
WEST VIRGINIA CODE CHAPTER 19
ARTICLE 20

WV Legislature

§19-20-1. Dogs subject to taxation; declared to be personal property.

Any dog shall be and is hereby declared to be personal property within the meaning and construction of the laws of this state, and any dog above the age of six months shall be subject to taxation.

WV Legislature

§19-20-2. Collection of head tax on dogs; duties of assessor and sheriff; registration of dogs; disposition of head tax; taxes on dogs not collected by assessor.

It shall be the duty of the county assessor and his or her deputies of each county within this state, at the time they are making assessment of the personal property within such county, to assess and collect a head tax of \$3 on each dog, male or female; and in addition to the above, the assessor and his or her deputies shall have the further duty of collecting any such head tax on dogs as may be levied by the ordinances of each and every municipality within the county. However, no head tax may be levied against any guide or support dog especially trained for the purpose of serving as a guide, leader, listener or support for a blind person, deaf person or a person who is physically or mentally disabled because of any neurological, muscular, skeletal or psychological disorder that causes weakness or inability to perform any function. Guide or support dogs must be registered as provided by this section. In the event that the owner, keeper or person having in his or her possession or allowing to remain on any premises under his or her control any dog above the age of six months, shall refuse or fail to pay such tax, when the same is assessed or within fifteen days thereafter, to the assessor or deputy assessor, then such assessor or deputy assessor shall certify such tax to the county dog warden; if there be no county dog warden he or she shall certify such tax to the county sheriff, who shall take charge of the dog for which the tax is delinquent and impound the same for a period of fifteen days, for which service he or she shall be allowed a fee of \$1.50 to be charged against such delinquent taxpayer in addition to the taxes herein provided for. In case the tax and impounding charge herein provided for shall not have been paid within the period of fifteen days, then the sheriff may sell the impounded dog and deduct the impounding charge and the delinquent tax from the amount received therefor, and return the balance, if any, to the delinquent taxpayer. Should the sheriff fail to sell the dog so impounded within the time specified herein, he or she shall kill such dog and dispose of its body.

At the same time as the head tax is assessed, the assessor and his or her deputies shall, on the forms prescribed under section four of this article, take down the age, sex, color, character of hair (long or short) and breed (if known) and the name and address of the owner, keeper or harbinger thereof. When the head tax, and extra charges, if any, are paid, the officer to whom payment is made shall issue a certificate of registration and a registration tag for such dog.

In addition to the assessment and registration above provided for, whenever a dog either is acquired or becomes six months of age after the assessment of the personal property of the owner, keeper or harbinger thereof, the said owner, keeper or harbinger of said dog shall, within ten days after the acquisition or maturation, register the said dog with the assessor, and pay the head tax thereon unless the prior owner, keeper or harbinger paid the head tax.

All certificates of registration and registration tags issued pursuant to the provisions of this section shall be issued for the fiscal year and shall be valid from the date on which issued until June 30 of that fiscal year, or until reissued by the assessor or his or her deputy in the regular performance of his or her duties, but in no case shall previous registration tags be

valid after September thirtieth of the next ensuing fiscal year.

The assessor collecting the head tax on dogs shall be allowed a commission of ten percent upon all such taxes collected by him or her, and shall turn in to the county treasury ninety percent of such taxes so collected, as are levied by this section; and the assessor shall turn over to the treasurer or other proper officer of each and every municipality within the county ninety percent of such taxes levied by the ordinances of such municipality. All such dog taxes, except those belonging to municipalities, shall be accredited to the dog and kennel fund provided for in section ten of this article. Such dog taxes as are collected for and turned over to municipalities shall be deposited by the proper officer of such municipalities to such fund and shall be expended in such manner as the law of such municipality may provide. All taxes on dogs not collected by the assessor shall be collected by the regular tax collecting officer of the county and placed to the credit of the dog and kennel fund.

§19-20-3. Registration of dog kennels; application; fee; expiration of certificate of registration.

