

COMMITTEE SUBSTITUTE

FOR

H. B. 2883

(BY DELEGATES MAHAN, GUTHRIE, FRAGALE AND
MANYPENNY)

(Originating in the Committee on the Judiciary)
[February 22, 2011]

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.

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 the
8 age of one year and;

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

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

18 (A) “Class I Commercial Dog Breeder” means a
19 commercial dog breeder that possesses eleven to thirty
20 unsterilized dogs over the age of one year at any one time;

21 (B) “Class II Commercial Dog Breeder” means a
22 commercial dog breeder that possesses more than thirty
23 unsterilized dogs over the age of one year at any time;

24 (3) “Housing facility” means a structure in which dogs
25 are kept that provides them with shelter, protection from the
26 elements and protection from temperature extremes.

27 (4) “Primary Enclosure” means a structure that restricts
28 a dog's ability to move in a limited amount of space, such as
29 a room, cage or compartment.

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

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

40 (d) A commercial dog breeder shall:

41 (1) Obtain a permit annually to operate, as required by
42 the county in which the commercial dog breeding operation
43 is located. County Commissions are authorized to charge a
44 fee to commercial dog breeders and shall deposit the fees
45 collected in a specially designated account to be used for
46 animal rescue purposes and for spay/neuter programs
47 administered by county animal shelters or other humane
48 organizations. The fee for a Class I commercial dog breeding
49 permit shall be an amount determined by the County
50 Commission, not to exceed \$250 per year. The fee for a
51 Class II commercial dog breeding permit shall be an amount
52 determined by the County Commission, not to exceed \$500
53 per year.

54 (2) Breed female dogs, only if the dog is between the age
55 of eighteen months and eight years of age and only after the

56 breeder has obtained an annual certification by a licensed
57 veterinarian that the dog is in suitable health for breeding;

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

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

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

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

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

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.

75 (9) Provide veterinary care without delay when
76 necessary.

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

79 (i) Housing facilities and primary enclosures must be
80 kept in a sanitary condition and in good repair; housing
81 facilities must be sufficiently ventilated at all times to
82 minimize odors, drafts, ammonia levels and to prevent
83 moisture condensation; must have a means of fire
84 suppression, such as functioning fire extinguishers or
85 sprinkler system on the premises; and must have sufficient
86 lighting to allow for observation of the dogs at any time of
87 day or night;

88 (ii) Housing facilities must enable all dogs to remain dry
89 and clean;

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

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

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

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

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

106 (viii) All dogs in the same enclosure at the same time
107 must be compatible, as determined by observation. Breeding
108 females in heat may not be in the same enclosure at the same
109 time with sexually mature males, except for breeding
110 purposes. Breeding females and their litters may not be in
111 the same enclosure at the same time with other adult dogs.

112 Puppies under twelve weeks may not be in the same
113 enclosure at the same time with other adult dogs, other than
114 the dam or foster dam unless under immediate supervision;
115 and

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

118 (e) To ensure compliance with state animal care laws and
119 regulations, commercial dog breeding locations are subject to
120 inspection by animal control officers or law-enforcement
121 officers at least twice annually, in addition to inspections arising
122 under subdivision (1) of this subsection. Animal control or law-
123 enforcement officers shall give a commercial breeder five
124 business days notice of any upcoming inspection.

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

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

131 (h) Nothing in this section exempts a facility licensed by the

132 United States Department of Agriculture from compliance.

133 (i) Nothing in this section prevents any local, state or

134 federal law-enforcement agency from investigating animal

135 cruelty in commercial dog breeding operations.