

1 COMMITTEE SUBSTITUTE

2 FOR

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4 FOR

5 **Senate Bill No. 437**

6 (By Senators Unger, Beach and Yost)

7 \_\_\_\_\_  
8 [Originating in the Committee on the Judiciary;  
9 reported April 1, 2013.]

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11  
12 A BILL to amend the Code of West Virginia, 1931, as amended, by  
13 adding thereto a new section, designated §19-20-26, relating  
14 to protecting dogs by creating regulations for commercial dog-  
15 breeding operations; providing definitions; providing  
16 exceptions; allowing commercial breeders to sell dogs only as  
17 household pets; requiring a business license if required by  
18 the locality; authorizing county commissions to charge a fee  
19 to a commercial dog breeder to obtain an annual permit to  
20 operate; limiting the amount of the fee; setting forth  
21 responsibilities of the commercial dog breeder; setting forth  
22 the requirements for maintaining adequate enclosures;  
23 providing for inspections; prohibiting a commercial dog  
24 breeder to operate if convicted of animal cruelty; providing

1 no exemption for United States Department of Agriculture  
2 licensees; and providing criminal penalties or granting an  
3 improvement period.

4 *Be it enacted by the Legislature of West Virginia:*

5 That the Code of West Virginia, 1931, as amended, be amended  
6 by adding thereto a new section, designated §19-20-26, to read as  
7 follows:

8 **ARTICLE 20. DOGS AND CATS.**

9 **§19-20-26. Commercial dog-breeding operations.**

10 (a) As used in this section:

11 (1) "Advertisement" means any media used to promote the sale  
12 of dogs including, but not limited to, the Internet, newspapers,  
13 flyers, magazines, radio, television, bulletins and signs.

14 (2) "Commercial dog breeder" means any person who:

15 (A) Maintains eleven or more unsterilized dogs over the age of  
16 one year for the exclusive purpose of actively breeding;

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

20 (C) Commercial dog breeder shall not include:

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

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

4           (3) "Class I Commercial Dog Breeder" means a commercial dog  
5 breeder that possesses eleven to thirty unsterilized dogs over the  
6 age of one year at any one time for the exclusive purpose of  
7 actively breeding.

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

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

14          (6) "Primary enclosure" means a structure that restricts a  
15 dog's ability to move in a limited amount of space, such as a room,  
16 cage or compartment.

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

22          (c) A commercial dog breeder shall:

23           (1) Obtain a permit annually to operate, as required by the  
24 county commission in which the commercial dog breeding operation is

1 located. County commissions are authorized to charge a fee to  
2 commercial dog breeders and shall deposit the fees collected in a  
3 specially designated account to be used for animal shelters, animal  
4 rescue and spay neuter programs administered by county animal  
5 shelters or other humane organizations. The fee for a Class I  
6 commercial dog-breeding permit shall be an amount determined by the  
7 county commission, not to exceed \$250 per year. The fee for a  
8 Class II commercial dog breeding permit shall be an amount  
9 determined by the county commission, not to exceed \$500 per year;

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

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

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

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

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

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

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

8 (9) Provide veterinary care without delay when necessary;

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

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

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

20 (B) Housing facilities and primary enclosures must enable all  
21 dogs to remain dry and clean;

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

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

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

9 (G) 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 (H) 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 (I) Sick dogs shall be isolated sufficiently so as not to  
22 endanger the health of other dogs.

23 (d) To ensure compliance with state animal care laws and  
24 regulations, commercial dog breeding locations are subject to

1 biannual inspections by animal control officers or law-enforcement  
2 officers.

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

6 (f) Any commercial dog breeder who violates any provision of  
7 this section is guilty of a misdemeanor and, upon conviction  
8 thereof, shall be fined not more than \$1,000 per violation. In any  
9 proceeding brought pursuant to the provisions of this section, a  
10 circuit judge or magistrate may grant a person accused of violating  
11 this section an improvement period not to exceed one year upon such  
12 terms and conditions as the judge or magistrate may determine.  
13 Upon successful completion of the improvement period the judge or  
14 magistrate shall dismiss the charges.

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

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