Every owner or operator of a kennel, wherein dogs are bred, kept, boarded or sold as a commercial venture for profit shall annually, between July 1, and September 30, of each year, file with the assessor of the county in which such kennel is located, kept or maintained, an application for the registration of such kennel for the fiscal year. Such application shall state the location of the kennel, the name and address of the person actually in charge of and supervising it, and the name and address of the owner of the kennel. Upon the filing of such application, together with the payment to the assessor of a fee of \$10 the assessor shall issue a certificate of registration for such kennel. The registration of a kennel, as herein provided, shall entitle the registrant to register and receive certificates and tags for not more than five dogs without the payment of a separate head tax on such dogs. The head tax provided for in section two of this article shall, on such five or less dogs, be included in and charged against the kennel registration fee herein provided.

Every person upon becoming the owner or operator of a kennel of dogs as herein described after September 30, of any year shall, within three days after becoming such owner or operator, register such kennel for the remainder of the current fiscal year in the manner, and upon the payment of the registration fee, herein provided.

All certificates of registration issued pursuant to the provisions of this section shall be issued for the fiscal year, and shall be valid from the date on which issued until June 30 of that fiscal year.

§19-20-4. Forms for registration; records; registration tags; loss thereof.

The commissioner of agriculture shall prescribe the form of all applications, certificates of registration, and registration tags required by this article. Certificates of registration and registration tags shall bear identifying numbers.

A public record of all certificates of registration and registration tags issued under the provisions of this article shall be kept by the assessor of each county. Such record shall be kept intact and available for inspection for a period of not less than two years following the end of the registration year.

Registration tags shall be made of metal or some other suitable substance of a permanent nature. The design of such tags shall be changed from year to year so that identification of the year of issue of any tag may be made without close visual examination. If any registration tag be lost, a duplicate shall be furnished by such assessor upon proper proof of loss and the payment to him of a fee of 25¢.

§19-20-5. Wearing of registration tag by dog.

Every registered dog shall at all times wear a valid registration tag issued as provided in this article. The failure to have displayed or worn on any dog, at any time, of such valid tag shall be prima facie evidence that such dog is not registered and such dog shall be subject to be, and shall be, impounded, sold, or destroyed as hereinbefore or hereinafter provided.

WV Legislature

§19-20-6. County dog warden; rules and regulations for dog control; prosecution and penalties for violation of ordinances.

(a) The county commission of each county may appoint and employ a county dog warden, and such number of deputies, for such time, and at such compensation, as such county commission shall deem reasonable and necessary to enforce the provisions of this code with respect to the control and registration of dogs, the impounding, care and destruction of unlicensed dogs. Such county dog warden may be appointed a deputy assessor for the purpose of collecting the dog tax and registration fees, taking the dog registration and providing the tags authorized by this article. The county dog warden or any deputies may, in the discretion of the county commission, be regularly employed officers or agents of any humane society or society for the prevention of cruelty to animals, organized and operating under the laws of this state and owning, controlling and operating a suitable place within the county for impounding and destroying dogs. In addition to the compensation provided for above, a bounty of 50¢ per dog shall be paid to the county dog warden or deputy who captures an unregistered dog. Such county dog warden and deputy wardens shall each give bond in a sum of not less than \$1,000 and not more than \$2,000 conditioned on the faithful performance of their duties. Such bonds shall be filed with the county commission by which such persons are appointed.

The county dog warden and his deputies shall patrol the county in which they are appointed and shall seize on sight and impound any dog more than six months of age found not wearing a valid registration tag, except dogs kept constantly confined in a registered dog kennel. They shall be responsible for the proper care and final disposition of all impounded dogs. The county dog warden shall make a monthly report, in writing, to the county commission of his county. When any dog shall have been seized and impounded, the county dog warden shall forthwith give notice to the owner of such dog, if such owner be known to the warden, that such dog has been impounded and that it will be sold or destroyed if not redeemed within five days. If the owner of such dog be not known to the dog warden, he shall post a notice in the county courthouse. The notice shall describe the dog and the place where seized and shall advise the unknown owner that such dog will be sold or destroyed if not redeemed within five days.

(b) Any county commission may promulgate and enforce such ordinances, rules and regulations, not inconsistent with the provisions of this article, as it considers necessary or convenient for the control and management of all dogs in the county, or any portion thereof, regardless of the age of any such dog: Provided, That the county commissions may promulgate and enforce such ordinances, rules and regulations to the extent necessary for the implementation of the provisions contained in this article.

