

1 **H. B. 2883**

2  
3 (By Delegates Mahan, Guthrie, Fragale and  
4 Manypenny)

5 [Introduced January 27, 2011; referred to the  
6 Committee on 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 eleven 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 eleven to thirty 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) Maintain current, valid rabies certificates for every dog  
10 over the age of four months;

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

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

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

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

20 (i) Housing facilities and primary enclosures must be kept in  
21 a sanitary condition and in good repair. Housing facilities where  
22 dogs are kept must be sufficiently ventilated at all times to  
23 minimize odors, drafts, ammonia levels and to prevent moisture  
24 condensation. Housing facilities must have a means of fire

1 suppression, such as functioning fire extinguishers or sprinkler  
2 system on the premises and must have sufficient lighting to allow  
3 for observation of the dogs at any time of day or night;

4 (ii) Housing facilities must enable all dogs to remain dry and  
5 clean;

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

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

11 (v) A primary enclosure must have solid floors that are  
12 constructed in a manner that protects the dog's feet and legs from  
13 injury;

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

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

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

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

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

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

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

14 (d) A commercial dog breeder shall not possess, control or  
15 otherwise own or maintain more than fifty unsterilized dogs over  
16 the age of one year for the primary purpose of breeding and selling  
17 the offspring as household pets. A commercial dog breeder who is  
18 required to reduce the number of dogs to comply with this section  
19 shall spay or neuter, sell, transfer or relinquish the excess  
20 dog(s) within thirty days following notification of the violation.

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

23 (f) Commercial dog breeding locations may be subject to  
24 inspection by animal control officers or law enforcement at least

1 twice annually, in addition to inspections arising under  
2 subdivision (1) of this subsection, to ensure compliance with state  
3 animal care laws and regulations. Before an inspection is to take  
4 place, animal control or law-enforcement officers shall give the  
5 commercial breeder notice of the upcoming inspection, five business  
6 days prior to said inspection.

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

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

14 (i) Nothing in this section exempts a facility licensed by the  
15 United States Department of Agriculture from compliance.

16 (j) Nothing in this section prevents any local, state or  
17 federal law-enforcement agency from investigating animal cruelty in  
18 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.