

RECEIVED  
1992 MAR 23 PM 4:00  
OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1992



## ENROLLED

*Committee Substitute for*  
SENATE BILL NO. 353

(By Senators *Lucht and Humphreys*)



PASSED March 7, 1992

In Effect 90 days from Passage

# ENROLLED

COMMITTEE SUBSTITUTE

FOR

## **Senate Bill No. 353**

(SENATORS LUCHT AND HUMPHREYS, *original sponsors*)

[Passed March 7, 1992; in effect ninety days from passage.]

AN ACT to amend and reenact sections two, three and nine, article twenty, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto two new sections, designated sections three-a and three-b, relating to the regulation of owning animals and of engaging in commercial ventures associated therewith; providing for the collection of a head tax on dogs and cats; defining certain terms; clarifying and making certain provisions consistent with other conflicting provisions; increasing the fee for keeping an impounded animal; increasing registration fees; prescribing registration fees for various enterprises; providing for a reclassification and readjustment of fees; setting forth exemptions from registration; exceptions; providing for the issuance of a license to own or operate a kennel or similar enterprise; setting forth grounds for revocation or dismissal of such license; providing for the reapplication of a license and establishing a fee therefor; prescribing minimum standards for kennels; providing for the inspection of

kennels by humane officers, dog wardens or their respective designees; when deficiencies may be corrected; providing for a temporary compliance waiver; creating a misdemeanor crime and establishing criminal penalties therefor; and increasing the criminal penalties for the failure to register animals or for presenting altered certificates or tags.

*Be it enacted by the Legislature of West Virginia:*

That sections two, three and nine, article twenty, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and re-enacted; and that said article be further amended by adding thereto two new sections, designated sections three-a and three-b, to read as follows:

**ARTICLE 20. PLEASURE AND DISPLAY ANIMALS.**

**§19-20-2. Collection of head tax on dogs and cats; duties of assessor and humane officer or dog warden; registration of pleasure and display animals; disposition of head tax; taxes on pleasure and display animals not collected by assessor.**

1 It is the duty of the county assessor and his or her  
2 deputies in each county within this state, at the time  
3 he or she is making assessment of the personal  
4 property within that county, to assess and collect a  
5 head tax of three dollars on each dog, male or female;  
6 and in addition to the above, the assessor and his or  
7 her deputies have the further duty of collecting any  
8 head tax on dogs as may be levied by the ordinances  
9 of each and every municipality within the county. In  
10 the event that the owner, defined for the purposes of  
11 this article, as any person, partnership or corporation  
12 owning, keeping or harboring one or more animals,  
13 with an animal considered to be harbored if it is fed  
14 or sheltered for five consecutive days or more, refuses  
15 or fails to pay the tax, when the tax is assessed or  
16 within fifteen days after the assessment, to the  
17 assessor or deputy assessor, then the assessor or  
18 deputy assessor shall certify the tax delinquency to the  
19 county dog warden or humane officer who shall take  
20 charge of the dog for which the tax is delinquent and

21 impound the dog for a period of five working days.  
22 The humane officer or dog warden shall charge a fee  
23 of four dollars per day to be levied against the  
24 delinquent taxpayer in addition to the taxes provided  
25 for in this section. In case the tax and impounding  
26 charge provided for in this section have not been paid  
27 within the period of five working days, then the  
28 humane officer or dog warden may sell the  
29 impounded dog. Should the humane officer or dog  
30 warden fail to sell the impounded dog, within five  
31 days, he or she shall humanely kill the dog and dispose  
32 of its body.

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

42 Whenever the owner of personal property acquires a  
43 dog or has a dog that matures to seven months of age  
44 after the annual assessment, the owner shall register  
45 the dog within ten days and pay the head tax to the  
46 assessor or his or her deputy. When the prior owner  
47 has paid the head tax, the assessor or his or her deputy  
48 shall transfer the registration and the registration tag.

49 All certificates of registration and registration tags  
50 issued pursuant to the provisions of this section shall  
51 be issued for the fiscal year and are valid from the  
52 date on which they are issued until the thirtieth day  
53 of June of that fiscal year, or until reissued by the  
54 assessor or his or her deputy in the regular perfor-  
55 mance of his or her duties, but in no case shall  
56 previous registration tags be valid after the thirtieth  
57 day of September of the next ensuing fiscal year.