(c) The county commission of each county may provide in such ordinance for the arrest, conviction and punishment of any person who violates the provisions thereof. The county commission of each county may provide in any such ordinance that any person who violates the provisions of the ordinance is guilty of a misdemeanor, and, upon conviction thereof, that such person is subject to a fine or fines. The amount of such fine for a single violation of any

such ordinance may not exceed \$100. Magistrate courts and circuit courts shall have concurrent jurisdiction with respect to such misdemeanors.

WV Legislature

§19-20-6a. Authority of county commission to contract with private society, other county or municipality for the care and control of dogs and cats.

In addition to the powers granted to county commissions by section six of this article, the county commission of each county may contract with or reimburse any private incorporated society or association, county commission or municipality for the care, maintenance, control or destruction of dogs and cats.

WV Legislature

§19-20-7. Dog pound and equipment to be provided by county court [county commission]; exception.

The county court of each county, if the court appoints a county dog warden, shall provide the dog warden with nets and other suitable devices for taking dogs in a humane manner, and with facilities for transporting any dog seized to the dog pound, a suitable place for impounding dogs with proper provisions for their feeding and care, and humane equipment, devices and methods for destroying dogs: Provided, That in any county in which there is a society for the prevention of cruelty to animals or a humane society, incorporated and organized under the laws of this state, and having one or more duly appointed agents, and maintaining an animal home or shelter suitable for impounding dogs and possessing devices for humanely destroying dogs, the county court shall not be required to provide a dog pound, but it may designate such animal home or shelter as the county dog pound, and the county dog warden shall in such case deliver all dogs seized by him and his deputies to such animal home or shelter for impounding and disposition in the manner provided by this article. The county court shall provide for the payment of reasonable compensation, not to exceed the fees and costs provided for in this article, to such society for the use of its facilities and services in impounding and disposing of dogs. Such compensation to such society shall be paid from the fund provided for in this article.

§19-20-8. Impounding and disposition of dogs; costs and fees.

(a) All dogs seized and impounded as provided in this article, except dogs taken into custody under section two of this article, shall be kept housed and fed in the county or municipal shelter for five days after notice of seizure and impounding has been given or posted as required by this article, at the expiration of which time all dogs which have not previously been redeemed by their owners as provided in this article, shall be sold or humanely destroyed. No dog sold as provided in this section may be discharged from the county or municipal shelter until the dog has been registered and provided with a valid registration tag.

(b) (1) The term "humanely destroyed" as used in this section means:

(A) Humane euthanasia of an animal by hypodermic injection by a licensed veterinarian or by an animal euthanasia technician certified in accordance with the provisions of article ten-a, chapter thirty of this code; or

(B) Any other humane euthanasia procedure approved by the American Veterinary Medical Association, the Humane Society of the United States or the American Humane Association.

(2) The term "humanely destroyed" does not include euthanizing a dog or cat by means of a gas chamber: Provided, That any county which has a gas chamber in operation as of the effective date of this section may continue to operate the gas chamber subject to the following: (1) The gas chamber shall be operated by an animal euthanasia technician certified pursuant to article ten-a, chapter thirty of this code; and (2) the gas chamber shall have been manufactured and installed by a person who regularly manufactures and installs gas chambers. The Board of Veterinary Medicine shall promulgate emergency rules regarding the inspection of gas chambers, pursuant to section fifteen, article three, chapter twenty-nine-a of this code.

(c) In an emergency or in a situation in which a dog cannot be humanely destroyed in an expeditious manner, a dog may be destroyed by shooting if:

(1) The shooting is performed by someone trained in the use of firearms with a weapon and ammunition of suitable caliber and other characteristics designed to produce instantaneous death by a single shot; and

(2) Maximum precaution is taken to minimize the dog's suffering and to protect other persons and animals.

(d) The owner, keeper or harbinger of any dog seized and impounded under the provisions of this article may, at any time prior to the expiration of five days from the time that notice of the seizure and impounding of the dog has been given or posted as required by this article, redeem the dog by paying to the dog warden or his or her authorized agent or deputy all of the costs assessed against the dog and by providing a valid certificate of registration and

registration tag for the dog.

