WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1992

ENROLLED
Committee Substitute for
SENATE BILL NO. 353

(By Senators Luckt and Humphreys)

PASSED March 7, 1992
In Effect 90 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 reenacted; 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 deputies in each county within this state, at the time he or she is making assessment of the personal property within that county, to assess and collect a head tax of three dollars on each dog, male or female; and in addition to the above, the assessor and his or her deputies have the further duty of collecting any 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, defined for the purposes of this article, as any person, partnership or corporation owning, keeping or harboring one or more animals, with an animal considered to be harbored if it is fed or sheltered for five consecutive days or more, refuses or fails to pay the tax, when the tax is assessed or within fifteen days after the assessment, to the assessor or deputy assessor, then the assessor or deputy assessor shall certify the tax delinquency to the county dog warden or humane officer who shall take charge of the dog for which the tax is delinquent and
impound the dog for a period of five working days. The humane officer or dog warden shall charge a fee of four dollars per day to be levied against the delinquent taxpayer in addition to the taxes provided for in this section. In case the tax and impounding charge provided for in this section have not been paid within the period of five working days, then the humane officer or dog warden may sell the impounded dog. Should the humane officer or dog warden fail to sell the impounded dog, within five days, he or she shall humanely kill the 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) of the dog and the name and address of the owner of the dog. 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 the dog.

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

All certificates of registration and registration tags issued pursuant to the provisions of this section shall be issued for the fiscal year and are valid from the date on which they are issued until the thirtieth day of June 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 the thirtieth day of September of the next ensuing fiscal year.

The assessor collecting the head tax on dogs shall be allowed a commission of ten percent of all such taxes collected by him or her, and shall turn in to the
county treasury ninety percent of taxes collected and 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 the taxes levied by the ordinances of the municipality. All dog taxes, except those belonging to municipalities, shall be credited to the dog and kennel fund provided for in section ten of this article. Dog taxes collected for and turned over to municipalities shall be deposited by the proper officer of the municipalities to the fund and shall be expended in such manner as the law of the municipalities 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 kennels and similar enterprises; application; fee; expiration of certificate of registration.

(a) Every owner or operator of a kennel or similar enterprise, shall annually, between the first day of July and the thirtieth day of September of each year, file with the assessor of the county in which the kennel or similar enterprise is located, an application for the registration of the kennel or similar enterprise for the fiscal year. For the purposes of the article, the term “kennel or similar enterprise” means a facility where animals are bred, kept, boarded, groomed, trained or sold as a commercial venture. The application shall state the location of the kennel or similar enterprise, 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 or similar enterprise and shall be accompanied by a nonrefundable registration fee as provided for in this section. Upon the approval of the application by the humane officer or dog warden of the county, together with the payment to the assessor of the fees provided for in this section, the assessor shall issue a license for the kennel or similar enterprise.

Every person upon becoming the owner or operator of a kennel or similar enterprise as described in this
section, after the thirtieth day of September of any year, shall, within three days after becoming an owner or operator, register the kennel or similar enterprise for the remainder of the current fiscal year as provided for in this section.

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

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

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

<table>
<thead>
<tr>
<th>Description</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Breeders</td>
<td>$10</td>
</tr>
<tr>
<td>Fee for each adult breeding animal</td>
<td>$3</td>
</tr>
<tr>
<td>Boarding kennel authorized to house fewer than ten animals</td>
<td>$20</td>
</tr>
<tr>
<td>Boarding kennel authorized to house ten to fifty animals</td>
<td>$40</td>
</tr>
<tr>
<td>Boarding kennel authorized to house more than fifty animals</td>
<td>$60</td>
</tr>
<tr>
<td>Pet Shop</td>
<td>$100</td>
</tr>
<tr>
<td>Permanent or traveling circus, zoo or animal display program, including petting zoos</td>
<td>$100</td>
</tr>
<tr>
<td>Grooming Shop</td>
<td>$20</td>
</tr>
<tr>
<td>Animal dealers or sellers acquiring animals for sale or resale who are not breeders, pet shops, shelters or pounds</td>
<td>$100</td>
</tr>
<tr>
<td>Fee for each animal sold</td>
<td>$6</td>
</tr>
<tr>
<td>Dog training center that kennels</td>
<td>$100</td>
</tr>
</tbody>
</table>

A kennel or similar enterprise regulated by this section, which provides more than one of the services set forth in this subsection, each requiring an individual registration and license, is only required to have
one registration and license: Provided, That the owner or operator shall register and license the kennel or enterprise under the service provided which requires the highest fee. Any kennel or similar enterprise having a change in status under which a license was issued is subject to reclassification and a readjustment of fees.

