; registration.**

(a) Permits and registrations ~~shall not be~~ are not  
transferrable with respect to persons or locations.

(b) A person must apply for a permit or registration at least  
fifteen days ~~prior to~~ before the expiration of the current permit  
or registration expires; or at least fifteen days ~~prior to~~ before  
the date that the person intends to engage in business or market

1 products in this state. All applications shall be accompanied by  
2 the fee established in this section. A penalty of \$2 shall be  
3 added to the fee for all permits or registrations that are not  
4 applied for or renewed within the time limit.

5 (c) Persons manufacturing commercial feed or customer-formula  
6 feed in this state must obtain a Commercial Feed Manufacturing  
7 Permit, except all persons manufacturing feed for only ~~his/her~~ his  
8 or her animals on ~~his/her~~ his or her premises. Application forms  
9 shall be provided by the commissioner and include such information  
10 as established by rules. A separate permit shall be obtained for  
11 each manufacturing facility or location in this state. Each  
12 Commercial Feed Manufacturing Permit application shall be  
13 accompanied by an application fee of \$15. Each permit issued ~~shall~~  
14 ~~expire~~ expires on December 31 next following the date of issue.

15 (d) Each person first distributing commercial feed into West  
16 Virginia trade channels must obtain a Commercial Feed Distributor  
17 Permit, except: (1) Persons distributing pet food exclusively, (2)  
18 persons holding a valid Commercial Feed Manufacturing Permit, and  
19 (3) persons distributing only those feeds that they register.  
20 Application forms shall be provided by the commissioner and include  
21 such information as established by rules. Each Commercial Feed  
22 Distributor Permit application shall be accompanied by an  
23 application fee of \$10: Provided, That the commissioner shall  
24 establish by rule an additional commercial feed distributor permit

1 fee of not less than \$5 per year to be deposited in the Spay Neuter  
2 Assistance Fund hereby created, for the purposes of funding the  
3 Spay Neuter Assistance Program of West Virginia, Inc., a 26 U.S.C.  
4 §501(c)(3) nonprofit corporation: Provided, however, That this  
5 fund also consists of moneys from gifts, donations or any  
6 appropriations by the Legislature. Each permit issued ~~shall expire~~  
7 expires on December 31 next following the date of issue.

8 (e) All commercial feed distributed or used in this state,  
9 except customer-formula feed, must be registered. Commercial feed  
10 that can be uniquely identified by its brand name, product name,  
11 physical form or other descriptive term shall be registered as a  
12 separate product. Commercial feed that is packaged in such weights  
13 as to apply to several categories shall be registered in each  
14 applicable category. Application forms shall be provided by the  
15 commissioner and include such information as established by rules.

16 (1) Commercial feed, other than pet food, in packages over ten  
17 pounds or bulk shall be registered permanently. A registration fee  
18 of \$10 per product shall accompany each application for  
19 registration, except that there will be no fee for a revision of a  
20 commercial feed already on file that involves a change in the net  
21 weight, a change in the list of ingredients, ~~and/~~ or a change in  
22 the guarantee for vitamins or minerals.

23 (2) ~~On August 31, 1991, permanent registrations for pet food~~  
24 ~~in packages over ten pounds are void and application for~~

1 ~~registration and payment of fees will be required.~~ Pet food,  
2 including specialty pet foods, in packages over ten pounds or bulk  
3 shall be registered annually. A registration fee of \$50 per  
4 product shall accompany each application for registration. The  
5 registration ~~shall expire~~ expires on August 31 next following the  
6 date of issue.

7 (3) Commercial feed, excluding specialty pet food in packages  
8 of one pound or less, in packages of ten pounds and under shall be  
9 registered annually. A registration fee of \$40 per product shall  
10 accompany each application for registration. The registration  
11 ~~shall expire~~ expires on December 31 next following the date of  
12 issue.

13 (4) Specialty pet food in packages of one pound or less shall  
14 be registered annually. A registration fee of \$20 per product  
15 shall accompany each application for registration. The  
16 registration ~~shall expire~~ expires on December 31 next following the  
17 date of issue.

18 (f) A person is not required to register any brand name or  
19 product name of commercial feed which is already registered by  
20 another person.

21 (g) Alteration of commercial feed that changes the label  
22 requires a new application for a Commercial Feed Registration be  
23 made and approved before distribution.

NOTE: This bill creates the Spay Neuter Assistance Fund.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.