(e) Reasonable costs and fees, in an amount to be determined, from time to time, by the county commission, shall be assessed against every dog seized and impounded under the provisions of this article, except dogs taken into custody under section two of this article. The cost shall be a valid claim in favor of the county against the owner, keeper or harbinger of any dog seized and impounded under the provisions of this article and not redeemed or sold as provided in this section and the costs shall be recovered by the sheriff in a civil action against the owner, keeper or harbinger.

(f) A record of all dogs impounded, the disposition of the dogs and a statement of costs assessed against each dog shall be kept by the dog warden and a transcript thereof shall be furnished to the sheriff quarterly.

(g) All persons or entities in the state performing euthanasia under this article shall register with the board of Veterinary Medicine by December 31, 2009, in a manner to be prescribed by the board. The Board of Veterinary Medicine shall promulgate emergency rules relating to the registration of those performing animal euthanasia, pursuant to section fifteen, article three, chapter twenty-nine-a of this code.

§19-20-8a. Joint ownership, etc., by counties and municipalities of dog pounds; joint employment of dog wardens.

The county court of any county may contract with any municipality within the county for the joint ownership, leasing, operation and maintenance within the county of a dog pound and may jointly employ a dog warden or dog wardens.

WV Legislature

§19-20-9. Failure to register dog or kennel; alteration or forging of registration certificate or tag; penalties.

Any person who owns, keeps, or harbors a dog, or who owns or operates a kennel, subject to registration under the provisions of this article, and who fails, refuses, or neglects to register such dog or kennel, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than twenty-five nor more than \$100.

Any person who shall alter, or forge any certificate or tag, provided for in this article, or display, present, or utter such certificate as valid with knowledge that it has been altered or forged, or who knowingly causes or permits any dog owned, kept or harbored by him to wear any fictitious, altered, or invalid registration tag in place of a valid tag as required under the provisions of this article, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment in the county jail for not more than thirty days or by a fine of not less than \$100 nor more than \$500, or by both such fine and imprisonment.

§19-20-9a. Dogs, cats, etc.; rabies observation.

(a) Any person who owns or harbors any dog, cat or other domesticated animal, whether licensed or unlicensed, which bites any person, shall forthwith confine and quarantine the animal for a period of ten days for rabies observation.

(b) If any unvaccinated domesticated animal is bitten by a rabid animal, the owner shall confine the bitten animal for a period of six months. The animal shall be vaccinated or revaccinated after five months.

(c) If the animal is not confined and quarantined as directed in subsections (a) and (b) of this section, the humane officer, dog warden or sheriff may cause the animal to be placed in the custody and care of a licensed veterinarian for that purpose at the owner's expense. The penalty for any violation of this section is a fine of \$50 or confinement in the county or regional jail for a period of no less than two nor more than three days.

§19-20-10. Dog and kennel fund; disposition thereof.

All registration fees, head taxes, and fees and costs for impounding and disposing of dogs, as provided in this article, and collected thereunder, shall be paid into the county treasury where they shall constitute and be set aside as a special fund to be designated the "dog and kennel fund."

The county commission shall expend such fund, and issue drafts payable therefrom, for the following purposes, and no others: To pay the actual expenses incurred by the county commission, the county assessor, and the sheriff in carrying out the provisions of this article; to pay for the services of the dog warden, his deputies, poundkeepers, and such other persons as may be employed, if any, or may render services, in actually carrying out the provisions of this article; to pay in its discretion to the dog warden and his deputies mileage at the rate up to 15¢ per mile for the use of their privately owned vehicles actually used in carrying out the provisions of this article; to pay for the purchase, procurement, rental, construction, operation, maintenance and repair of any property, devices or facilities reasonably necessary and required to carry out the provisions of this article; to compensate any department of the state government or any local board of health for any necessary service rendered in connection with this article; to pay the costs of any rabies control project or program authorized by law; to compensate any persons who have suffered loss or damage on account of the destruction, loss, or injury by dogs of any sheep, lamb, goat, kid or poultry, when such claims have been proved and allowed as provided in this article: Provided, however, That such compensation authorized by the county commission shall not exceed an amount double the assessed value of the destroyed or injured animals or poultry as shown on the assessor's records, and in the event such animals are not assessed, then compensation authorized by said court shall not exceed the average assessed value of like animals or poultry, or if no like animal or poultry is assessed, then not to exceed the fair market value as determined by the county commission.