58 The assessor collecting the head tax on dogs shall be  
59 allowed a commission of ten percent of all such taxes  
60 collected by him or her, and shall turn in to the

61 county treasury ninety percent of taxes collected and  
62 levied by this section; and the assessor shall turn over  
63 to the treasurer or other proper officer of each and  
64 every municipality within the county ninety percent  
65 of the taxes levied by the ordinances of the municipal-  
66 ity. All dog taxes, except those belonging to municipal-  
67 ities, shall be credited to the dog and kennel fund  
68 provided for in section ten of this article. Dog taxes  
69 collected for and turned over to municipalities shall be  
70 deposited by the proper officer of the municipalities to  
71 the fund and shall be expended in such manner as the  
72 law of the municipalities may provide. All taxes on  
73 dogs not collected by the assessor shall be collected by  
74 the regular tax collecting officer of the county and  
75 placed to the credit of the dog and kennel fund.

**§19-20-3. Registration of kennels and similar enterprises;  
application; fee; expiration of certificate of  
registration.**

1 (a) Every owner or operator of a kennel or similar  
2 enterprise, shall annually, between the first day of  
3 July and the thirtieth day of September of each year,  
4 file with the assessor of the county in which the  
5 kennel or similar enterprise is located, an application  
6 for the registration of the kennel or similar enterprise  
7 for the fiscal year. For the purposes of the article, the  
8 term "kennel or similar enterprise" means a facility  
9 where animals are bred, kept, boarded, groomed,  
10 trained or sold as a commercial venture. The applica-  
11 tion shall state the location of the kennel or similar  
12 enterprise, the name and address of the person  
13 actually in charge of and supervising it and the name  
14 and address of the owner of the kennel or similar  
15 enterprise and shall be accompanied by a nonrefunda-  
16 ble registration fee as provided for in this section.  
17 Upon the approval of the application by the humane  
18 officer or dog warden of the county, together with the  
19 payment to the assessor of the fees provided for in this  
20 section, the assessor shall issue a license for the kennel  
21 or similar enterprise.

22 Every person upon becoming the owner or operator  
23 of a kennel or similar enterprise as described in this

24 section, after the thirtieth day of September of any  
25 year, shall, within three days after becoming an owner  
26 or operator, register the kennel or similar enterprise  
27 for the remainder of the current fiscal year as pro-  
28 vided for in this section.

29 All licenses issued pursuant to the provisions of this  
30 section shall be issued for the fiscal year, and are valid  
31 from the date on which issued until the thirtieth day  
32 of June of that fiscal year.

33 Licenses for kennels and similar enterprises must be  
34 prominently displayed on the premises.

35 (b) The registration and related fees for licensing a  
36 kennel and other similar enterprises are as follows:

- 37 (1) Breeders
  - 38 Registration.....\$10
  - 39 Fee for each adult breeding animal .....3
- 40 (2) Boarding kennel authorized to house fewer
  - 41 than ten animals .....20
- 42 (3) Boarding kennel authorized to house ten to
  - 43 fifty animals .....40
- 44 (4) Boarding kennel authorized to house more
  - 45 than fifty animals .....60
- 46 (5) Pet Shop.....100
- 47 (6) Permanent or traveling circus, zoo or animal
  - 48 display program, including petting zoos .....100
- 49 (7) Grooming Shop .....20
- 50 (8) Animal dealers or sellers acquiring animals for
  - 51 sale or resale who are not breeders, pet
  - 52 shops, shelters or pounds
  - 53 Registration.....100
  - 54 Fee for each animal sold.....6
- 55 (9) Dog training center that kennels .....100

56 A kennel or similar enterprise regulated by this  
57 section, which provides more than one of the services  
58 set forth in this subsection, each requiring an individ-  
59 ual registration and license, is only required to have

60 one registration and license: *Provided*, That the owner  
61 or operator shall register and license the kennel or  
62 enterprise under the service provided which requires  
63 the highest fee. Any kennel or similar enterprise  
64 having a change in status under which a license was  
65 issued is subject to reclassification and a readjustment  
66 of fees.

67 (c) The provisions of this section and of sections  
68 three-a and three-b of this article do not apply to  
69 kennels at veterinary hospitals, to biomedical research  
70 facilities, to government-operated zoological parks, to  
71 farm animals, to thoroughbred or greyhound racing  
72 kennels and breeders or to animals determined to be  
73 pets by the humane officer, dog warden or assessor or  
74 his or her deputy: *Provided*, That thoroughbred and  
75 greyhound racing kennels and breeders are subject to  
76 the minimum standards and inspection requirements  
77 of section three-b of this article.

