WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1951

ENROLLED
Committee substitute for
HOUSE BILL No. 187

(By Mrs. Walker)

PASSED March 16, 1951

In Effect July 1, 1951 — Passage
AN ACT to repeal and reenact article twenty, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the registration and taxation of dogs and dog kennels, and the control of dogs.

Be it enacted by the Legislature of West Virginia:

That article twenty, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, be repealed and reenacted to read as follows:

   Section 1. Dogs Subject to Taxation; Personal Property.—Any dog above the age of six months shall be subject to taxation and shall be and is hereby declared to be personal property within the meaning and construction of the laws of this state.
Sec. 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 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 one dollar on each male or spayed female dog and of two dollars on each unspayed female dog; and in addition to the above, the assessor and his 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. In the event that the owner, keeper, or person having in his possession or allowing to remain on any premises under his 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 shall certify such tax to the county sheriff, who shall take charge of the dog for which the tax is de-
linquent and impound the same for a period of fifteen
days, for which service he shall be allowed a fee of one
dollar and fifty cents to be charged against such delin-
quent taxpayer in addition to the taxes herein provided
for. In case the tax and impounding charge herein pro-
vided 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 shall kill such dog and dispose of its
body.

At the same time as the head tax is assessed, the asses-
sor and his 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 harborer
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 harborer thereof, the said owner, keeper or harborer 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 harborer paid the head tax.

All certificates of registration and registration tags issued pursuant to the provisions of this section shall be issued for the calendar year and shall be valid from the date on which issued until the thirty-first day of December of the same year, or until reissued by the assessor or his deputy in the regular performance of his duties, but in no case shall previous registration tags be valid after March thirty-first, of the following year.

The assessor collecting the head tax on dogs shall be allowed a commission of ten per cent upon all such taxes.
collected by him, and shall turn in to the county treasury ninety per cent 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 per cent 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 municipality 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.

Sec. 3. Registration of Dog Kennels; Fee.—Every owner or operator of a kennel, wherein dogs are bred, kept, boarded or sold as a commercial venture for profit shall annually, between the first day of January and the thirty-first day of March 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 calendar 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 ten dollars 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 the thirty-first day of March of any year shall, within three days after becoming such owner or operator, register such kennel for the remainder of the current 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 calendar year, and shall be valid from the date on which issued until the thirty-first day of December of that year.

Sec. 4. Forms for Registration; Records; License Tags.—

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 twenty-five cents.

Sec. 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 here-
inafter provided.

Sec. 6. Appointment of County Dog Warden; Bond;
Powers and Duties.—The county court of each county
may appoint and employ a county dog warden, and such
number of deputies, for such time, and at such compens-
sation, as such county court shall deem reasonable and
necessary to enforce the provisions of this code with re-
spect to the control and registration of dogs, the im-
pounding, 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 and/or any deputies may, in the discretion of the county court, 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 fifty cents 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 one thousand dollars and not more than two thousand dollars conditioned on the faithful performance of their duties. Such bonds shall be filed with the county court 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 court 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 court house describing the dog and the place where seized and advising the unknown owner that such dog will be sold or destroyed if not redeemed within five days.

Sec. 7. Dog Pounds.—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.
Sec. 8. Impounding and Disposition of Dogs; Costs and Fees.—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 dog pound for five days after notice of seizure and impounding shall have 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 herein provided, shall be sold or humanely destroyed. No dog sold as herein provided shall be discharged from the pound until such dog shall have been registered and provided with a valid registration tag. The owner, keeper or harborer 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 shall have been given or posted as required by this article, redeem the same by paying to the dog warden or his authorized agent or deputy all of the costs assessed against such dog, and by providing a valid certificate or registration and registration tag for such dog.
Costs and fees 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, as follows:

- Seizing dog and delivering to pound: $2.00
- Serving or posting notice to owner: $0.50
- Housing and feeding dog, per day: $0.50

Such cost shall be a valid claim in favor of the county against the owner, keeper or harborer of any dog seized and impounded under the provisions of this article and not redeemed or sold as herein provided, and such costs shall be recovered by the sheriff in a civil action against such owner, keeper, or harborer.