In the event that the dog and kennel fund shall in any year be insufficient to pay the several items set forth in this section, then the county commission may be, and it is hereby, authorized and empowered to pay such items out of the county general fund. Any surplus of the dog and kennel fund remaining unexpended in the county treasury, and, in the opinion of the county commission, not needed for the payment and satisfaction of claims and expenses as herein provided, shall annually be paid into and credited to the county school fund, but the funds thus used shall be in an amount deemed proper and safe in the judgment and discretion of the county commission.

§19-20-11. Assessment of dogs as personal property.

In addition to the head tax on dogs provided for in this article, the owner of any dog above the age of six months shall be permitted to place a value on such dog and have such dog assessed as personal property in the same manner and at the same rate as other personal property.

WV Legislature

§19-20-12. Dogs, other animals and reptiles protected by law; unlawful killing thereof; aggrieved owner's remedy; penalties; penalties for unlawful stealing of companion animals.

(a) Any dog which is registered, kept and controlled as provided in this article or any dog, cat or other animal or any reptile which is owned, kept and maintained as a companion animal by any person, irrespective of age, is protected by law; and, except as otherwise authorized by law, any person who shall intentionally, knowingly or recklessly kill, injure, poison or in any other manner, cause the death or injury of any dog, cat, other animal or any reptile is guilty of a misdemeanor and, upon conviction thereof, shall be ordered to provide public service for not less than thirty nor more than ninety days or fined not less than \$300 nor more than \$500, or both. However, this section does not apply to a dog who is killed while attacking a person, a companion animal or livestock. Any person whose dog, cat, other animal or reptile as specified herein is killed or injured wrongfully or unlawfully by any other person shall have a right of action against the person who shall so kill or injure any dog, cat, animal or reptile.

(b) Any person who shall intentionally and unlawfully steal a dog, cat, other animal or reptile as specified in subsection (a) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be ordered to provide public service for not less than thirty nor more than ninety days or fined not less than \$300 nor more than \$500, or both. Any person violating the provisions of this subsection, for second or subsequent offense, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for a period of not less than ninety days nor more than six months, or shall be ordered to provide public service for not more than one year, and fined not less than \$1,000. In no case can any action or prosecution relating to a dog under the provisions of this section be maintained if the dog concerned has not been duly registered pursuant to the provisions of this article or owned and kept pursuant to the provisions of this section or owned and kept pursuant to the provisions of this section at the time the cause of action shall have arisen.

(c) No person other than the owner of a registered dog may remove a tag, collar or other identifying apparel from the registered dog, nor remove or turn off a radio transmitting collar on the registered dog, without the permission of the owner, unless removal of the tag, collar or apparel is necessary to prevent or treat an injury to the dog or is done by a law-enforcement officer for a legitimate law-enforcement purpose. Any person who intentionally removes a tag, collar or other apparel from a registered dog in violation of the provisions of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be ordered to provide community service for not less than eight hours nor more than forty hours or fined not less than \$50 nor more than \$150 or both.

(d) The Commissioner of Agriculture is hereby authorized to designate a reasonable number of his or her present employees as may be necessary to investigate alleged incidents of the unlawful stealing of dogs, other domestic animals or reptiles, alleged incidents of cruelty to animals or reptiles and the alleged incidents of the unlawful stealing of animals or reptiles for the purpose of sale to medical or other research companies. The deputies shall make the

results of their investigations known to any law-enforcement officers who have authority to enforce the provisions of this article.

(e) It shall be the duty of all members of the West Virginia State Police, sheriffs and police officers to aid in the enforcement of the provisions of this article and, for services rendered in the enforcement thereof, those persons shall be entitled to fees in the amounts set forth in section eight of this article. The fees shall be paid by the county commission from the dog and kennel fund.

WV Legislature

§19-20-13. Dog running at large; liability of owner.

Any owner or keeper of any dog who permits such dog to run at large shall be liable for any damages inflicted upon the person or property of another by such dog while so running at large.

WV Legislature

§19-20-14. Dog killing, wounding or worrying livestock or poultry -- Recovery of damages.