78 (d) Any pet owner who is exempt from registration  
79 as determined by a humane officer, dog warden or  
80 assessor or his or her deputy pursuant to the provi-  
81 sions of subsection (c) of this section, and who sells or  
82 offers for sale more than three animals, loses the  
83 exemption and must comply with appropriate registra-  
84 tion requirements as a breeder or animal dealer  
85 whichever is most appropriate: *Provided*, That in no  
86 event may animal shelters, humane society shelters or  
87 pounds be required to pay registration fees.

**§19-20-3a. License issuance and revocation.**

1 (a) Upon receiving an application for a license under  
2 section three of this article, the assessor shall cause the  
3 dog warden or humane officer of the county to  
4 conduct an inspection of the kennel or similar enter-  
5 prise and any animals on the premises, and the dog  
6 warden or humane officer shall notify the assessor as  
7 to whether or not the kennel or similar enterprise  
8 complies with the provisions of this article. If the  
9 kennel or similar enterprise passes inspection, the  
10 assessor shall issue a license. The dog warden or  
11 humane officer retains a right of entry at all times for

12 the purpose of inspecting the kennel or similar enter-  
13 prise and all animals on the premises.

14 (b) Any license may be revoked and the entire  
15 registration fee retained if the licensee:

16 (1) Refuses to permit inspection by the dog warden  
17 or humane officer;

18 (2) Refuses or fails to comply with this section or any  
19 other law governing the care, protection and keeping  
20 of animals;

21 (3) Withholds or falsifies any information on the  
22 license application.

23 (c) Any person whose license is revoked shall, within  
24 ten days thereafter, humanely and responsibly dispose  
25 of all animals owned, kept or harbored at the kennel  
26 or similar enterprise.

27 (d) A license to operate a commercial kennel or  
28 similar enterprise may not be issued to a person who  
29 has been convicted of cruelty to animals.

30 (e) Any person who has been denied a license may  
31 not reapply for a period of thirty days. Each reappli-  
32 cation shall be accompanied by a ten dollar fee.

33 (f) All fees for registration and licensing shall be  
34 placed in the dog and kennel fund, provided for in  
35 section ten of this article.

36 (g) For traveling circuses, zoos, animal displays and  
37 similar programs, the sponsoring agency or organiza-  
38 tion is responsible for registering and licensing the  
39 program in accordance with section three of this  
40 article and for notifying the humane officer or the dog  
41 warden to request an inspection.

**§19-20-3b. Minimum standards for kennels and similar enterprises; facilities, management and enforcement.**

1 (a) After the first day of July, one thousand nine  
2 hundred ninety-five, no operator of a kennel, or  
3 similar enterprise having animals for sale may operate  
4 unless the facility meets the following standards:



5 (1) Indoor and outdoor housing facilities shall be  
6 structurally sound and the operator of the facilities  
7 shall maintain them in good repair to contain the  
8 animals and protect them from injury;

9 (2) Any area used to confine an animal shall be  
10 constructed so as to enable the animal to remain  
11 comfortable, dry and clean;

12 (3) Floors or walls of animal enclosures shall be  
13 constructed of a material that is impervious to liquids,  
14 permits total disinfection and prevents the harboring  
15 of insects or bacteria;

16 (4) Any animal enclosure shall be large enough to  
17 permit the animal to stand up with ease and to sit or  
18 lie comfortably in a prone position;

19 (5) Fencing of any enclosure used to confine a dog,  
20 cat or other large animal shall not be constructed of  
21 chicken wire, hog wire or other small-gauge wire that  
22 may cause serious injury to the animal;

23 (6) Any cement block or concrete walls of an animal  
24 enclosure shall be sealed or painted with a coating that  
25 prevents bacteria growth in pores or crevices and that  
26 cannot be removed by the animal. Any enclosure  
27 constructed of wood shall be coated with a laminate,  
28 epoxy or other similar substance that is impervious to  
29 urine and bacteria and that cannot be removed by the  
30 animal;

31 (7) Enclosures used to confine animals shall have  
32 gates or doors with latches that cannot be opened by  
33 the animals;

34 (8) All facilities shall be constructed so as to prevent  
35 the escape of the animals;

36 (9) Any enclosure used to confine animals that has  
37 more than one level shall be constructed so that no  
38 liquids or solids may drop from an upper level into a  
39 lower level;

40 (10) Any animal enclosures situated side-by-side  
41 shall be constructed so that no liquids or solids may  
42 spread from one enclosure to an adjacent enclosure;

43 and

44 (11) Any cage or pen shall have a solid bottom which  
45 can be easily cleaned or disinfected.

