

**Senate Bill No. 202**

(By Senator Kessler (Mr. President), Fitzsimmons, Beach, Miller,  
Laird, Nohe and Stollings)

[Introduced February 18, 2013; referred to the Committee on  
Agriculture and Rural Development; and then to the Committee on  
Finance.]

**FISCAL  
NOTE**

A BILL to amend and reenact §19-14-5 of the Code of West Virginia,  
1931, as amended; and to amend said code by adding thereto a  
new article, designated §19-20C-1, §19-20C-2, §19-20C-3, §19-  
20C-4 and §19-20C-5, all relating to creating and funding the  
Spay Neuter Assistance Fund; defining the purposes of the  
fund; requiring bookkeeping standards and annual reporting;  
and increasing certain commercial and pet feed registration  
fees.

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

That §19-14-5 of the Code of West Virginia, 1931, as amended,  
be amended and reenacted; and that said code be amended by adding  
thereto a new article, designated §19-20C-1, §19-20C-2, §19-20C-3,

1 §19-20C-4 and §19-20C-5, all to read as follows:

2 **ARTICLE 14. WEST VIRGINIA COMMERCIAL FEED LAW.**

3 **§19-14-5. Permits; registration.**

4 (a) Permits and registrations ~~shall not be~~ are not  
5 transferrable with respect to persons or locations.

6 (b) A person must apply for a permit or registration at least  
7 fifteen days ~~prior to~~ before the expiration of the current permit  
8 or registration expires; or at least fifteen days ~~prior to~~ before  
9 the date that the person intends to engage in business or market  
10 products in this state. All applications shall be accompanied by  
11 the fee established in this section. A penalty of ~~\$2~~ as provided  
12 by rule of the Department of Agriculture shall be added to the fee  
13 for all permits or registrations that are not applied for or  
14 renewed within the time limit.

15 (c) Persons manufacturing commercial feed or customer-formula  
16 feed in this state must obtain a Commercial Feed Manufacturing  
17 Permit, except all persons manufacturing feed for only ~~his/her~~ his  
18 or her animals on ~~his/her~~ his or her premises. Application forms  
19 shall be provided by the commissioner and include such information  
20 as established by rules. A separate permit shall be obtained for  
21 each manufacturing facility or location in this state. Each  
22 Commercial Feed Manufacturing Permit application shall be  
23 accompanied by an application fee of \$15. Each permit issued ~~shall~~

1 ~~expire~~ expires on December 31 next following the date of issue.

2 (d) Each person first distributing commercial feed into West  
3 Virginia trade channels must obtain a Commercial Feed Distributor  
4 Permit, except: (1) Persons distributing pet food exclusively, (2)  
5 persons holding a valid Commercial Feed Manufacturing Permit, and  
6 (3) persons distributing only those feeds that they register.  
7 Application forms shall be provided by the commissioner and include  
8 such information as established by rules. Each Commercial Feed  
9 Distributor Permit application shall be accompanied by an  
10 application fee of \$10. Each permit issued ~~shall expire~~ expires on  
11 December 31 next following the date of issue.

12 (e) All commercial feed distributed or used in this state,  
13 except customer-formula feed, must be registered. Commercial feed  
14 that can be uniquely identified by its brand name, product name,  
15 physical form or other descriptive term shall be registered as a  
16 separate product. Commercial feed that is packaged in such weights  
17 as to apply to several categories shall be registered in each  
18 applicable category. Application forms shall be provided by the  
19 commissioner and include such information as established by rules.

20 (1) Commercial feed, other than pet food, in packages over ten  
21 pounds or bulk shall be registered permanently. A registration fee  
22 of \$10 per product shall accompany each application for  
23 registration, except that there will be no fee for a revision of a

1 commercial feed already on file that involves a change in the net  
2 weight, a change in the list of ingredients, ~~and/or~~ a change in the  
3 guarantee for vitamins or minerals.

