

1 officers; prohibiting a commercial dog breeder to operate if
2 convicted of animal cruelty; providing for no exemption from
3 these provisions for a facility licensed by the United States
4 Department of Agriculture; and providing criminal penalties.

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

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

9 **ARTICLE 20. DOGS AND CATS.**

10 **§19-20-26. Commercial dog breeding operations.**

11 (a) As used in this section:

12 (1) "Advertisement" means any media used to promote the sale
13 of dogs including, but not limited to, the Internet, newspapers,
14 flyers, magazines, radio, television, bulletins and signs.

15 (2) "Commercial dog breeder" means any person who:

16 (A) Maintains eleven or more unsterilized dogs over the age of
17 one year;

18 (B) Is engaged in the business of breeding dogs exclusively as
19 household pets for direct or indirect sale or for exchange in
20 return for consideration; and

21 (C) Commercial dog breeder shall not include:

22 (i) Any person who keeps or breeds dogs for the purpose of
23 herding or guarding livestock or farm animals, hunting, tracking or
24 exhibiting in dog shows, performance events or field and obedience

1 trials; and

2 (ii) Any person who holds an occupational permit from, and has
3 registered a greyhound kennel name with, the West Virginia Racing
4 Commission.

5 (3) "Class I Commercial Dog Breeder" means a commercial dog
6 breeder that possesses eleven to thirty unsterilized dogs over the
7 age of one year at any one time.

8 (4) "Class II Commercial Dog Breeder" means a commercial dog
9 breeder that possesses more than thirty unsterilized dogs over the
10 age of one year at any time.

11 (5) "Housing facility" means a structure in which dogs are
12 kept that provides them with shelter, protection from the elements
13 and protection from temperature extremes.

14 (6) "Primary enclosure" means a structure that restricts a
15 dog's ability to move in a limited amount of space, such as a room,
16 cage or compartment.

17 (b) No commercial dog breeder may possess, control or
18 otherwise own or maintain more than fifty unsterilized dogs over
19 the age of one year for the primary purpose of breeding and selling
20 the offspring exclusively as household pets. A commercial dog
21 breeder found to be in violation of this section shall spay or
22 neuter, sell, transfer or relinquish the excess dog(s) within
23 thirty days following notification of the violation.

24 (c) No commercial dog breeder may breed dogs without a valid

1 business license issued by the locality in which the dog breeding
2 operation is located, if the locality so requires.

3 (d) A commercial dog breeder shall:

4 (1) Obtain a permit annually to operate, as required by the
5 county commission in which the commercial dog breeding operation is
6 located. County commissions are authorized to charge a fee to
7 commercial dog breeders and shall deposit the fees collected in a
8 specially designated account to be used for animal rescue purposes
9 and for spay/neuter programs administered by county animal shelters
10 or other humane organizations. The fee for a Class I commercial
11 dog breeding permit shall be an amount determined by the county
12 commission, not to exceed \$250 per year. The fee for a Class II
13 commercial dog breeding permit shall be an amount determined by the
14 county commission, not to exceed \$500 per year;

15 (2) Breed female dogs only after the breeder has obtained an
16 annual certification by a licensed veterinarian that the dog is in
17 suitable health for breeding;

18 (3) Dispose of dogs only by gift, sale, transfer, barter or
19 euthanasia by a licensed veterinarian;

20 (4) Maintain current, valid rabies certificates for every dog
21 over the age of four months;

22 (5) Include the breeder's annual permit number on any
23 advertisement for the sale of a dog;

24 (6) If selling directly to the public, post a conspicuous

1 notice containing the breeder's name, address and annual permit
2 number on each cage;

3 (7) Provide for the humane treatment of dogs in accordance
4 with section nineteen, article eight, chapter sixty-one of this
5 code;

6 (8) Provide dogs with easy and convenient access to adequate
7 amounts of clean food and water. Food and water receptacles must
8 be regularly cleaned and sanitized. All enclosures must contain
9 potable water that is not frozen, is substantially free from debris
10 and is readily accessible to all dogs in the enclosure at all
11 times;

12 (9) Provide veterinary care without delay when necessary; and

13 (10) Maintain adequate housing facilities and primary
14 enclosures that meet the following minimum requirements:

15 (A) Housing facilities and primary enclosures must be kept in
16 a sanitary condition and in good repair; must be sufficiently
17 ventilated at all times to minimize odors, drafts, ammonia levels
18 and to prevent moisture condensation; must have a means of fire
19 suppression, such as functioning fire extinguishers or a sprinkler
20 system on the premises; and must have sufficient lighting to allow
21 for observation of the dogs at any time of day or night;

22 (B) Housing facilities must enable all dogs to remain dry and
23 clean;

24 (C) Housing facilities must provide shelter and protection

1 from extreme temperatures and weather conditions that may be
2 uncomfortable or hazardous to the dogs;

3 (D) Housing facilities must provide sufficient shade to
4 shelter all the dogs housed in the primary enclosure at one time;

5 (E) A primary enclosure must have solid floors that are
6 constructed in a manner that protects the dogs' feet and legs from
7 injury;

8 (F) Primary enclosures must be placed no higher than forty-two
9 inches above the floor and may not be placed over or stacked on top
10 of another cage or primary enclosure;

11 (G) Feces, hair, dirt, debris and food waste must be removed
12 from primary enclosures and housing facilities at least daily or
13 more often if necessary to prevent accumulation and to reduce
14 disease hazards, insects, pests and odors;

15 (H) All dogs in the same enclosure at the same time must be
16 compatible, as determined by observation. Breeding females in heat
17 may not be in the same enclosure at the same time with sexually
18 mature males, except for breeding purposes. Breeding females and
19 their litters may not be in the same enclosure at the same time
20 with other adult dogs. Puppies under twelve weeks may not be in
21 the same enclosure at the same time with other adult dogs, other
22 than the dam or foster dam unless under immediate supervision; and

23 (I) Sick dogs shall be isolated sufficiently so as not to
24 endanger the health of other dogs.

1 (e) To ensure compliance with state animal care laws and
2 regulations, commercial dog breeding locations are subject to
3 inspection by animal control officers or law-enforcement officers
4 at least twice annually. Animal control or law-enforcement
5 officers shall give a commercial dog breeder five business days
6 notice of any upcoming inspection.

7 (f) It is unlawful for a commercial dog breeder to operate if
8 he or she has been convicted of animal cruelty in any local, state
9 or federal jurisdiction.

10 (g) Any commercial dog breeder who violates any provision of
11 this section is guilty of a misdemeanor and, upon conviction
12 thereof, shall be fined not more than \$1,000.

13 (h) Nothing in this section exempts a facility licensed by the
14 United States Department of Agriculture from compliance.

15 (i) Nothing in this section prevents any local, state or
16 federal law-enforcement agency from investigating animal cruelty in
17 commercial dog breeding operations.