

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 4653

BY DELEGATE SKINNER (BY REQUEST)

[Introduced February 22, 2016; Referred
to the Committee on Agriculture and Natural
Resources then Government Organization.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §19-20E-1, §19-20E-2, §19-20E-3, §19-20E-4, §19-20E-5 and §19-20E-6, all
 3 relating to spaying and neutering of companion animals; making legislative findings;
 4 stating its purpose; setting forth its scope; requiring the reproductive neutering of domestic
 5 dogs and cats; providing exceptions; establishing certain conclusive presumptions;
 6 providing certain rebuttable presumptions; requiring the registration of breeders; providing
 7 exceptions; providing for enforcement; and establishing penalties.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
 2 article, designated §19-20E-1, §19-20E-2, §19-20E-3, §19-20E-4, §19-20E-5 and §19-
 3 20E-6, all to read as follows:

ARTICLE 20E. SPAYING AND NEUTERING OF COMPANION ANIMALS.

§19-20E-1. Legislative findings and purpose.

1 The Legislature takes cognizance that millions of dogs and cats are destroyed by animal
 2 wardens and in shelters nationwide each year for no reason other than that they are unwanted
 3 and that strong private measures to educate and persuade the owners and keepers of pet dogs
 4 and cats to reproductively neuter their animals have failed to appreciably diminish the number of
 5 animals destroyed each year. Without passing judgment on whether or not this practice is
 6 necessary or socially desirable, the Legislature finds that it is appropriate to take a legislative
 7 approach to population control among domestic dogs and cats in an effort to minimize the number
 8 of animals destroyed each year in the hope that those practices may one day be rendered
 9 unnecessary or greatly reduced in number.

§19-20E-2. Scope.

1 This article applies to all owners and keepers of domestic dogs and cats of reproductive
 2 age except as to animals which are:

3 (1) Kept as breeding stock by registered breeders of purebred domestic dogs and cats;

4 (2) Kept by operators of registered animal shelters and rescues for purposes of offering
5 the animal for adoption;

6 (3) Kept by animal wardens and other public officials as part of their official duties;

7 (4) Kept for scientific or research purposes by operators of licensed facilities utilizing
8 domestic dogs and/or cats for those purposes;

9 (5) Kept by law-enforcement authorities for purposes of carrying out law enforcement
10 duties; and

11 (6) Kept by educational institutions for purposes of providing education in the field of
12 veterinary sciences.

§19-20E-3. Reproductive neutering of domestic dogs and cats required.

1 (a) Every owner or keeper of any domestic dog or cat of reproductive age shall, upon the
2 animal attaining reproductive age, cause the animal to be reproductively neutered by a licensed
3 veterinarian. It is unlawful for any person to own or keep a domestic dog or cat which is of
4 reproductive age and which has not been reproductively neutered unless, in the opinion of any
5 licensed veterinarian, there exists some medical reason that would render the neutering
6 procedure medically inadvisable as regards to the animal or that the animal is permanently
7 incapable of reproduction for reasons other than having been spayed or neutered. A certificate
8 from a licensed veterinarian attesting that the reproductive neutering procedure would be
9 medically inadvisable as to the animal or that the animal is permanently incapable of reproduction
10 for reasons other than having been spayed or neutered is a complete defense to any charge of
11 violation of this section.

12 (b) Any person convicted of violating the subsection (a) of this section shall be fined \$50
13 for the first offense; \$200 for the second offense and \$500 for a third or subsequent offense. The
14 terms "second offense" and "third or subsequent offense" refers to the number of times the owner
15 or keeper has been convicted under this section, regardless of whether the prior offenses related

16 to the neutering of the same or a different animal. It is a rebuttal presumption that the head of any
17 household wherein the animal is kept is the owner or keeper thereof.

18 (d) Should any owner or keeper of any animal who is charged under this section thereafter
19 produce a certificate from a licensed veterinarian that the animal has been reproductively
20 neutered, prior to the adjudication of the charge, the charge shall be dismissed and no fine or
21 costs may be imposed. This defense is available to any person charged under this section
22 regardless of whether the person has previously been charged or convicted hereunder or the
23 number of times the person has previously been charged or convicted hereunder.

24 (e) In any prosecution which is cognizable in magistrate court or municipal court,
25 certification upon the letterhead of any licensed veterinarian and bearing an original signature of
26 said veterinarian is, without further authentication, be admissible in evidence for purposes of
27 establishing that the animal in question has been spayed or neutered, is permanently incapable
28 of reproduction for reasons other than having been spayed or neutered or suffers from some
29 ailment or condition which would render spaying or neutering medically inadvisable as to the
30 animal and is not objectionable as hearsay.

31 (f) For purposes of establishing that the animal in question has been spayed or neutered,
32 either before or after the institution of charges hereunder, a receipt from any licensed veterinarian
33 clearly identifying the veterinarian, the animal in question and the procedure undertaken is a
34 certification without necessity of an original signature appearing thereupon.