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

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

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

(a) Upon receiving an application for a license under section three of this article, the assessor shall cause the dog warden or humane officer of the county to conduct an inspection of the kennel or similar enterprise and any animals on the premises, and the dog warden or humane officer shall notify the assessor as to whether or not the kennel or similar enterprise complies with the provisions of this article. If the kennel or similar enterprise passes inspection, the assessor shall issue a license. The dog warden or humane officer retains a right of entry at all times for
the purpose of inspecting the kennel or similar enterprise and all animals on the premises.

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

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

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

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

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

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

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

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

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

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

(a) After the first day of July, one thousand nine hundred ninety-five, no operator of a kennel, or similar enterprise having animals for sale may operate unless the facility meets the following standards:
(1) Indoor and outdoor housing facilities shall be structurally sound and the operator of the facilities shall maintain them in good repair to contain the animals and protect them from injury;

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

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

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

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

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

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

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

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

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

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

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

(1) Take necessary measures to protect the animals from injury, stress, suffering, escape and the transmission of disease;

(2) Afford the animals access to shelter from direct sunlight and other adverse weather conditions, including rain, snow and wind;

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

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

(5) Maintain facilities in a sanitary condition;

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

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

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

(9) Remove an animal from its enclosure at least twice every twenty-four hours for a minimum of twenty minutes each time, unless it is medically
inadvisable or the enclosure is sufficiently large to permit the animal to have normal freedom of movement for exercise;

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

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

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

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

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

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

(16) House healthy and sick animals separately;

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

(18) Furnish sick, diseased or injured animals with proper veterinary care or have them humanely destroyed as provided for by law;

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

(20) Furnish documents of sale or other transfer, identification, immunization, known medical or physical condition and medications provided the purchaser or other transferee of an animal;

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

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

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

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

If a kennel or similar enterprise as described in this section is found to violate any of the provisions in this
section, the humane officer, dog warden or his or her
designee, or kennel-arranged impartial inspector shall
make recommendations to the kennel or similar
enterprise and work with the operator to develop a
reasonable time frame for correction of the deficien-
cies, or in the event the deficiencies are not corrected
within a reasonable period of time, cause a complaint
to be filed against that kennel or similar enterprise for
failure to comply with the standards set forth in this
section and assist in the prosecution of the operator of
the facility and cause the facility to be closed.

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

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

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

Any person who owns an animal or who owns or
operates a kennel or similar enterprise, subject to
registration under the provisions of this article, and
who fails, refuses or neglects to register or reregister
the animal, kennel or similar enterprise described in
this article is guilty of a misdemeanor, and, upon
conviction thereof, shall be punished by imprisonment
in the county jail for not more than thirty days or
fined not less than one hundred nor more than one
thousand dollars in addition to the appropriate regis-
tration fees, or both so fined and imprisoned.
Any person who alters or forges any certificate or tag, provided for in this article, or displays, presents or utters the certificate or tag 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 or her to wear any fictitious, altered or invalid registration tag in place of a valid tag as required under the provisions of this article, is 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 one hundred dollars nor more than one thousand dollars, or both fined and imprisoned.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Somer Ileck
Chairman Senate Committee

Ernest C. Moore
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Gerald E. Helms
Clerk of the Senate

Donnell L. Kipp
Clerk of the House of Delegates

William J. Pendleton
President of the Senate

Charles L. Cook
Speaker House of Delegates

The within is approved and his the 26th day of January, 1992.

Rascoe C. Caperton
Governor