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H. B. 2838

(By Delegates Fragale, Guthrie, Manypenny,
Ferns, Skaff, R. Phillips, Raines,
Barrett and Sponaugle)

[Introduced March 6, 2013; referred to the
Committee on Agriculture then the Judiciary.]

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; providing definitions; providing
exceptions; allowing commercial breeders to sell dogs only as
household pets; requiring a business license if required by
the locality; authorizing county commissions to charge a fee
to a commercial dog breeder to obtain an annual permit to
operate; limiting the amount of the fee which may be charged;
providing for the responsibilities of the commercial dog
breeder; setting forth the requirements for maintaining
adequate housing facilities and primary enclosures; providing
for inspections by animal control officers or law-enforcement
officers; prohibiting a commercial dog breeder to operate if
convicted of animal cruelty; providing for no exemption from
these provisions for a facility licensed by the United States

1 Department of Agriculture; and providing criminal penalties.

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

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

6 **ARTICLE 20. DOGS AND CATS.**

7 **§19-20-26. Commercial dog breeding operations.**

8 (a) As used in this section:

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

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

13 (A) Maintains eleven or more unsterilized dogs over the age of
14 one year;

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

18 (C) Commercial dog breeder does not include:

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

23 (ii) Any person who holds an occupational permit from, and has
24 registered a greyhound kennel name with, the West Virginia Racing

1 Commission.

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

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

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

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

14 (b) No commercial dog breeder may 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 exclusively as household pets. A commercial dog
18 breeder found to be in violation of this section shall spay or
19 neuter, sell, transfer or relinquish the excess dog(s) within
20 thirty days following notification of the violation.

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

24 (d) A commercial dog breeder shall:

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

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

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

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

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

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

24 (7) Provide for the humane treatment of dogs in accordance

1 with section nineteen, article eight, chapter sixty-one of this
2 code;

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

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

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

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

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

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

24 (D) Housing facilities must provide sufficient shade to

1 shelter all the dogs housed in the primary enclosure at one time;

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

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

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

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

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

22 (e) To ensure compliance with state animal care laws and
23 regulations, commercial dog breeding locations are subject to
24 inspection by animal control officers or law-enforcement officers

1 at least twice annually. Animal control or law-enforcement
2 officers shall give a commercial dog breeder five business days
3 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.

NOTE: The purpose of this bill is to protect dogs by creating regulations for commercial dog breeding operations.

§19-20-26 is new; therefore, it has been completely underscored.