

Senate Bill No. 406

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

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4 [Introduced January 24, 2012; referred to the Committee on the
5 Judiciary.]

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10 A BILL to amend the Code of West Virginia, 1931, as amended, by
11 adding thereto a new section, designated §19-20-26, relating
12 to protecting dogs by creating regulations for commercial dog
13 breeding operations.

14 Be it enacted by the Legislature of West Virginia:

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

18 ARTICLE 20. DOGS AND CATS.

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

20 (a) As used in this section:

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

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

1 (A) Maintains eleven or more unsterilized dogs over the age of
2 one year and;

3 (B) Is engaged in the business of breeding animals for direct
4 or indirect sale or for exchange in return for consideration and;

5 (C) Sells or exchanges in return for consideration more than
6 15 dogs in a calender year, except that any person who holds an
7 occupational permit from, and has registered a greyhound kennel
8 name with, the West Virginia Racing Commission is not considered a
9 commercial dog breeder under this article.

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

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

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

19 (6) "Primary Enclosure" means a structure that restricts a
20 dog's ability to move in a limited amount of space, such as a room,
21 cage or compartment.

22 (b) No commercial dog breeder may possess, control or
23 otherwise own or maintain more than fifty unsterilized dogs over
24 the age of one year for the primary purpose of breeding and selling

1 the offspring exclusively as household pets. A commercial dog
2 breeder found to be in violation of this section shall spay or
3 neuter, sell, transfer or relinquish the excess dogs within thirty
4 days following notification of the violation.

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

8 (d) A commercial dog breeder shall:

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

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

24 (3) Dispose of dogs only by gift, sale, transfer, barter or

1 euthanasia by a licensed veterinarian;

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

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

6 (6) If selling directly to the public, post a conspicuous
7 notice containing the breeder's name, address and annual permit
8 number on each cage;

9 (7) Provide for the humane treatment of dogs in accordance
10 with section nineteen, article eight, chapter sixty-one;

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

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

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

20 (i) Housing facilities and primary enclosures must be kept in
21 a sanitary condition and in good repair; housing facilities must be
22 sufficiently ventilated at all times to minimize odors, drafts,
23 ammonia levels and to prevent moisture condensation; must have a
24 means of fire suppression, such as functioning fire extinguishers

1 or sprinkler system on the premises; and must have sufficient
2 lighting to allow for observation of the dogs at any time of day or
3 night;

4 (ii) Housing facilities must enable all dogs to remain dry and
5 clean;

6 (iii) Housing facilities must provide shelter and protection
7 from extreme temperatures and weather conditions that may be
8 uncomfortable or hazardous to the dogs;

9 (iv) Housing facilities must provide sufficient shade to
10 shelter all the dogs housed in the primary enclosure at one time;

11 (v) A primary enclosure must have level floors that are
12 composed of solid, impermeable materials only, except that drains
13 may be used for the efficient elimination of animal waste and water
14 in order to keep the animal dry and prevent the animal from coming
15 into contact with these substances. Floors must be constructed in
16 a manner that protects the dogs' feet and legs from injury. If
17 drains are used they shall be constructed in a manner to minimize
18 foul odors and backup of sewage. If a drainage system is used it
19 shall comply with federal, state and local laws relating to
20 pollution control;

21 (vi) Primary enclosures must be placed no higher than forty-
22 two inches above the floor and may not be placed over or stacked on
23 top of another cage or primary enclosure;

24 (vii) Primary enclosures must have: (1) Sufficient space for

1 each dog to turn in a complete circle without encountering any
2 impediment (including a tether); (2) enough indoor space for each
3 dog to lie down and fully extend its limbs and stretch freely
4 without touching the side of an enclosure or another dog; (3) at
5 least one foot of headroom above the head of the tallest dog in the
6 enclosure; and (4) at least twelve square feet of indoor space per
7 each dog between twenty-five and thirty-five inches long; and at
8 least thirty square feet of indoor space per each dog for dogs
9 thirty-five inches and longer (with the length of the dog measured
10 from the tip of the nose to the base of the tail).

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

15 (ix) 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 (x) Sick dogs shall be isolated sufficiently so as not to
24 endanger the health of other dogs.

1 (xi) All outdoor dogs spending all or the majority of any day
2 outside of a housing facility or primary enclosure must have
3 unfettered access to adequate shelter from the elements that allows
4 the dogs to remain clean and dry at all times. At minimum, such
5 shelter must: (1) Be large enough to allow each dog to
6 simultaneously sit, stand and lie in a normal manner, and to turn
7 about freely; (2) have a waterproof roof, large enough to
8 completely and simultaneously cover each dog; (3) have solid
9 floors, large enough to cover an area equal to the area occupied by
10 each dog when lying down with its limbs fully extended; and (4)
11 provide shelter and protection to each dog from extreme
12 temperatures and weather conditions that may be uncomfortable or
13 hazardous to dogs.

14 (e) To ensure compliance with state animal care laws and
15 regulations, commercial dog breeding locations are subject to
16 inspection by animal control officers or law-enforcement officers
17 at least twice annually, in addition to inspections arising under
18 subdivision (i) of this section.

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

22 (g) Any commercial dog breeder who violates any provision of
23 this section is guilty of a misdemeanor and, upon conviction
24 thereof, shall be fined not more than \$1,000 for each violation.

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

3 (i) Nothing in this section prevents any local, state or
4 federal law-enforcement agency from investigating animal cruelty in
5 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.