A record of all dogs impounded, the disposition of such 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.

Sec. 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 one hun-
dred dollars.

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 per-
mits 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 con-
viction thereof, shall be punished by imprisonment in the
county jail for not more than thirty days or by a fine of
not less than one hundred dollars nor more than five
hundred dollars, or by both such fine and imprison-
ment.

Sec. 10. Dog and Kennel Fund; Disposition of Same.—

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 court 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 court, the county assessor, and the sheriff in car-
rying out the provisions of this article; to pay for the
services of the dog warden, his deputies, pound keepers,
and such other persons as may be employed, if any, or
may render services, in actually carrying out the pro-
visions of this article; to pay for the purchase, procure-
ment, 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 neces-
sary 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.

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 court, 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 court, 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 court.

Sec. 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.

Sec. 12. Dogs Protected by Law; Unlawful Killing of Same; Aggrieved Owner’s Remedy.—Any dog which is registered, kept, and controlled as provided in this article shall be protected by law; and any person who shall unlawfully kill or injure, administer poison to or knowingly expose the same so that it shall be taken by any such dog, or shall, in any other manner, intentionally and unlawfully cause the death or injury of any such dog shall be guilty of a misdemeanor, and, if such dog be of the assessed value of more than twenty dollars, shall, upon conviction, be imprisoned in the county jail at hard labor, for a period not in excess of twelve months, or fined not in excess of two hundred dollars, or both, in the discretion of the court; and if such dog be of twenty dollars or less in assessed value, such person shall be imprisoned in the county jail at hard labor for a period not in excess of six months, or fined not in excess of fifty dollars, or both, in the discretion of the court. Any person whose dog shall be 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 such dog, but in no
case can recovery be had in excess of the assessed value
of such dog. In no case can any action under the provi-
sions of this section be maintained if the dog concerned
shall not have been duly registered pursuant to the pro-
visions of this article at the time the cause of action shall
have arisen.

It shall be the duty of all members of the department
of public safety, sheriffs, constables, and police officers
to aid in the enforcement of the provisions of this article,
and for services rendered in the enforcement thereof such
persons shall be entitled to fees in the amounts set forth
in section eight. Such fees shall be paid by the county
court from the dog and kennel fund.

Sec. 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.

Sec. 14. Dog Killing or Worrying Livestock; Recovery
of Damages from Owner of Dog or County Court.—If any dog shall have killed or assisted in killing, wounding or worrying any sheep, lambs, goats, kids, or poultry out of the inclosure of the owner of such dog, the owner or keeper of such dog shall be liable to the amount of such sheep, lambs, goats, kids or poultry in the amount of the damages sustained, to be recovered in an action before any court or justice having jurisdiction of such action; and it shall not be necessary to sustain such action to prove that the owner of such dog knew such dog was accustomed to do such worrying, killing or wounding; but a recovery under this section shall bar and preclude the owner of such sheep, lambs, goats, kids or poultry from obtaining compensation from the county court under the provisions of this article. If such person suffering such loss or damage cannot ascertain the owner or keeper of such dog, or if such owner or keeper is not financially responsible, then the person suffering such loss or damage may file his claim with, and prove the same before, the county court of the county in which such loss or damage is sustained, in the manner provided in this
article, and the court shall pay such 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 court, said county court is au-
thorized to sue under this section and recover as the
owner of the sheep, lambs, goats, kids or poultry might
have done, and the amount so recovered shall be paid into
the county treasury; but no suit shall be commenced un-
less authorized by the county court.

