

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 406**

4 (By Senators Kessler (Mr. President), Beach, Wills and Unger)

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6 [Originating in the Committee on the Judiciary;

7 reported February 16, 2012.]
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12 A BILL to amend the Code of West Virginia, 1931, as amended, by
13 adding thereto a new section, designated §19-20-26, relating
14 to protecting dogs by creating regulations for commercial dog
15 breeding operations; providing definitions; providing
16 exceptions; allowing commercial breeders to sell dogs only as
17 household pets; requiring a business license if required by
18 the locality; authorizing county commissions to charge a fee
19 to a commercial dog breeder to obtain an annual permit to
20 operate; limiting the amount of the fee which may be charged;
21 providing for the responsibilities of the commercial dog
22 breeder; setting forth the requirements for maintaining
23 adequate housing facilities and primary enclosures; providing
24 for inspections by animal control officers or law-enforcement
25 officers; prohibiting a commercial dog breeder to operate if

1 convicted of animal cruelty; providing for no exemption from
2 these provisions for a facility licensed by the United States
3 Department of Agriculture; and providing criminal penalties.

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

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

8 **ARTICLE 20. DOGS AND CATS.**

9 **§19-20-26. Commercial dog breeding operations.**

10 (a) As used in this section:

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

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

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

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

20 (C) Commercial dog breeder shall not include:

21 (i) Any person who keeps or breeds dogs for the purpose of
22 hunting, tracking and exhibiting in dog shows, performance events
23 or field and obedience trials; and

24 (ii) Any person who holds an occupational permit from, and has

1 registered a greyhound kennel name with, the West Virginia Racing
2 Commission.

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

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

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

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

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

22 (c) No commercial dog breeder may breed dogs without a valid
23 business license issued by the locality in which the dog breeding
24 operation is located, if the locality so requires.

1 (d) A commercial dog breeder shall:

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

13 (2) Breed female dogs, only if the dog is between the age of
14 eighteen months and eight years and only after the breeder has
15 obtained an annual certification by a licensed veterinarian that
16 the dog is in suitable health for breeding;

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

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

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

23 (6) If selling directly to the public, post a conspicuous
24 notice containing the breeder's name, address and annual permit

1 number on each cage;

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

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

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

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

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

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

23 (C) Housing facilities must provide shelter and protection
24 from extreme temperatures and weather conditions that may be

1 uncomfortable or hazardous to the dogs;

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

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

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

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

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

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

24 (e) To ensure compliance with state animal care laws and

1 regulations, commercial dog breeding locations are subject to
2 inspection by animal control officers or law-enforcement officers
3 at least twice annually. Animal control or law-enforcement
4 officers shall give a commercial dog breeder five business days
5 notice of any upcoming inspection.

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

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

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

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

(NOTE: The purpose of this bill is to protect dogs by creating regulations for commercial dog breeding operations.

This section is new; therefore, strike-throughs and underscoring have been omitted.)