

1 COMMITTEE SUBSTITUTE

2 for

3 H. B. 2883

4 (By Delegates Mahan, Guthrie, Fragale and
5 Manypenny)

6
7 (Originating in the Committee on the Judiciary)

8 [February 22, 2011]

9
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:

25 (A) maintains eleven or more unsterilized dogs over the age of
26 one year and;

1 (B) is engaged in the business of breeding animals for direct
2 or indirect sale or for exchange in return for consideration and;

3 (C) sells or exchanges in return for consideration more than
4 15 dogs in a calender year, except that any person who holds an
5 occupational permit from, and has registered a greyhound kennel
6 name with, the West Virginia Racing Commission is not considered a
7 commercial dog breeder under this article.

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

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

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

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

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

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

4 (d) A commercial dog breeder shall:

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

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

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

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

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

26 (6) If selling directly to the public, post a conspicuous

1 notice containing the breeder's name, address and annual permit
2 number on each cage; and

3 (7) Provide for the humane treatment of dogs in accordance
4 with section nineteen, article eight, chapter sixty-one.

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

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

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

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

22 (ii) Housing facilities must enable all dogs to remain dry and
23 clean;

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

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

3 (v) A primary enclosure must have solid floors that are
4 constructed in a manner that protects the dogs' feet and legs from
5 injury;

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

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

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

21 (ix) Sick dogs shall be isolated sufficiently so as not to
22 endanger the health of other dogs.

23 (e) To ensure compliance with state animal care laws and
24 regulations, commercial dog breeding locations are subject to
25 inspection by animal control officers or law enforcement officers
26 at least twice annually, in addition to inspections arising under

1 subdivision (1) of this subsection. Animal control or law-
2 enforcement officers shall give a commercial breeder five business
3 days notice of any upcoming inspection.

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

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

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

12 (i) Nothing in this section prevents any local, state or
13 federal law-enforcement agency from investigating animal cruelty in
14 commercial dog breeding operations.