If any dog has killed or assisted in killing, wounding or worrying any sheep, lambs, goats, kids, calves, cattle, swine, show or breeding rabbits, horses, colts or poultry out of the enclosure of the owner of the dog, the owner or keeper of the dog shall be liable for the sheep, lambs, goats, kids, calves, cattle, swine, show or breeding rabbits, horses, colts or poultry in the amount of the damages sustained, to be recovered in an action before any court or magistrate having jurisdiction of the action. It shall not be necessary to sustain the action to prove that the owner of the dog knew the dog was accustomed to worrying, killing or wounding. A recovery under this section shall bar and preclude the owner of the sheep, lambs, goats, kids, calves, cattle, swine, show or breeding rabbits, horses, colts or poultry from obtaining compensation from the county commission under the provisions of this article. If the person suffering the loss or damage cannot ascertain the owner or keeper of the dog, or if the owner or keeper is not financially responsible, then the person suffering the loss or damage may file his claim with and prove the same before the county commission of the county in which the loss or damage is sustained, in the manner provided in this article, and the commission shall pay the loss or damage out of the fund provided for such purposes and according to the provisions of this article. When compensation is so obtained from the county commission, the county commission is authorized to sue under this section and recover as the owner of the sheep, lambs, goats, kids, calves, cattle, swine, show or breeding rabbits, horses, colts or poultry. The amount so recovered shall be paid into the county treasury; but no suit shall be commenced unless authorized by the county commission.

§19-20-15. Same -- Assessment of damages; appraisers.

Authority is hereby given to magistrates and notaries public within this state, and within their respective jurisdictions, to summon three substantial, upright and worthy bona fide residents, citizens and taxpayers of his county to assess the damages suffered by any person on account of the destruction, loss or injury of any sheep, lambs, goats, kids, calves, cattle, swine, show or breeding rabbits, horses, colts or poultry by dogs within the county. The appraisers shall be appointed upon the request of a person suffering damages on account of such destruction, loss or injury. The appraisers shall go upon the ground and investigate fully the extent of the destruction, loss or injury, taking all the evidence deemed necessary to arrive at the facts to be passed upon in arriving at the amount of damage, if any, suffered by the party making the complaint. Before the appraisers may be summoned by the magistrate or notary public, the complainant shall be required to make a sworn complaint before the magistrate or notary public, setting out in plain, easily comprehensible terms the facts concerning his damages to the best of his knowledge. After making a full investigation of the facts involved, the appraisers, with the assistance of the magistrate or notary public, shall make a sworn statement and report the facts ascertained and the damages suffered. The report and statement shall be filed with the county commission or the clerk thereof in vacation. The fees and mileage for services allowed in such cases shall be the same as are allowed magistrates, witnesses and arbitrators in magistrates' courts in this state for similar services. In the event that the appraisers find that the complainant has suffered no damage, then the complainant shall be responsible for and pay all the costs and expenses of the proceeding. In the event that the complainant has suffered damages on account of the destruction, loss or injury of his domestic animals, according to the finding of the appraisers, the owner, keeper or person permitting the dog, or dogs, causing the damage to remain upon the premises under his control shall be liable for all damages sustained by the complainant, including all costs and necessary expenses. All of the damages shall be collectible by an action at law before any court or magistrate having jurisdiction of the matter. All papers in connection with any claim shall be filed and preserved in the office of the clerk of the county commission.

§19-20-16. Same -- When lawful to kill dog.

A person may kill a dog that he may see chasing, worrying, wounding or killing any sheep, lambs, goats, kids, calves, cattle, swine, show or breeding rabbits, horses, colts or poultry outside of the enclosure of the owner of the dog, unless the chasing or worrying be done by the direction of the owner of the sheep, lambs, goats, kids, calves, cattle, swine, show or breeding rabbits or horses and colts or poultry.

WV Legislature

§19-20-17. Same -- Unlawful to harbor dog; penalty.

A person who shall harbor or secrete or aid in secreting a dog which he knows or has reasons to believe has worried, chased or killed any sheep, lambs, goats, kids, calves, cattle, swine, show or breeding rabbits, horses, colts or poultry not the property of the owner of the dog, out of his enclosure, or knowingly permits the same to be done on any premises under his control, is guilty of a misdemeanor, and, upon conviction thereof, before any court or magistrate having jurisdiction thereof in the county in which the offense is committed, shall be fined not less than \$10 nor more than \$50, and, at the discretion of the court or magistrate, imprisoned in the county jail not more than thirty days. Each day that the dog is harbored, kept or secreted shall constitute a separate offense.

