

WEST VIRGINIA LEGISLATURE
EIGHTY-FIRST LEGISLATURE
REGULAR SESSION, 2013



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FOR

Senate Bill No. 437

(SENATORS UNGER, BEACH AND YOST, *ORIGINAL SPONSORS*)

[PASSED APRIL 12, 2013; IN EFFECT NINETY DAYS FROM PASSAGE.]

SB 437

SECRETARY OF STATE

2013 MAY -3 PM 12:10

FILED

FILED

2013 MAY -3 PM 12: 1

CLERK OF STATE

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Senate Bill No. 437

(SENATORS UNGER, BEACH AND YOST, *original sponsors*)

[Passed April 12, 2013; in effect ninety days from passage.]

AN ACT 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; setting forth responsibilities of the commercial dog breeder; setting forth the requirements for maintaining adequate enclosures; providing for inspections; prohibiting a commercial dog breeder to operate if convicted of animal cruelty; providing no exemption for United States Department of Agriculture licensees; and providing criminal penalties or granting an improvement period.

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 and
5 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 for the exclusive purpose of actively
9 breeding;

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

13 (C) Commercial dog breeder shall not include:

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

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

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

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

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

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

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

40 (c) A commercial dog breeder shall:

41 (1) Obtain a permit annually to operate, as required by the
42 county commission in which the commercial dog breeding
43 operation is located. County commissions are authorized to
44 charge a fee to commercial dog breeders and shall deposit the
45 fees collected in a specially designated account to be used for
46 animal shelters, animal rescue and 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 Class
51 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 after the breeder has obtained
55 an annual certification by a licensed veterinarian that the dog
56 is in suitable health for breeding;

57 (3) Dispose of dogs only by gift, sale, transfer, barter or
58 ethanasia by a licensed veterinarian;

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

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

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

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

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 unless otherwise directed by
75 a veterinarian for the health of the dog;

76 (9) Provide veterinary care without delay when
77 necessary;

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

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

82 (A) Housing facilities and primary enclosures must be
83 kept in a sanitary condition and in good repair; must be
84 sufficiently ventilated at all times to minimize odors, drafts,

85 ammonia levels and to prevent moisture condensation; must
86 have a means of fire suppression, such as functioning fire
87 extinguishers or a sprinkler system on the premises; and must
88 have sufficient lighting to allow for observation of the dogs
89 at any time of day or night;

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

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

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

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

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

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

107 (H) All dogs in the same enclosure at the same time must
108 be compatible, as determined by observation. Breeding
109 females in heat may not be in the same enclosure at the same
110 time with sexually mature males, except for breeding
111 purposes. Breeding females and their litters may not be in the
112 same enclosure at the same time with other adult dogs.
113 Puppies under twelve weeks may not be in the same
114 enclosure at the same time with other adult dogs, other than

115 the dam or foster dam unless under immediate supervision;
116 and

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

119 (d) To ensure compliance with state animal care laws and
120 regulations, commercial dog breeding locations are subject to
121 biannual inspections by animal control officers or law-
122 enforcement officers.

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

126 (f) Any commercial dog breeder who violates any
127 provision of this section is guilty of a misdemeanor and, upon
128 conviction thereof, shall be fined not more than \$1,000 per
129 violation. In any proceeding brought pursuant to the
130 provisions of this section, a circuit judge or magistrate may
131 grant a person accused of violating this section an
132 improvement period not to exceed one year upon such terms
133 and conditions as the judge or magistrate may determine.
134 Upon successful completion of the improvement period the
135 judge or magistrate shall dismiss the charges.

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

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

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Rocky Filsum
.....
Member ~~Chairman~~ Senate Committee

Danny Wells
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Joseph M. Minard
.....
Clerk of the Senate

Suzanne S.
.....
Clerk of the House of Delegates

Jeffrey A.
.....
President of the Senate

Gregory
.....
Speaker of the House of Delegates

2013 MAY -3 PM 12:11
FILED
SECRETARY OF STATE

The within *is approved* this the *31st*
Day of *May*, 2013.

Carl Roy Tompkins
.....
Governor

PRESENTED TO THE GOVERNOR

APR 25 2013

Time 3:35 p