

H. B. 3080

(By Delegate Hunt (By Request))
[Introduced February 9, 2011; referred to the
Committee on Agriculture then the Judiciary.]

A BILL to amend the Code of West Virginia, 1931, as amended, by
adding thereto a new article, designated as §19-20C-1,
§19-20C-2, §19-20C-3, §19-20C-4, §19-20C-5, §19-20C-6,
§19-20C-7, §19-20C-8, §19-20C-9 and §19-20C-10, all relating
to creating the Dangerous Dog Act, defining dangerous dogs,
determining potentially dangerous dogs, providing county dog
wardens with enforcement authority, setting forth the
consequences of dangerous dog and potentially dangerous dog
determinations, registering and handling requirements, setting
forth the responsibilities of owners, providing exceptions,
establishing criminal penalties and permitting county
commissions to establish civil penalties and additional fees.

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 article, designated as §19-20C-1, §19-20C-2,

1 §19-20C-3, §19-20C-4, §19-20C-5, §19-20C-6, §19-20C-7, §19-20C-8,
2 §19-20C-9 and §19-20C-10, all to read as follows:

3 **ARTICLE 20C. DANGEROUS DOG ACT.**

4 **§19-20C-1. Definitions.**

5 For the purposes of this article, these terms are defined as
6 follows:

7 (a) "Owner" means any person age eighteen years or older or the
8 guardian or parent of any person under the age of eighteen years,
9 a partnership, a corporation or any entity owning, keeping, or
10 harboring one or more animals

11 (b) "Designee" means an animal control officer, police officer,
12 county dog warden or humane officer.

13 (c) "Dangerous dog" includes any dog that:

14 (1) Has, off its owner's property, attacked another animal or
15 livestock;

16 (2) Has attacked, unprovoked, any human being, whether on or
17 off the owner's property;

18 (3) Any breed of pit bull; or

19 (4) Has bitten or attacked a person, causing wounds or serious
20 injury creating a potential danger to the health and life of the
21 victim;

22 (5) This term does not include those animals which cause injury
23 or damage to a person while that person is committing or attempting

1 to commit a criminal offense against the owner or agent of the
2 owner:

3 (A) Which cause injury or damage to a person while that person
4 is committing a criminal trespass upon the premises occupied by the
5 owner, agent, or keeper of the animal;

6 (B) Which cause injury or damage to a person while that person
7 is teasing, tormenting, abusing or assaulting the animal, or;

8 (C) That are certain breeds or types of dog.

9 (d) "Potentially dangerous dog" means a dog that may reasonably
10 be assumed by a qualified person to pose a threat to public safety
11 as demonstrated by any of the following behaviors:

12 (1) Attempting to bite, or biting and causing an injury to a
13 person or domestic animal that is less severe than a serious injury;
14 or

15 (2) Has been found to be at large and been documented to be at
16 large by an animal control officer, police officer, or any county
17 dog warden or designee two or more times in a single calendar year;

18 (e) "Serious injury" means any physical injury resulting in
19 broken bones or lacerations requiring multiple sutures or cosmetic
20 surgery;

21 (f) "Approved enclosure" means secure confinement indoors or
22 a secured facility by latch, bolt or lock and is a contained
23 enclosure by wire (minimum of 11 gauge) kennel, six sided, of which
24 one can be concrete or brick floor with sides will be embedded not

1 less than two feet in the ground, and a roof of either wood or wire
2 of the same gauge, constructed so that an animal cannot escape. The
3 enclosure shall measure at least six feet in width or four times the
4 length of the dog, by twelve feet, or eight times the length of the
5 dog, in length, and six feet in height from ground surface to top,
6 and provided further, that within the confines of the enclosure for
7 necessary sustenance and shelter shall be provided.

8 (g) "Impound" means taken into custody by the county dog warden
9 pursuant to section eight, article twenty of this chapter.

10 (h) "Rabies vaccination" means the injection by a licensed
11 veterinarian of a dog or other animal with a rabies vaccine licensed
12 by the USDA and approved by the West Virginia State Board of Health
13 according to the Compendium for Rabies published yearly.

14 (i) "Microchip" means a computer chip, implanted underneath the
15 skin of an animal (in the universal position between the scapulas),
16 which contains information relating to that animal.

17 (j) "Leash" means a cord, chain, rope, strap or other such
18 physical restraint designed specifically for leading a dog or pet
19 while securely attached to a collar, harness or halter.