§19-20-18. Same -- Duty of owner to kill dog; proceeding before magistrate on failure of owner to kill.

The owner or keeper of a dog that has been worrying, wounding, chasing or killing any sheep, lambs, goats, kids, calves, cattle, swine, show or breeding rabbits, horses, colts or poultry not the property of the owner or keeper, out of his enclosure, shall, within forty-eight hours, after having received notice thereof in writing from a reliable and trustworthy source, under oath, kill the dog or direct that the dog be killed. If the owner or keeper refuses to kill the dog as hereinbefore provided, the magistrate, upon information, shall summon the owner or keeper of the dog, and, after receiving satisfactory proof that this dog did the mischief, shall issue a warrant on application being made by the owner of the sheep, lambs, goats, kids, calves, cattle, swine, show or breeding rabbits, horses, or colts or poultry killed; and give it into the hands of the sheriff, who shall kill the dog forthwith or dispose of by other available methods. The cost of the proceedings shall be paid by the owner or keeper of the dog so killed, including a fee of 50¢ to the officer killing the dog. The owner or keeper of the dog so killed shall, in addition to the costs, be liable to the owner of the sheep, lambs, goats, kids, calves, cattle, swine, show or breeding rabbits, horses, colts or poultry or to the county commission for the value of the sheep, lambs, goats, kids, calves, cattle, swine, show or breeding rabbits, horses or colts or poultry so killed or injured.

§19-20-19. Offenses; criminal penalties; jurisdiction.

A person who violates any of the provisions of this article for which no specific penalty is prescribed is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$100, or imprisoned in the county jail not more than thirty days, or both fined and imprisoned. Magistrates shall have concurrent jurisdiction with the circuit courts to enforce the penalties prescribed by this article.

WV Legislature

§19-20-19a. Dog warden and deputy dog wardens; power to issue citations.

The county commission may, at its discretion, empower county dog wardens and deputy dog wardens to issue citations for violation of provisions of this article.

WV Legislature

§19-20-20. Keeping vicious dogs; humane officers may kill such dogs.

Except as provided in section twenty-one of this article, no person shall own, keep or harbor any dog known by him to be vicious, dangerous, or in the habit of biting or attacking other persons, whether or not such dog wears a tag or muzzle. Upon satisfactory proof before a circuit court or magistrate that such dog is vicious, dangerous, or in the habit of biting or attacking other persons or other dogs or animals, the judge may authorize the humane officer to cause such dog to be killed.

§19-20-21. License fee for keeping vicious or dangerous dog.

Any person who keeps a dog which is generally considered to be vicious, for the purpose of protection, shall acquire a special license therefor from the county assessor. The assessor shall charge \$10 for such license. Such license shall be required in addition to the license required under section two of this article. The keeper or owner shall properly secure such dog in such a manner so as to prevent injury to a person who lawfully passes through or enters upon the property of the keeper or owner. Nothing contained in this section shall constitute a defense to any action for personal injury, wrongful death or damage to property.

§19-20-22. Confinement of female dogs.

Every person owning or harboring a female dog, whether licensed or unlicensed, shall keep such dog confined in a building or secure enclosure for twenty-five days during the period of estrus.

WV Legislature

§19-20-23. Prohibition of the use of impounded dogs and cats.

On and after September 1, 1989, any dog or cat impounded under the provisions of this article may not be sold, given, transferred or otherwise made available directly or indirectly to any person, institution, corporation or other entity for use in educational or scientific research or related activities. Disposition of impounded dogs or cats may only be by adoption as pets or humanely destroyed. Any person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$450 nor more than \$2,000.

§19-20-24. Causing death or injury to animals used by law- enforcement officials or by fire prevention or investigation officials; criminal penalties.

Any person who, without justification, and with the unlawful intent to inflict serious physical injury or death, causes the death of any trained dog or horse used by law-enforcement officials, the Department of Military Affairs and Public Safety or by fire prevention or investigation officials in the performance of their official duties is guilty of a felony and, upon conviction thereof, shall be fined not less than \$500 nor more than \$5,000 and imprisoned in a correctional facility for a definite term of not less than one year nor more than three years.

