

1981 Assembly Bill 249

Date published: April 30, 1982

## CHAPTER 285 , Laws of 1981

AN ACT to repeal 174.025, 174.03 and 174.04; to renumber and amend 174.01 (2) and (3); to amend 29.05 (8) (b), 95.21 (2) (e) and (f) and (4) (a), 173.07, 174.01 (1) (d), 174.046 (7) (intro.) and (8) (intro.), 174.053 (1) and (2), 174.06 (1) to (3) and (7), 174.065 (1), 174.07 (1) (e) and (3) (b) and (c), 174.09 (2) and 174.11 (1); to repeal and recreate 95.21 (5) (b) and (c) and 174.02; and to create 174.01 (2) (b) and (c) and (3) (b) and (c) of the statutes, relating to dogs and rabies control programs and changing penalties.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 29.05 (8) (b) of the statutes, as affected by chapter 98, laws of 1981, is amended to read:

29.05 (8) (b) Any perishable property seized by the department or its wardens may be sold at the highest available price, and the proceeds of the sale turned into court to await disposition of the proceeds as the court directs. It is lawful for any conservation warden or other ministerial officers charged with the enforcement of the laws dealing with the conservation of the natural resources of the state, to destroy any dog found running, worrying injuring, causing injury to, or killing any deer, or destroying game birds, their eggs or nests, if they deem it advisable and necessary.

SECTION 2. 95.21 (2) (e) and (f) and (4) (a) of the statutes are amended to read:

95.21 (2) (e) *Rabies vaccination tag.* After issuing the certificate of rabies vaccination, the veterinarian shall deliver to the owner a rabies vaccination tag of durable material bearing the same serial number as the certificate, the year the vaccination was given and the name, address and telephone number of the veterinarian. ~~The collecting official under s. 174.065 shall issue a rabies vaccination tag to a person who presents a current certificate of vaccination or other valid evidence of vaccination from a veterinarian in another state. The collecting official may not charge a fee for this tag.~~

(f) *Tag to be attached.* The owner shall attach the rabies vaccination tag or a substitute tag to a collar and a collar with the tag attached shall be kept on the dog at all times but this requirement does not apply to a show dog during competition or training, to a dog while hunting, to a dog securely confined indoors or to a dog securely confined in a fenced area. The substitute tag shall be of a durable material and contain the same information as the rabies vaccination tag. The requirements of this paragraph do not apply to a dog which is not required to be vaccinated under sub. (2) (a).

(4) (a) *Quarantine or sacrifice of dog or cat.* An officer may ~~may~~ shall order a dog or cat quarantined if the officer has reason to believe that the animal bit a person, is infected with rabies or has been in contact with a rabid animal. If a quarantine cannot be imposed because the dog or cat cannot be captured, the officer may kill the animal. The officer may kill a dog or cat only as a last resort or if the owner agrees. The officer shall attempt to kill the animal in a humane manner and in a manner which avoids damage to the animal's head.

SECTION 3. 95.21 (5) (b) and (c) of the statutes are repealed and recreated to read:

95.21 (5) (b) *Health risk to humans.* If a dog or cat is ordered to be quarantined because there is reason to believe that the animal bit a person, the custodian of an isolation facility or the owner shall keep the animal under strict isolation under the supervision of a veterinarian for at least 10 days after the incident occurred. In this paragraph, "supervision of a veterinarian" includes, at a minimum, examination of the animal on the first day of isolation, on the last day of isolation and on one intervening day. If the observation period is not extended and if the veterinarian certifies that the dog or cat has not exhibited any signs of rabies, the animal may be released from quarantine at the end of the observation period.

(c) *Risk to animal health.* 1. If a dog or cat is ordered to be quarantined because there is reason to believe that the animal has been exposed to a rabid animal and if the dog or cat is not currently immunized against rabies, the custodian of an isolation facility or the owner shall keep the animal leashed or confined for 180 days. The owner shall have the animal vaccinated against rabies between 155 and 165 days after the exposure to a rabid animal.

2. If a dog or cat is ordered to be quarantined because there is reason to believe that the animal has been exposed to a rabid animal but if the dog or cat is immunized against rabies, the custodian of an isolation facility or the owner shall keep the animal leashed or confined for 60 days. The owner shall have the animal revaccinated against rabies as soon as possible after exposure to a rabid animal.

SECTION 4. 173.07 of the statutes is amended to read:

173.07 (title) **Damaging, or taking animal from, pound.** Any person who shall wilfully ~~injure damages~~ any public pound maintained or supported by any town, city or village or county or shall wrongfully and forcibly take, drive or release therefrom ~~takes, drives or releases from the pound~~ any animal lawfully confined therein in the pound shall be punished by imprisonment in the county jail forfeit not more than 3 months or by fine not exceeding \$50.