46 (b) An operator of a kennel or similar enterprise  
47 shall:

48 (1) Take necessary measures to protect the animals  
49 from injury, stress, suffering, escape and the transmis-  
50 sion of disease;

51 (2) Afford the animals access to shelter from direct  
52 sunlight and other adverse weather conditions, includ-  
53 ing rain, snow and wind;

54 (3) House animals in compatible groups if more than  
55 one animal is confined in the same enclosure. No  
56 puppies or kittens shall be confined in the same  
57 enclosure with adult dogs or cats, other than their  
58 dams. No female animals in season shall be confined in  
59 the same enclosure as male animals, except for  
60 breeding purposes;

61 (4) Confine any animal that exhibits a vicious  
62 disposition individually in an enclosure, except that no  
63 nursing female may be separated from her litter;

64 (5) Maintain facilities in a sanitary condition;

65 (6) Adequately ventilate all indoor housing facilities  
66 for warm-blooded animals to provide for the health  
67 and comfort of the animals; to provide the facility with  
68 fresh air; to minimize drafts, odors, moisture and  
69 condensation; and to prevent exposure to extreme  
70 temperatures;

71 (7) Sufficiently heat or cool all indoor housing  
72 facilities for warm-blooded animals not acclimated to  
73 extreme temperatures to prevent exposure to such  
74 temperatures;

75 (8) Provide humane care and treatment to all  
76 animals under the control of an operator or attendant;

77 (9) Remove an animal from its enclosure at least  
78 twice every twenty-four hours for a minimum of  
79 twenty minutes each time, unless it is medically

80 inadvisable or the enclosure is sufficiently large to  
81 permit the animal to have normal freedom of move-  
82 ment for exercise;

83 (10) Provide ample lighting during daylight hours for  
84 the efficient cleaning and routine inspection of, and  
85 the well-being of the animals in the facility;

86 (11) Furnish, daily, a quantity of wholesome food  
87 suitable for the species and ages of the animals and  
88 sufficient to maintain sound nutrition;

89 (12) Furnish fresh, noncontaminated water at all  
90 times, except in cases where it is medically inadvis-  
91 able, or the animal is within four hours of departure  
92 from the facility, or the animal is being housed for  
93 grooming, in which case, the animal shall have access  
94 to water for a period of five minutes every three  
95 hours;

96 (13) Protect food supplies and bedding from contam-  
97 ination or infestation by vermin. Any chemicals used  
98 to control vermin at the facility shall be safe for use  
99 around animals and shall be stored in a place not  
100 accessible by the animals or near their food supplies;

101 (14) Clean and sanitize utilized enclosures at least  
102 once every twenty-four hours and prior to any new  
103 animal being placed into a previously occupied encl-  
104 sure and remove excreta from enclosures as often as  
105 necessary for the prevention of contamination, disease  
106 and odors, but no less often than once every twenty-  
107 four hours. If a hosing or flushing method of cleaning  
108 is used, the animal or animals shall be removed from  
109 the enclosure and adequate measures shall be taken to  
110 protect the animals in other enclosures from being  
111 soiled with wash water or other wastes during the  
112 cleaning;

113 (15) Establish and maintain an adequate program of  
114 disease prevention and control;

115 (16) House healthy and sick animals separately;

116 (17) Maintain facilities to isolate any animal infected  
117 with a contagious disease or remove the animal from

118 the facility;

119 (18) Furnish sick, diseased or injured animals with  
120 proper veterinary care or have them humanely de-  
121 stroyed as provided for by law;

122 (19) Maintain accurate records of all transactions  
123 involving animals that show the dates the transactions  
124 occurred, the types of animals involved and the parties  
125 to the transactions, for a minimum of seven years;

126 (20) Furnish documents of sale or other transfer,  
127 identification, immunization, known medical or phys-  
128 ical condition and medications provided the purchaser  
129 or other transferee of an animal;

130 (21) Provide adequate food, water, space, sanitation,  
131 ventilation, exercise and protection from injury, drafts  
132 and extremes of temperature for, and any appropriate  
133 separation of, animals transported in vehicles by a  
134 kennel or similar enterprise subject to registration  
135 under section three of this article; and

136 (22) Destroy animals using humane procedures as  
137 provided for by law.