4 (2) ~~On August 31, 1991, permanent registrations for pet food~~  
5 ~~in packages over ten pounds are void and application for~~  
6 ~~registration and payment of fees will be required.~~ Pet food,  
7 including specialty pet foods, in packages over ten pounds or bulk  
8 shall be registered annually. A registration fee of ~~\$50~~ \$75 per  
9 product shall accompany each application for registration and \$25  
10 of the registration shall be deposited in the Spay Neuter  
11 Assistance Fund created by section one, article ~~ten~~ twenty-c of  
12 this chapter. The registration ~~shall expire~~ expires on August 31  
13 next following the date of issue.

14 (3) Commercial feed, excluding specialty pet food in packages  
15 of one pound or less, in packages of ten pounds and under shall be  
16 registered annually. A registration fee of ~~\$40~~ \$50 per product  
17 shall accompany each application for registration and \$10 of the  
18 registration shall be deposited in the Spay Neuter Assistance Fund  
19 created by section one, article twenty-c of this chapter. The  
20 registration ~~shall expire~~ expires on December 31 next following the  
21 date of issue.

22 (4) Specialty pet food, in packages of one pound or less shall  
23 be registered annually. A registration fee of \$20 per product

1 shall accompany each application for registration. The  
2 registration ~~shall expire~~ expires on December 31 next following the  
3 date of issue.

4 (f) A person is not required to register any brand name or  
5 product name of commercial feed which is already registered by  
6 another person.

7 (g) Alteration of commercial feed that changes the label  
8 requires a new application for a Commercial Feed Registration be  
9 made and approved before distribution.

10 **ARTICLE 20C. SPAY NEUTER ASSISTANCE FUND.**

11 **§19-20C-1. Fund created; administration of funds.**

12 (a) There is created in the State Treasury a special revenue  
13 account to be designated the "Spay Neuter Assistance Fund" which  
14 shall be an interest-bearing account that may be invested and  
15 retain all earnings.

16 (b) All moneys received and collected pursuant to this article  
17 shall be deposited into the "Spay Neuter Assistance Fund".  
18 Expenditures from the fund shall be exclusively for the purposes  
19 set forth in this article.

20 (c) Nothing in this article may be construed to mandate  
21 additional funding to the Spay Neuter Assistance Fund or to require  
22 any additional appropriations by the Legislature.

23 **§19-20C-2. Purpose of fund.**

1       The purposes of the fund is to provide funding to the Spay  
2 Neuter Assistance Program of West Virginia, Inc., a 26 U.S.C.  
3 §501(c)(3) nonprofit corporation. All moneys shall be used by the  
4 Spay Neuter Assistance Program of West Virginia, Inc. for the  
5 purpose of funding spay neuter programs throughout West Virginia in  
6 order to decrease the number of animals euthanized in West Virginia  
7 animal shelters.

8 **§19-20C-3. Contents of fund.**

9       The fund consists of moneys from specific statutory references  
10 in this article, gifts, donations and any additional appropriations  
11 by the Legislature.

12 **§19-20C-4. Records and annual report.**

13       The Spay Neuter Assistance Program of West Virginia, Inc.  
14 shall maintain a separate checking account and separate bookkeeping  
15 procedure for all moneys received from the fund. The Spay Neuter  
16 Assistance Program of West Virginia, Inc. shall file an annual  
17 report with the Department of Agriculture no later than January 31,  
18 of each year detailing expenditures of all money from the fund  
19 during the previous calendar year.

20 **§19-20C-5. Commercial feed fees.**

21       As stated in section five, article fourteen of this chapter,  
22 certain commercial feed registration fees shall be deposited into  
23 the Spay Neuter Assistance Fund created in section one of this

1 article.

NOTE: The purpose of this bill is to create and fund the Spay Neuter Assistance Fund. The bill defines the purposes of the fund and requires bookkeeping standards and annual reporting. The bill also increases certain commercial and pet feed registration fees.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.

Article 20C is new; therefore, strike-throughs and underscoring have been omitted.