

COMMITTEE SUBSTITUTE

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Senate Bill No. 437

(By Senators Unger, Beach and Yost)

[Originating in the Committee on the Judiciary;
reported April 1, 2013.]

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; setting forth responsibilities of the commercial dog breeder; setting forth the requirements for

maintaining adequate enclosures; providing for inspections; prohibiting a commercial dog breeder to operate if convicted of animal cruelty; providing no exemption for United States Department of Agriculture licensees; and providing criminal penalties or granting an improvement period.

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
8 the age of one year for the exclusive purpose of actively
9 breeding;

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

13 (C) Commercial dog breeder shall not include:

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

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

22 (3) “Class I Commercial Dog Breeder” means a
23 commercial dog breeder that possesses eleven to thirty
24 unsterilized dogs over the age of one year at any one time
25 for the exclusive purpose of actively breeding.

26 (4) “Class II Commercial Dog Breeder” means a
27 commercial dog breeder that possesses more than thirty
28 unsterilized dogs over the age of one year at any time.

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

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

35 (b) No commercial dog breeder may breed dogs without
36 a business registration certificate in accordance with section
37 three, article twelve, chapter eleven of this code and a valid
38 business license issued by the locality in which the dog
39 breeding operation is located, if the locality so requires.

40 (c) A commercial dog breeder shall:

41 (1) Obtain a permit annually to operate, as required by
42 the county commission in which the commercial dog breeding
43 operation is located. County commissions are authorized to
44 charge a fee to commercial dog breeders and shall deposit
45 the fees collected in a specially designated account to be
46 used for animal shelters, animal rescue and spay neuter
47 programs administered by county animal shelters or other

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48 humane organizations. The fee for a Class I commercial
49 dog-breeding permit shall be an amount determined by the
50 county commission, not to exceed \$250 per year. The fee
51 for a Class II commercial dog breeding permit shall be an
52 amount determined by the county commission, not to exceed
53 \$500 per year;

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

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

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

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

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

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

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

76 (9) Provide veterinary care without delay when
77 necessary;

78 (10) Maintain adequate staffing levels to ensure
79 compliance with this section; and

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

82 (A) Housing facilities and primary enclosures must
83 be kept in a sanitary condition and in good repair; must be
84 sufficiently ventilated at all times to minimize odors, drafts,

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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 and primary enclosures must
91 enable all dogs to remain dry and clean;

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

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

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 accumulation
107 and to reduce disease hazards, insects, pests and odors;

108 (H) All dogs in the same enclosure at the same time
109 must be compatible, as determined by observation. Breeding
110 females in heat may not be in the same enclosure at the
111 same time with sexually mature males, except for breeding
112 purposes. Breeding females and their litters may not be
113 in the same enclosure at the same time with other adult
114 dogs. Puppies under twelve weeks may not be in the same
115 enclosure at the same time with other adult dogs, other than
116 the dam or foster dam unless under immediate supervision;
117 and

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

120 (d) To ensure compliance with state animal care laws
121 and regulations, commercial dog breeding locations are
122 subject to biannual inspections by animal control officers or
123 law-enforcement officers.

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

127 (f) Any commercial dog breeder who violates any
128 provision of this section is guilty of a misdemeanor and,
129 upon conviction thereof, shall be fined not more than \$1,000
130 per violation. In any proceeding brought pursuant to the
131 provisions of this section, a circuit judge or magistrate
132 may grant a person accused of violating this section an
133 improvement period not to exceed one year upon such terms
134 and conditions as the judge or magistrate may determine.
135 Upon successful completion of the improvement period the
136 judge or magistrate shall dismiss the charges.

137 (g) Nothing in this section exempts a facility licensed
138 by the United States Department of Agriculture from
139 compliance.

140 (h) Nothing in this section prevents any local, state or
141 federal law-enforcement agency from investigating animal
142 cruelty in commercial dog breeding operations.