20 (k) "Muzzle" means a device constructed of a strong, soft
21 material or metal, designed to fasten over the mouth of an animal,
22 without interfering with its vision or respiration or causing injury
23 to the animal, to prevent the animal from biting any person or other

1 animal.

2 (l) "Liability insurance" means a \$100,000 liability insurance
3 policy purchased by the dog owner to insure such owner or keeper
4 against any claim, loss, damage or injury to person, domestic
5 animals or property resulting from acts, whether intentional or
6 unintentional.

7 (m) "Off property" means beyond the legal boundaries of the
8 real property on which the owner, agent, or keeper resides.

9 (n) "Provoked" means to deliberately arouse, incite or excite.

10 **§19-20C-2. Determination of a potentially dangerous dog.**

11 (a) After an investigation, which must be initiated within five
12 days after an incident becomes known to the county dog warden or his
13 or her designee, and based on the factors listed in subsection (d),
14 section one of this article, the owner of the dog shall be notified
15 in writing by certified mail or hand delivery with signature of the
16 determination within five days after completion of the
17 investigation.

18 (b) Following notice to the owner, if the county dog warden or
19 his or her designee has probable cause to believe that a dog is a
20 potentially dangerous dog and may pose a threat to public safety,
21 the county dog warden may obtain a warrant and impound the dog
22 pending disposition of the case or until the dog owner has fulfilled
23 the requirements of section four of this article. The owner of the
24 dog is liable for the costs and expenses of impounding the dog.

1 (c) Upon notice, the owner may, within five business days after
2 a determination, bring a petition in the circuit court seeking
3 review of such designation; during such review the owner may chose
4 to keep the dog in quarantine at his or her home after paying a
5 refundable \$200 surety bond to the county dog warden. A decision
6 overturning the determination does not affect the county dog
7 warden's right to later declare a dog to be potentially dangerous
8 or dangerous for the dog's subsequent behavior.

9 **§19-20C-3. Consequences of a potentially dangerous dog**
10 **determination.**

11 (a) If the county dog warden or his or her designee determines
12 that a dog is a potentially dangerous dog pursuant to section two
13 of this article, the owner must comply with section four of this
14 article and any other special security or care requirements the
15 county dog warden or his or her designee has established and have
16 been approved by the county commission.

17 (b) The county dog warden or his or her designee may require
18 impoundment of the dog after the required ten-day quarantine and all
19 requests for review have been exhausted by the owner, until such
20 owner has satisfied all the requirements of the certificate of
21 registration permit. The requirements must be met within thirty
22 days of final determination. If, after such period, the owner has
23 not satisfied all the requirements of the registration permit, the
24 animal may be humanely destroyed on the thirty-first day of

1 impoundment.

2 **§19-20C-4. Potentially dangerous dog registration and handling**
3 **requirements.**

4 (a) The county dog warden or his or her designee shall issue
5 a certificate of registration to the owner of a potentially
6 dangerous dog if the owner establishes to the satisfaction of the
7 county dog warden or his or her designee that:

8 (1) The owner of a potentially dangerous dog is eighteen years
9 of age or older;

10 (2) A valid license has been issued for the potentially
11 dangerous dog pursuant to state law;

12 (3) The potentially dangerous dog has a current rabies
13 vaccination certificate;

14 (4) The potentially dangerous dog has been implanted with a
15 microchip containing owner identification information;

16 (5) The potentially dangerous dog and its owner has entered
17 into a socialization, behavior, or obedience training program
18 approved or offered by the county dog warden or his or her designee;
19 and

20 (6) The owner provides a certification of liability insurance
21 to the county dog warden or his or her designee, and shall submit
22 renewed certificates to prove coverage is maintained throughout the
23 lifetime of the dog or until potential dangerous dog designation may
24 be rescinded;

1 (b) If any dog deemed to be potentially dangerous does not
2 exhibit any further dangerous behaviors within the thirty-six months
3 following the county dog warden or his or her designee's
4 determination, the dog is eligible for a review of such designation
5 by the county dog warden or his or her designee. At the conclusion
6 of such period, the county dog warden or his or her designee has the
7 authority to rescind the designation of a potentially dangerous dog.
8 However, that dog may again be determined to be a dangerous or
9 potentially dangerous dog.