138 (c) The county humane officer or the dog warden or  
139 a qualified individual designated by the humane  
140 officer or dog warden, shall inspect kennels and  
141 similar enterprises as described in this section at any  
142 reasonable time for compliance with the requirements  
143 of this section, but no less than once annually. Any  
144 kennel or similar enterprise with a humane officer or  
145 a dog warden as an employee cannot be inspected by  
146 that employee and the operator of that kennel or  
147 similar enterprise must arrange for an impartial  
148 inspection at least annually.

149 Persons other than those authorized to conduct  
150 inspections as provided for in this section shall not  
151 conduct inspections but have the right to request the  
152 humane officer or dog warden to inspect a kennel or  
153 other enterprise.

154 If a kennel or similar enterprise as described in this  
155 section is found to violate any of the provisions in this

156 section, the humane officer, dog warden or his or her  
157 designee, or kennel-arranged impartial inspector shall  
158 make recommendations to the kennel or similar  
159 enterprise and work with the operator to develop a  
160 reasonable time frame for correction of the deficien-  
161 cies, or in the event the deficiencies are not corrected  
162 within a reasonable period of time, cause a complaint  
163 to be filed against that kennel or similar enterprise for  
164 failure to comply with the standards set forth in this  
165 section and assist in the prosecution of the operator of  
166 the facility and cause the facility to be closed.

167 Any person who fails to comply with the standards  
168 set forth in this section is guilty of a misdemeanor,  
169 and, upon conviction thereof, shall be fined not less  
170 than one hundred dollars, nor more than one thousand  
171 dollars. The humane officer or dog warden or his or  
172 her designee or the kennel-arranged impartial inspec-  
173 tor is not subject to any civil or criminal liability  
174 resulting from the enforcement of the provisions of  
175 this section.

176 A temporary compliance waiver can be issued by  
177 the humane officer or the dog warden or his or her  
178 designee or an impartial inspector when no alternate  
179 facility to house unwanted or stray animals is avail-  
180 able. The waiver shall include a reasonable plan to  
181 bring the kennel or similar enterprise into compliance.

**§19-20-9. Failure to register animals or kennel or similar  
enterprise; alteration or forging of registra-  
tion certificate or tag; penalties.**

1 Any person who owns an animal or who owns or  
2 operates a kennel or similar enterprise, subject to  
3 registration under the provisions of this article, and  
4 who fails, refuses or neglects to register or reregister  
5 the animal, kennel or similar enterprise described in  
6 this article is guilty of a misdemeanor, and, upon  
7 conviction thereof, shall be punished by imprisonment  
8 in the county jail for not more than thirty days or  
9 fined not less than one hundred nor more than one  
10 thousand dollars in addition to the appropriate regis-  
11 tration fees, or both so fined and imprisoned.

12 Any person who alters or forges any certificate or  
13 tag, provided for in this article, or displays, presents or  
14 utters the certificate or tag as valid with knowledge  
15 that it has been altered or forged, or who knowingly  
16 causes or permits any dog owned, kept or harbored by  
17 him or her to wear any fictitious, altered or invalid  
18 registration tag in place of a valid tag as required  
19 under the provisions of this article, is guilty of a  
20 misdemeanor, and, upon conviction thereof, shall be  
21 punished by imprisonment in the county jail for not  
22 more than thirty days or by a fine of not less than one  
23 hundred dollars nor more than one thousand dollars,  
24 or both fined and imprisoned.

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

*Homer Leck*  
.....  
Chairman Senate Committee

*Ernest C. Moore*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*Russell E. Debra*  
.....  
Clerk of the Senate

*Donald L. Kopp*  
.....  
Clerk of the House of Delegates

*Walter Brantley*  
.....  
President of the Senate

*Robert C. ...*  
.....  
Speaker House of Delegates

The within *is disappeared* this the *26<sup>th</sup>* .....  
day of *June* ....., 1992.

*Yaston Caperton*  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/20/92

Time 3:40 p.m.