SECTION 5. 174.01 (1) (d) of the statutes is amended to read:

174.01 (1) (d) *Killing the dog.* Killing the dog if the circumstances require ~~immediate~~ such action.

SECTION 6. 174.01 (2) of the statutes is renumbered 174.01 (2) (a) and amended to read:

174.01 (2) (a) A ~~Except as provided in pars. (b) and (c),~~ a person may take restraining action with respect to a dog if the dog ~~assaults,~~ injures or causes injury to a person while the dog is off the property of its owner.

SECTION 7. 174.01 (2) (b) and (c) of the statutes are created to read:

174.01 (2) (b) An officer may not kill a dog unless other restraining actions were tried and failed, or are not adequate or appropriate.

(c) A person, other than an officer, may not kill a dog unless a person is threatened with serious bodily harm by the dog.

SECTION 8. 174.01 (3) of the statutes is renumbered 174.01 (3) (a) and amended to read:

174.01 (3) (a) A Except as provided in pars. (b) and (c), a person may take restraining action with respect to a dog if the dog assaults, injures or causes injury to livestock while the dog is off the property of its owner.

SECTION 9. 174.01 (3) (b) and (c) of the statutes are created to read:

174.01 (3) (b) An officer may not kill a dog unless other restraining actions were tried and failed, or are not adequate or appropriate.

(c) A person, other than an officer, may not kill a dog unless an animal is threatened with serious bodily harm by a dog.

SECTION 10. 174.02 of the statutes is repealed and recreated to read:

**174.02 Owner's liability for damage caused by dog; penalties.** (1) **LIABILITY FOR INJURY.** (a) *Without notice.* The owner of a dog is liable for the full amount of damages caused by the dog injuring or causing injury to a person, livestock or property.

(b) *After notice.* The owner of a dog is liable for 2 times the full amount of damages caused by the dog injuring or causing injury to a person, livestock or property if the owner was notified or knew that the dog previously injured or caused injury to a person, livestock or property.

(2) **PENALTIES IMPOSED ON OWNER OF DOG CAUSING DAMAGE.** (a) *Without notice.* The owner of a dog shall forfeit not less than \$50 nor more than \$100 if the dog injures or causes injury to a person, livestock, property, deer, game birds or the nests or eggs of game birds.

(b) *After notice.* The owner of a dog shall forfeit not less than \$100 nor more than \$500 if the dog injures or causes injury to a person, livestock, property, deer, game birds or the nests or eggs of game birds, if the owner was notified or knew that the dog previously injured or caused injury to a person, livestock, property, deer, game birds or the nests or eggs of game birds.

(c) *Penalties in addition to liability for damages.* The penalties in this subsection are in addition to any other liability imposed on the owner of a dog.

SECTION 11. 174.025, 174.03 and 174.04 of the statutes are repealed.

SECTION 12. 174.046 (7) (intro.) and (8) (intro.) of the statutes are amended to read:

174.046 (7) **RELEASE OF DOG TO OWNER OR REPRESENTATIVE.** (intro.) The officer or pound to whom a dog is delivered may release the dog to its owner or a representative of the owner only if:

(8) **RELEASE OF DOG TO PERSON OTHER THAN OWNER.** (intro.) The officer or pound to whom a dog is delivered may release the dog to a person other than the dog's owner only if:

SECTION 14. 174.053 (1) and (2) of the statutes are amended to read:

174.053 (1) **KENNEL LICENSE OPTION.** Any person who keeps or operates a kennel may, instead of the license tax for each dog required by this chapter, apply to the collecting official for a kennel license for the keeping or operating of the kennel. ~~For the kennel the~~ Such person shall pay a license tax of \$25 for the license year a license tax of \$30 for a kennel of 12 or fewer dogs and an additional \$3 for each dog in excess of 12. Upon payment of the required kennel license tax and, if required by the governing body of the

county, city, village or town, upon presentation of evidence that all dogs over 5 months of age are currently immunized against rabies, the collecting official shall issue the kennel license and a number of tags equal to the number of dogs authorized to be kept in the kennel.

(2) KENNEL LICENSE TAGS. Kennel license tags shall be made in a form so that they may be readily distinguishable from the individual license tags for the same year. The owner or keeper of a kennel shall keep at all times a kennel license tag attached to the collar of each dog over 5 months old kept by the owner or keeper under a kennel license but this requirement does not apply to a ~~show dog during competition or training~~, to a dog securely confined indoors, to a dog while hunting or to a dog securely confined in a fenced area. These tags may be transferred from one dog to another within the kennel whenever any dog is removed from the kennel. The rabies vaccination tag or substitute tag shall remain attached to the dog for which it is issued at all times but this requirement does not apply to a ~~show dog during competition or training~~, to a dog securely confined indoors, to a dog while hunting or to a dog securely confined in a fenced area. No dog bearing a kennel tag shall be permitted to stray or to be taken anywhere outside the limits of the kennel unless the dog is in leash or temporarily out for the purposes of hunting, breeding, trial, training or show competition.