10 **§19-20C-5. Determination of a dangerous dog.**

11 (a) After an investigation, which must be initiated within five
12 days after an incident becomes known to the county dog warden or his
13 or her designee, and based on the factors identified in subsection
14 (c), section one of this article, the owner of the dog shall be
15 notified in writing by certified mail or hand delivery of the
16 determination within five days after completion of the
17 investigation.

18 (b) Following notice to the owner, if the county dog warden or
19 his or her designee has probable cause to believe that a dog is a
20 dangerous dog and may pose a threat to public safety, the county dog
21 warden or his or her designee may obtain a warrant in order to
22 impound the dog pending disposition of the case or until the dog
23 owner has fulfilled the requirements of sections six and seven of
24 this article. The owner of the dog is liable to the dog warden for

1 the costs and expenses of impounding the dog.

2 (c) Upon notice, the owner may, within five business days after
3 a determination, file a petition in the circuit court seeking review
4 of such designation. A decision overturning the determination does
5 not affect the county dog warden or his or her designee's ability
6 to later declare a dog to be potentially dangerous or dangerous for
7 the dog's subsequent behavior.

8 **§19-20C-6. Consequences of a dangerous dog.**

9 (a) If the county dog warden or his or her designee determines
10 that a dog is a dangerous dog pursuant to section five of this
11 article, the owner must comply with section seven of this article
12 and any other special security or care requirements established by
13 the county dog warden or his or her designee and approved and
14 enacted by the county commission.

15 (b) The county dog warden or his or her designee may require
16 impoundment of the dog after the required ten-day quarantine and all
17 requests for review have been exhausted by the owner, until such
18 owner has satisfied all the requirements of the certificate of
19 registration permit. The requirements must be met within thirty
20 days of final determination. If, after such period, the owner has
21 not satisfied all the requirements of the registration permit, the
22 animal may be humanely destroyed on the thirty-first day of
23 impoundment.

24 **§19-20C-7. Dangerous dog registration and handling.**

1 (a) The county dog warden or his or her designee shall issue
2 a certificate of registration to the owner of a dangerous dog if the
3 owner establishes to the satisfaction of the county dog warden or
4 his or her designee that:

5 (1) The owner of a dangerous dog is eighteen years of age or
6 older;

7 (2) A valid license has been issued for the dangerous dog
8 pursuant to state law;

9 (3) The owner has paid to the county dog warden or his or her
10 designee an annual fee of \$15 in addition to the regular dog
11 licensing fees, so as to register the dangerous dog;

12 (4) The dangerous dog has a current rabies vaccination
13 certificate;

14 (5) The dangerous dog has been implanted with a microchip
15 containing owner identification information;

16 (6) The dangerous dog has been spayed or neutered by a state
17 licensed veterinarian and certificate of proof is provided to the
18 county dog warden or his or her designee that contains a physical
19 description of the dangerous dog;

20 (7) The dangerous dog and its owner has entered into a
21 socialization, behavior, or obedience training program approved or
22 offered by the county dog warden or his or her designee; and

23 (8) The owner provides a certification of liability insurance
24 to the county dog warden or his or her designee, and shall submit

1 renewed certificates to prove coverage is maintained throughout the
2 lifetime of the dog. If ownership is transferred, liability
3 coverage must be continued by the new owner;

4 (b) The county dog warden or his or her designee shall issue
5 a certificate of registration to the owner of a dangerous dog if
6 the owner, in addition to satisfying the requirements for
7 registering a dangerous dog, establishes to the satisfaction of the
8 county dog warden or his or her designee, that:

9 (1) Proper signage has been posted at the entry of the owner's
10 property and upon the gate or door of the approved enclosure warning
11 visitors and children of the presence of the dangerous dog;

12 (2) The owner has installed an approved enclosure that meets
13 the requirements as described in subsection (f), section one of this
14 article;

15 (3) The owner shall keep and maintain the dangerous dog
16 exclusively on the owner's property except for medical treatment or
17 approved training; and

18 (4) Handles the dog when out of such enclosure with a muzzle
19 and leash.

20 (c) If an owner of a dangerous dog fails to abide by the
21 requirements of this article for registration, confinement or
22 handling, the county dog warden or his or her designee may order the
23 immediate impoundment of a dog previously deemed dangerous.

