

COMMITTEE SUBSTITUTE

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## **Senate Bill No. 437**

(By Senators Unger, Beach and Yost)

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[Originating in the Committee on the Judiciary;  
reported April 1, 2013.]

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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; 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  
5   and signs.

6           (2) “Commercial dog breeder” means any person who:

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

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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  
15 for the purpose of herding or guarding livestock or farm  
16 animals, hunting, tracking or exhibiting in dog shows,  
17 performance events or field and obedience trials; and

18           (ii) With respect to greyhound dogs only, any person  
19 who holds an occupational permit from, and has registered  
20 a 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  
25 for 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  
33   a dog’s ability to move in a limited amount of space, such as  
34   a 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  
42   the 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  
45   the fees collected in a specially designated account to be  
46   used for animal shelters, animal rescue and spay neuter  
47   programs administered by county animal shelters or other

48 humane organizations. The fee for a Class I commercial  
49 dog-breeding permit shall be an amount determined by the  
50 county commission, not to exceed \$250 per year. The fee  
51 for a Class II commercial dog breeding permit shall be an  
52 amount determined by the county commission, not to exceed  
53 \$500 per year;

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

57 (3) Dispose of dogs only by gift, sale, transfer, barter or  
58 euthanasia 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  
68   sixty-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  
75   by 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  
83   be kept in a sanitary condition and in good repair; must be  
84   sufficiently ventilated at all times to minimize odors, drafts,

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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  
88 must have sufficient lighting to allow for observation of the  
89 dogs 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  
93 protection from extreme temperatures and weather  
94 conditions that may be uncomfortable or hazardous to the  
95 dogs;

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

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

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

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

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

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

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



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

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

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

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