Any person who, without justification, willfully and unlawfully causes physical injury to any trained dog or horse used by law-enforcement officials, the Department of Military Affairs and Public Safety or by fire prevention or investigation officials in the performance of their official duties is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$500 or confined in jail not more than six months, or both.

Any person convicted of a violation of this section shall be ordered to make restitution to the law-enforcement agency, the Department of Military Affairs and Public Safety or to the State Fire Marshal or other fire prevention or investigation department or agency owning the animal for any veterinary bills, and replacement costs of any disabled or killed animal.

§19-20-25. Retirement, transfer or disposal of state owned dogs and horses.

(a) Whenever any dog or horse, which is the property of the state, is unable to perform its duties as a service animal, the responsible governmental agency may:

(1) Transfer ownership of the dog or horse to another governmental agency within West Virginia;

(2) Transfer ownership of the dog or horse to the animal's handler;

(3) Transfer ownership of the dog or horse to a person who wishes to maintain the animal; or

(4) Transfer the dog or horse to the care and custody of any animal shelter, humane society or society for the prevention of cruelty to animals, organized and operating under the laws of this state, so that the dog or horse may be adopted. If the animal shelter, humane society or society for the prevention of cruelty to animals determines that the dog or horse is not suitable for adoption, then the animal may be humanely euthanized by a person licensed under the provisions of article ten or ten-a, chapter thirty of this code.

(b) In the event ownership of a dog or horse is transferred pursuant to subdivision (2), (3) or (4), subsection (a) of this section, the transfer documents must include provisions, signed by the person accepting ownership of the dog or horse, which hold the state harmless from any liability after the date of transfer.

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

(a) As used in this section:

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

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

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

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

(C) Commercial dog breeder shall not include:

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

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

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

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

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

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

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

(c) A commercial dog breeder shall:

(1) Obtain a permit annually to operate, as required by the county commission in which the commercial dog breeding operation is located. County commissions are authorized to charge

a fee to commercial dog breeders and shall deposit the fees collected in a specially designated account to be used for animal shelters, animal rescue and spay neuter programs administered by county animal shelters or other humane organizations. The fee for a Class I commercial dog-breeding permit shall be an amount determined by the county commission, not to exceed \$250 per year. The fee for a Class II commercial dog breeding permit shall be an amount determined by the county commission, not to exceed \$500 per year;

- (2) Breed female dogs only after the breeder has obtained an annual certification by a licensed veterinarian that the dog is in suitable health for breeding;
- (3) Dispose of dogs only by gift, sale, transfer, barter or euthanasia by a licensed veterinarian;
- (4) Maintain current, valid rabies certificates for every dog pursuant to article twenty-a of this chapter;
- (5) Include the breeder's annual permit number on any advertisement for the sale of a dog;
- (6) If selling directly to the public, post a conspicuous notice containing the breeder's name, address and annual permit number on each cage;
- (7) Provide for the humane treatment of dogs in accordance with section nineteen, article eight, chapter sixty-one of this code;
- (8) Provide dogs with easy and convenient access to adequate amounts of clean food and water. Food and water receptacles must be regularly cleaned and sanitized. All enclosures must contain potable water that is not frozen, is substantially free from debris and is readily accessible to all dogs in the enclosure at all times unless otherwise directed by a veterinarian for the health of the dog;
- (9) Provide veterinary care without delay when necessary;
- (10) Maintain adequate staffing levels to ensure compliance with this section; and (11) Maintain adequate housing facilities and primary enclosures that meet the following minimum requirements:
 - (A) Housing facilities and primary enclosures must be kept in a sanitary condition and in good repair; must be sufficiently ventilated at all times to minimize odors, drafts, ammonia levels and to prevent moisture condensation; must have a means of fire suppression, such as functioning fire extinguishers or a sprinkler system on the premises; and must have sufficient lighting to allow for observation of the dogs at any time of day or night;
 - (B) Housing facilities and primary enclosures must enable all dogs to remain dry and clean;
 - (C) Housing facilities must provide shelter and protection from extreme temperatures and weather conditions that may be uncomfortable or hazardous to the dogs;

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

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

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

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

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

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

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

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

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

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

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