24 **§19-20C-8. Owner responsibility for keeping/harboring a dangerous**

1 **dog.**

2 It is unlawful to:

3 (a) Keep a dog determined to be dangerous without a valid
4 certificate or registration pursuant to section seven of this
5 article;

6 (b) Permit a dangerous dog to be outside an approved enclosure
7 unless the dog is: (1) Under the direct control of a responsible
8 person of eighteen years of age or older; and (2) is properly
9 muzzled and restrained by a leash;

10 (c) Fail to provide required sustenance, shelter and sanitary
11 upkeep of a dangerous dog approved enclosure;

12 (d) Remove a dangerous dog from the owner's property unless:
13 (1) The dog is caged, crated, or controlled by a responsible person
14 of eighteen years of age or older; and (2) the dog is properly
15 muzzled and restrained by a leash;

16 (e) Fail to notify the county dog warden or his or her designee
17 immediately if the dangerous dog escapes, is unconfined, at-large,
18 has injured another domestic animal outside of the dangerous dogs
19 approved enclosure or has caused injury to a human being;

20 (f) Fail to notify the county dog warden within five business
21 days if the dangerous dog has died;

22 (g) Fail to notify the county dog warden or his or her designee
23 within twenty-four hours if the dangerous dog is sold, given away
24 or placed into another person's care, and provide to the county dog

1 warden the name, address and telephone number of the new owner or
2 custodian of the dangerous dog;

3 (h) Fail to surrender a dangerous dog to the county dog warden
4 or his or her designee for safe confinement pending outcome of an
5 investigation when there is a reason to believe that the dangerous
6 dog poses an imminent threat to public safety; or

7 (i) Fail to comply with any special security or care
8 requirements for a dangerous dog established by the county dog
9 warden or his or her designee and by the county commission.

10 **§19-20C-9. Exceptions.**

11 A dog may not be declared a dangerous or potentially dangerous
12 dog based solely on:

13 (a) The breed or type of dog;

14 (b) The dog was used by a law-enforcement official for
15 legitimate law enforcement purposes;

16 (c) The threat, injury or damage was sustained by a person:

17 (1) Who was committing, at the time, willful trespass or other
18 wrongful or criminal act upon the premises lawfully occupied by the
19 owner of the dog;

20 (2) Who was provoking, tormenting, abusing or assaulting the
21 dog or who can be shown to have repeatedly, in the past, provoked,
22 tormented, abused or assaulted the dog; or

23 (3) Who was committing or attempting to commit a crime.

24 (d) The dog was trained, enticed, commanded or provoked by a

1 victim of the attack to attack that victim.

2 (e) The dog was:

3 (1) Responding to pain or injury, or was protecting itself, its
4 offspring or;

5 (2) Protecting or defending a human being within the immediate
6 vicinity of the dog from an attack or assault.

7 **§19-20C-10. Penalties.**

8 (a) Any owner of a dog deemed dangerous by the county dog
9 warden or his or her designee that fails to comply with the
10 requirements of sections three and six of this article is guilty of
11 a misdemeanor and, shall: (1) Forfeit the dog to the county dog
12 warden or his or her designee for humane euthanizing upon the
13 thirty-first day of impoundment; (2) pay a fine of not less than
14 \$500 nor more than \$2,500, confined in jail for not more than sixty
15 days, or both fined and confined; and (3) be prohibited from owning
16 any dog for a period of not less than seven years.

17 (b) An owner of a dangerous or potentially dangerous dog who
18 violates the provisions of sections four, seven or eight of this
19 article is guilty of a misdemeanor and, upon conviction for a first
20 offense, shall be: (1) Fined not more than \$2,500, confined in jail
21 not more than six months, or both fined and confined. For second and
22 subsequent convictions the owner shall be fined not more than
23 \$5,000, confined not more than one year, or both fined and confined;
24 and (3) prohibited from owning any dog for a period of not less than

1 seven years.

2 (c) An owner of a dangerous dog that causes serious injury to
3 or kills a human being without provocation shall be fined up to
4 \$10,000.

5 (d) The county commission may also establish civil penalties
6 and additional fees in addition to fees and penalties established
7 by this article.

NOTE: The purpose of this bill is to permit the regulation by counties of dangerous dogs and potentially dangerous dogs. The bill defines terms and sets forth how potentially dangerous dogs and dangerous dogs are determined. The bill also provides consequences of dogs being determined to be dangerous or potentially dangerous. The bill establishes registration and handling requirements for a dangerous or potentially dangerous dog. Also, the bill sets forth the responsibilities of owners of dangerous and potentially dangerous dogs. Additionally, the bill sets forth exemptions, establishes criminal penalties and permits county commissions to establish additional civil penalties.

This article is new; therefore, it has been completely underscored.