Sec. 15. Same; Assessment of Damages; Appraisers.—
Authority is hereby given to justices of the peace and
notaries public within this state, and within their respec-
tive 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 or poultry by dogs within the county.
Such appraisers shall be appointed upon the request of
any person suffering damages on account of such destruc-
tion, loss or injury, and shall go upon the ground and in-
vestigate fully the extent of such destruction, loss or
injury, taking all the evidence deemed necessary to ar-
rive at the facts to be passed upon in arriving at the
amount of damage, if any, suffered by the party making
the complaint. Before such appraisers may be summoned
by such justice or notary public, such complainant shall
be required to make a sworn complaint before such
justice or notary public, setting out in plain, easily com-
prehended terms the facts concerning his damage to the
best of his knowledge. And after making a full investi-
gation of the facts involved, such appraisers, with the
assistance of such justice or notary public, shall make a
sworn statement and report the facts ascertained and the
damages suffered, which report and statement shall be
filed with the county court or the clerk thereof in vaca-
tion. The fees and mileage for services allowed in such
cases shall be the same as are allowed justices, witnesses
and arbitrators in justices' courts in this state for similar
services. In the event that such appraisers find that the
complainant has suffered no damage, then the complain-
ant shall be responsible for and pay all the costs and ex-
penses of such proceeding; and in the event that such
complainant has suffered damages on account of the
destruction, loss or injury of any such domestic animals,
according to the finding of such appraisers, then in such
event the owner, keeper or person permitting the dog,
or dogs, causing such damage to remain upon premises
under his control shall be liable for all damage sustained
by the complainant, including all costs and necessary
expenses, all of which shall be collectible by an action
at law before any court or justice having jurisdiction of
the matter. All papers in connection with any such claim
shall be filed and preserved in the office of the clerk of
the county court.

Sec. 16. Same; When Lawful to Kill Dog.—Any person
may kill any dog that he may see chasing, worrying,
wounding or killing any sheep, lambs, goats, kids or
poultry outside of the inclosure of the owner of such
dog, unless the same be done by the direction of the owner
of such sheep, lambs, goats, kids or poultry.

Sec. 17. Same; Unlawful to Harbor Dog; Penalty.—Any
person who shall harbor or secrete or aid in secreting
any dog which he knows or has reasons to believe has
worried, chased or killed any sheep, lambs, goats, kids or poultry not the property of the owner of such dog, out of his inclosure, or knowingly permits the same to be done on any premises under his control, shall be guilty of a misdemeanor, and, upon conviction thereof before any court or justice having jurisdiction thereof in the county in which the offense is committed, shall be fined not less than ten nor more than fifty dollars, and, at the discretion of the court or justice, imprisoned in the county jail not more than thirty days; and each day that such dog is harbored, kept or secreted shall constitute a separate offense.

Sec. 18. Same; Duty of Owner to Kill Dog; Proceeding before Justice on Failure of Owner to Kill.—The owner or keeper of any dog that has been worrying, wounding, chasing or killing any sheep, lambs, goats, kids or poultry not the property of such owner or keeper, out of his inclosure, shall, within forty-eight hours after having received notice thereof in writing from a reliable and trustworthy source, under oath, cause such dog to be killed. If the owner or keeper refuses to kill said dog as herein-
before provided, any justice of the peace, upon information, shall summon the owner or keeper of such dog, and, after receiving satisfactory proof that his dog did the mischief, shall issue a warrant on application being made by the owner of the sheep, lambs, goats, kids or poultry killed; and give it into the hands of the constable, special constable or sheriff, who shall kill the dog forthwith. The cost of such proceedings shall be paid by the owner or keeper of the dog so killed, including a fee of fifty cents 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 or poultry or to the county court, for the value of the sheep, lambs, goats, kids or poultry so killed or injured.

Sec. 19. Offenses; Penalties.—Any person who shall violate any of the provisions of this article for which no specific penalty is prescribed shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than one hundred dollars, and, in the discretion of the court or justice trying the case, may be confined in the county jail not to exceed thirty days. Justices of the
peace shall have concurrent jurisdiction with the circuit, criminal and intermediate courts to enforce the penalties prescribed by this article.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Robert C. Byrd
Chairman Senate Committee

James A. Looney
Chairman House Committee

Originated in the House of Delegates

Takes effect July 1, 1951.

Swarner Tucker
Clerk of the Senate

J.B. Lilly
Clerk of the House of Delegates

W. C. Carothers
President of the Senate

W. E. Clen
Speaker House of Delegates

The within approved this the 16th day of March, 1951.

Okey L. Patterson
Governor

In the Office of the Secretary of State

of West Virginia

MAR 16 1951

D. Pitt O'Brien,
Secretary of State