35 (g) If any issue is raised as to the authenticity of any veterinary certification referenced
36 herein or that any the certification has been falsified, forged or altered, the hearing officer may
37 compel the person charged hereunder, upon reasonable notice and opportunity to secure the
38 testimony, to establish the matters stated therein through the in-person testimony of the
39 veterinarian or other means to which the parties and the hearing officer may agree.

40 (h) The presentation in evidence of the certification which is in authentic, in whole or in
41 part, or which has been falsified, forged or altered, in whole or in part, is punishable as false

42 swearing pursuant to section two, article five, chapter sixty-one of this code or, in the discretion
43 of the hearing officer, as contempt of court.

§19-20E-4. Reproductive age.

1 (a) It is conclusively presumed that a female dog is capable of reproduction at age nine
2 months and a male dog at the age of one year. It is conclusively presumed that male and female
3 cats are capable of reproduction at age six months.

4 (b) In any prosecution, the opinion of any licensed veterinarian who has examined the
5 animal in question as to the age of the animal is admissible in evidence and it is a rebuttable
6 presumption to accurately state the true age of the animal.

7 (c) In any prosecution pursuant to this section which is cognizable in magistrate court or
8 municipal court, certification upon the letterhead of any licensed veterinarian and bearing an
9 original signature of said veterinarian shall, without further authentication, be admissible in
10 evidence for purposes of establishing the age of the animal in question and is not objectionable
11 as hearsay.

12 (d) If any issue is raised as to the authenticity of the certification or that the certification
13 has been falsified, forged or altered, or that the opinion of the certifying veterinarian is inaccurate,
14 the hearing officer may compel the proponent of the evidence, upon reasonable notice and
15 opportunity to secure the testimony, to establish the matters stated therein through the in-person
16 testimony of the veterinarian or other means to which the parties and the hearing officer may
17 agree.

18 (e) The presentation in evidence of the certification which is inauthentic, in whole or in
19 part, or which has been falsified, forged or altered, in whole or in part, is punishable as false
20 swearing pursuant to section two, article five, chapter sixty-one of this code or, in the discretion
21 of the hearing officer, as contempt of court.

§19-20E-5. Registration of breeders; exemptions.

1 (a) The clerk of the county commission of each county shall maintain a registry of

2 breeders, animal shelters, animal rescues, scientific and educational institutions exempted from
3 this article pursuant to section two of this article.

4 (b) Any person or entity seeking an exemption shall provide a sworn affidavit setting forth
5 the grounds upon which they claim the exemption together with a registration fee not to exceed
6 \$10.

7 (c) Registration or the submission of an application for registration under this section shall
8 be deemed permission of the registrant or applicant to allow any humane officer or animal warden,
9 upon prior arrangement as to time and place, to inspect the animals, premises or facilities of the
10 registrant or applicant to verify the information provided in the registrant's or applicant's sworn
11 affidavit and to thereafter inspect the animals, premises or facilities of the registrant or applicant,
12 upon prior arrangement as to time and place, for the purpose at intervals of not less than six
13 months following any prior inspection. Unreasonable refusal to permit the inspection is grounds
14 for denial of any application or the revocation of any registration hereunder.

15 (d) Providing false information in any sworn affidavit hereunder is punishable as false
16 swearing pursuant to section two, article five, chapter sixty-one of this code.

17 (e) Nothing herein limits the right of any humane officer or animal warden to inspect the
18 animals, premises or facilities at any other time in conjunction with any complaint or investigation
19 of animal neglect or cruelty.

20 (f) A certificate of exemption issued in any county has statewide effect.

§19-20E-6. Enforcement.

1 Other than as stated in section five of this article, no law-enforcement officer, humane
2 officer or animal warden may enter upon private property solely for the purpose of inspecting
3 animals kept thereupon for compliance with the provisions of this article other than with the
4 express permission of the occupant thereof. Nor may any law-enforcement officer, humane officer
5 or animal warden be authorized to enter upon private property solely for the purpose of
6 investigating any suspected violation of this article other than with the express permission of the

- 7 occupant thereof. Nothing herein restricts the right of any law-enforcement officer, humane officer
8 or animal warden to inspect the premises and animals for compliance with this article while upon
9 private property in conjunction with any investigation or inspection otherwise permitted or required
10 by law.

NOTE: The purpose of this bill is to provide for the spaying and neutering of companion animals. The bill makes legislative findings. The bill states its purpose. The bill sets forth its scope. The bill requires the reproductive neutering of domestic dogs and cats. The bill provides exceptions. The bill establishes certain conclusive presumptions. The bill provides certain rebuttable presumptions. The bill requires the registration of breeders. The bill provides exceptions. The bill provides for enforcement. The bill establishes penalties.

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