

Senate Bill No. 437

(By Senators Unger, Beach and Yost)

[Introduced March 5, 2013; referred to the Committee on
Agriculture and Rural Development; and then to the Committee on
the Judiciary.]

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

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

1 exhibiting in dog shows, performance events or field and obedience
2 trials; and

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

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

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

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

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

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

1 thirty days following notification of the violation.

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

5 (d) A commercial dog breeder shall:

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

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

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

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

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

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

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

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

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

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

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

1 for observation of the dogs at any time of day or night;

2 (B) Housing facilities must enable all dogs to remain dry and
3 clean;

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

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

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

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

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

19 (H) All dogs in the same enclosure at the same time must be
20 compatible, as determined by observation. Breeding females in heat
21 may not be in the same enclosure at the same time with sexually
22 mature males, except for breeding purposes. Breeding females and
23 their litters may not be in the same enclosure at the same time

1 with other adult dogs. Puppies under twelve weeks may not be in
2 the same enclosure at the same time with other adult dogs, other
3 than the dam or foster dam unless under immediate supervision; and

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

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

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

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

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

20 (i) Nothing in this section prevents any local, state or
21 federal law-enforcement agency from investigating animal cruelty in
22 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.