

1 **H. B. 2015**

2
3 (By Delegates Mahan, Fleischauer, Overington
4 and D. Poling)

5 [Introduced January 12, 2011; referred to the
6 Committee on Agriculture then the Judiciary.]

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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.

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, bulletins and signs.

24 (2) "Commercial dog breeder" means any person who maintains

1 twenty or more unsterilized dogs over the age of one year and is
2 engaged in the business of breeding animals for direct or indirect
3 sale or for exchange in return for consideration, except that any
4 person who holds an occupational permit and has registered a
5 greyhound kennel name with the West Virginia Racing Commission is
6 not considered a commercial dog breeder under this article.

7 (3) "Companion animal" means any domestic or feral dog under
8 the care, custody or ownership of a person.

9 (b) No commercial dog breeder may breed dogs in the state
10 without a valid business license issued by any locality, where
11 required.

12 (c) A commercial dog breeder shall:

13 (1) Obtain a permit annually to operate as required by the
14 county in which the commercial dog breeding operation is located.
15 The county commission of the county is authorized to set a fee and
16 deposit fees collected in the county revenue account in accordance
17 with the following:

18 (A) Class I-Maintain fifteen to forty unsterilized dogs over
19 the age of one year at any one time;

20 (B) Class II-Maintain more than forty unsterilized dogs over
21 the age of one year at any time;

22 (C) The fee for a Class I commercial dog breeding permit shall
23 be an amount determined by the county assessor, not to exceed \$250
24 per year. The fee for a Class II commercial dog breeding permit

1 shall be in an amount determined by the county commission, not to
2 exceed \$500 per year.

3 (2) A commercial dog breeder shall breed female dogs only if
4 the dog is between the age of eighteen months and eight years of
5 age and after annual certification by a licensed veterinarian that
6 the dog is in suitable health for breeding;

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

9 (4) Dispose of deceased dogs by cremation or burial in
10 accordance with local, state and federal laws and regulations;

11 (5) Dispose of dog waste in accordance with state and federal
12 laws and regulations;

13 (6) Maintain current, valid rabies certificates for every dog
14 over the age of four months;

15 (7) Include the breeder's annual permit number on any
16 advertisement for the sale of a dog;

17 (8) If selling directly to the public, post a conspicuous
18 notice containing the breeder's name, address and annual permit
19 number on each cage; and

20 (9) Provide for the humane treatment of dogs in accordance
21 with section nineteen, article eight, chapter sixty-one.

22 (A) Maintain adequate housing facilities and primary
23 enclosures that meet the following requirements at a minimum:

24 (i) Housing facilities and primary enclosures must be kept in

1 a sanitary condition and in good repair. Housing facilities where
2 dogs are kept must be sufficiently ventilated at all times to
3 minimize odors, drafts, ammonia levels and to prevent moisture
4 condensation. Housing facilities must have a means of fire
5 suppression, such as functioning fire extinguishers or sprinkler
6 system on the premises and must have sufficient lighting to allow
7 for observation of the dogs at any time of day or night;

8 (ii) Housing facilities must enable all dogs to remain dry and
9 clean;

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

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

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

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

21 (vii) Feces, hair, dirt, debris and food waste must be removed
22 from primary enclosures at least daily or more often if necessary
23 to prevent accumulation and to reduce disease hazards, insects,
24 pests and odors;

1 (viii) All dogs in the same enclosure at the same time must be
2 compatible, as determined by observation. Breeding females in heat
3 may not be in the same enclosure at the same time with sexually
4 mature males, except for breeding purposes. Breeding females and
5 their litters may not be in the same enclosure at the same time
6 with other adult dogs. Puppies under twelve weeks may not be in
7 the same enclosure at the same time with other adult dogs, other
8 than the dam or foster dam unless under immediate supervision; and

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

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

17 (C) Provide veterinary care without delay when necessary.

18 (d) A commercial dog breeder shall not 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 as household pets. A commercial dog breeder who is
22 required to reduce the number of dogs to comply with this section
23 shall spay or neuter, sell, transfer or relinquish the excess
24 dog(s) within thirty days following notification of the violation.

1 (e) Any commercial dog breeder who is the subject of an
2 investigation shall cooperate with authorities.

3 (f) Commercial dog breeding locations may be subject to
4 inspection by animal control officers or law enforcement at least
5 twice annually, in addition to inspections arising under
6 subdivision one of this subsection, to ensure compliance with state
7 animal care laws and regulations. Before an inspection is to take
8 place, animal control or law-enforcement officers shall give the
9 commercial breeder notice of the upcoming inspection, five business
10 days prior to said inspection.

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

14 (h) Any commercial dog breeder who violates any provision of
15 this section is guilty of a misdemeanor and, upon conviction
16 thereof, shall be fined not more than \$1,000 or confined in jail
17 not more than one year, or both fined and confined.

18 (i) All dogs in a commercial breeding operation must be
19 registered and a tax paid in accordance with the provisions of
20 section two, article twenty, chapter nineteen of this code through
21 section nine, article twenty, chapter nineteen of this code.

22 (j) Nothing in this section exempts a facility licensed by the
23 United States Department of Agriculture from compliance.

24 (k) Nothing in this section prevents any local, state or

1 federal law-enforcement agency from investigating animal cruelty in
2 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, it has been completely underscored.