

1 COMMITTEE SUBSTITUTE

2 FOR

3

Senate Bill No. 437

4

(By Senators Unger, Beach and Yost)

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6 [Originating in the Committee on Agriculture and Rural Development;

7 reported March 26, 2013.]

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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; providing definitions; providing
14 exceptions; allowing commercial breeders to sell dogs only as
15 household pets; requiring a business license if required by
16 the locality; authorizing county commissions to charge a fee
17 to a commercial dog breeder to obtain an annual permit to
18 operate; limiting the amount of the fee; setting forth
19 responsibilities of the commercial dog breeder; setting forth
20 the requirements for maintaining adequate enclosures;
21 providing for inspections; prohibiting a commercial dog
22 breeder to operate if convicted of animal cruelty; providing
23 no exemption for United States Department of Agriculture
24 licensees; and providing criminal penalties.

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

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

5 **ARTICLE 20. DOGS AND CATS.**

6 **§19-20-26. Commercial dog breeding operations.**

7 (a) As used in this section:

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

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

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

14 (B) Is engaged in the business of breeding dogs as household
15 pets for direct or indirect sale or for exchange in return for
16 consideration; and

17 (C) Commercial dog breeder shall not include:

18 (i) Any person who keeps or breeds dogs exclusively for the
19 purpose of herding or guarding livestock or farm animals, hunting,
20 tracking or exhibiting in dog shows, performance events or field
21 and obedience trials; and

22 (ii) With respect to greyhound dogs only, any person who holds
23 an occupational permit from, and has registered a greyhound kennel
24 name with, the West Virginia Racing Commission.

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

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

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

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

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

20 (c) No commercial dog breeder may breed dogs without a
21 business registration certificate in accordance with section three,
22 article twelve, chapter eleven of this code and a valid business
23 license issued by the locality in which the dog breeding operation
24 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 shelters, animal
7 rescue and spay neuter programs administered by county animal
8 shelters or other humane organizations. The fee for a Class I
9 commercial dog breeding permit shall be an amount determined by the
10 county commission, not to exceed \$250 per year. The fee for a
11 Class II commercial dog breeding permit shall be an amount
12 determined by the county commission, not to exceed \$500 per year;

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

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

18 (4) Maintain current, valid rabies certificates for every dog
19 pursuant to article twenty-a of this chapter;

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

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

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

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

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

12 (10) Maintain adequate staffing levels to ensure compliance
13 with this section; and

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

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

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

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

4 (D) Housing facilities must provide sufficient shade to
5 simultaneously shelter all of the dogs housed therein;

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

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

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

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

24 (I) Sick dogs shall be isolated sufficiently so as not to

1 endanger the health of other dogs.

2 (e) To ensure compliance with state animal care laws and
3 regulations, commercial dog breeding locations are subject to
4 biannual inspections by animal control officers or law-enforcement
5 officers.

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 per violation.

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.

§19-20-26 is new; therefore, strike-throughs and underscoring
have been omitted.