

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 406

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

[Originating in the Committee on the Judiciary;
reported February 16, 2012.]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-20-26, relating to protecting dogs by creating regulations for commercial dog breeding operations; providing definitions; providing exceptions; allowing commercial breeders to sell dogs only as household pets; requiring a business license if required by the locality; authorizing county commissions to charge a fee to a commercial dog breeder to obtain an annual permit to operate; limiting the amount of the fee which may be charged; providing for the responsibilities of the commercial dog breeder; setting forth the requirements for maintaining adequate housing facilities and primary enclosures; providing for

inspections by animal control officers or law-enforcement officers; prohibiting a commercial dog breeder to operate if convicted of animal cruelty; providing for no exemption from these provisions for a facility licensed by the United States Department of Agriculture; and providing criminal penalties.

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 section, designated §19-20-26, to read as follows:

ARTICLE 20. DOGS AND CATS.

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

1 (a) As used in this section:

2 (1) “Advertisement” means any media used to promote
3 the sale of dogs including, but not limited to, the Internet,
4 newspapers, flyers, magazines, radio, television, bulletins
5 and signs.

6 (2) “Commercial dog breeder” means any person who:

7 (A) maintains eleven or more unsterilized dogs over the
8 age of one year;

9 (B) is engaged in the business of breeding dogs exclu-
10 sively as household pets for direct or indirect sale or for
11 exchange in return for consideration; and

12 (C) Commercial dog breeder shall not include:

13 (i) Any person who keeps or breeds dogs for the purpose
14 of hunting, tracking and exhibiting in dog shows, perfor-
15 mance events or field and obedience trials; and

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

19 (3) “Class I Commercial Dog Breeder” means a commer-
20 cial dog breeder that possesses eleven to thirty unsterilized
21 dogs over the age of one year at any one time.

22 (4) “Class II Commercial Dog Breeder” means a commer-
23 cial dog breeder that possesses more than thirty unsterilized
24 dogs over the age of one year at any time.

25 (5) “Housing facility” means a structure in which dogs
26 are kept that provides them with shelter, protection from the
27 elements and protection from temperature extremes.

28 (6) “Primary enclosure” means a structure that restricts
29 a dog’s ability to move in a limited amount of space, such as
30 a room, cage or compartment.

31 (b) No commercial dog breeder may possess, control or
32 otherwise own or maintain more than fifty unsterilized dogs
33 over the age of one year for the primary purpose of breeding

34 and selling the offspring exclusively as household pets. A
35 commercial dog breeder found to be in violation of this
36 section shall spay or neuter, sell, transfer or relinquish the
37 excess dog(s) within thirty days following notification of the
38 violation.

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

42 (d) A commercial dog breeder shall:

43 (1) Obtain a permit annually to operate, as required by
44 the county commission in which the commercial dog breed-
45 ing operation is located. County commissions are authorized
46 to charge a fee to commercial dog breeders and shall deposit
47 the fees collected in a specially designated account to be used
48 for animal rescue purposes and for spay/neuter programs
49 administered by county animal shelters or other humane
50 organizations. The fee for a Class I commercial dog breeding
51 permit shall be an amount determined by the county com-
52 mission, not to exceed \$250 per year. The fee for a Class II
53 commercial dog breeding permit shall be an amount deter-
54 mined by the county commission, not to exceed \$500 per
55 year;

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

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

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

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

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

69 (7) Provide for the humane treatment of dogs in accor-
70 dance with section nineteen, article eight, chapter sixty-one
71 of this code;

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

78 (9) Provide veterinary care without delay when neces-
79 sary; and

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

82 (A) Housing facilities and primary enclosures must be
83 kept in a sanitary condition and in good repair; must be
84 sufficiently ventilated at all times to minimize odors, drafts,
85 ammonia levels and to prevent moisture condensation; must
86 have a means of fire suppression, such as functioning fire
87 extinguishers or a sprinkler system on the premises; and
88 must have sufficient lighting to allow for observation of the
89 dogs at any time of day or night;

90 (B) Housing facilities must enable all dogs to remain dry
91 and clean;

92 (C) Housing facilities must provide shelter and protection
93 from extreme temperatures and weather conditions that may
94 be uncomfortable or hazardous to the dogs;

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

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

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

104 (G) Feces, hair, dirt, debris and food waste must be
105 removed from primary enclosures and housing facilities at
106 least daily or more often if necessary to prevent accumula-
107 tion and to reduce disease hazards, insects, pests and odors;

108 (H) All dogs in the same enclosure at the same time must
109 be compatible, as determined by observation. Breeding
110 females in heat may not be in the same enclosure at the same
111 time with sexually mature males, except for breeding
112 purposes. Breeding females and their litters may not be in
113 the same enclosure at the same time with other adult dogs.

114 Puppies under twelve weeks may not be in the same enclo-
115 sure at the same time with other adult dogs, other than the
116 dam or foster dam unless under immediate supervision; and

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

119 (e) To ensure compliance with state animal care laws and
120 regulations, commercial dog breeding locations are subject
121 to inspection by animal control officers or law-enforcement
122 officers at least twice annually. Animal control or law-

123 enforcement officers shall give a commercial dog breeder five
124 business days notice of any upcoming inspection.

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

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

131 (h) Nothing in this section exempts a facility licensed by
132 the United States Department of Agriculture from compli-
133 ance.

134 (i) Nothing in this section prevents any local, state or
135 federal law-enforcement agency from investigating animal
136 cruelty in 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.)