SECTION 15. 174.06 (1) to (3) and (7) of the statutes are amended to read:

174.06 (1) RESPONSIBILITY TO LIST. Every town, village and city shall annually, by September 1, ascertain by diligent inquiry the dogs owned or kept within the assessment district or county.

(2) LISTING OFFICIAL; GENERALLY. In a city or village the listing official is the municipal clerk, unless the common council or village board provides by ordinance or resolution for the appointment of a different person. In a town, the town board shall designate a person to be the listing official.

(3) COMPENSATION. A listing official who is not a full-time, salaried municipal employe shall receive as compensation ~~15~~ 50 cents for each dog listed, or a greater amount established by the county board by ordinance or resolution, to be audited and allowed by the county board as other claims against the county and to be paid out of the dog license fund. A listing official who is a full-time, salaried municipal employe shall receive this compensation from the county board but shall be required to pay the compensation into the town, village or city treasury.

(7) LIST DELIVERY. The listing official shall, by September 15, deliver one copy of the list under sub. (5) or (6) to the county clerk, one copy to the collecting official, and retain one copy for his or her files.

SECTION 16. 174.065 (1) of the statutes is amended to read:

174.065 (1) COLLECTING OFFICIAL. The collecting official is the city, village or town treasurer or other tax collecting officer or a person deputized by the treasurer or tax collecting official, unless the common council or village or town board provides by ordinance or resolution for the appointment of a different person.

SECTION 17. 174.07 (1) (e) and (3) (b) and (c) of the statutes are amended to read:

174.07 (1) (e) *Tags to be attached*. The owner shall securely attach the tag to a collar and a collar with the tag attached shall be kept on the dog for which the license is issued at all times but this requirement does not apply to a ~~show dog during competition or training~~, to a dog securely confined indoors, to a dog while hunting or to a dog securely confined in a fenced area.

(3) (b) *Return of tags and licenses*. The collecting official shall annually by December ~~15~~ 31 return to the county clerk all unused tags of the ~~preceding current~~ license year, together with license books and all duplicate licenses of the ~~preceding current~~ year. The

county clerk shall carefully check the returned tags, duplicate licenses, and license blanks to ascertain whether all tags and license blanks which were furnished by the county clerk have been accounted for, and to enable the county clerk to do that the county clerk shall charge each collecting official with all tags and blank licenses furnished or delivered and credit those returned. In case of discrepancy, the county clerk shall notify the department.

(c) *Reimbursement.* The collecting official may retain ~~40~~ 25 cents, or a greater amount established by the county board by ordinance or resolution, for each license issued as compensation for the service, if not a full-time, salaried municipal employee. If the collecting official is a full-time, salaried municipal employe this compensation shall be paid into the treasury of the town, village or city.

SECTION 18. 174.09 (2) of the statutes is amended to read:

174.09 (2) Expenses necessarily incurred by the county in purchasing and providing books, forms and other supplies required in the administering of the dog license law ~~and~~, expenses incurred by the county under s. 95.21 (4) (b) and (8) shall and expenses incurred by the county pound or by a humane society or other organization designated to provide a pound for collecting, caring for and disposing of dogs may be paid out of the dog license fund. The amount remaining in the fund after deducting these expenses shall be available for and may be used as far as necessary for paying claims allowed by the county to the owners of domestic animals because of damages done by dogs during the license year for which the taxes were paid. Any surplus in excess of \$1,000 which may remain from the dog license taxes of any license year shall on March 1 of the succeeding year be paid by the county treasurer to the towns, villages and cities of the county for their use in the proportion in which the towns, villages and cities contributed to the fund out of which the surplus arises.

SECTION 19. 174.11 (1) of the statutes is amended to read:

174.11 (1) The owner of any ~~domestic animals (including poultry, and including livestock or ranch mink, when it is proven that the dog forcibly entered the enclosure in which the mink were kept)~~, which are attacked, chased, ~~wounded~~, injured or killed by dogs may within 3 days after the owner has knowledge or notice thereof, file a written claim for damages with the clerk of the town, village or city in which the damage occurred or, if it occurred in a town or village, with the chairman of such town or the supervisor of such village. The form of such claim may be prescribed by the department of agriculture, trade and consumer protection. Upon presentation of such claim the supervisors of the town, the board of trustees of the village, or the common council of the city, or a committee appointed for that purpose by the supervisors, the board of trustees or the common council shall promptly investigate said claim and may subpoena witnesses, administer oaths and take testimony relative thereto and shall within 30 days after the filing of said claim make, certify and return to the county clerk said claim, a report of the investigation, the testimony taken and the amount of damages suffered by the owner of ~~said animals~~ the livestock or mink, together with the ~~assessed valuation of same as shown on the last assessor's blotter or record for personal property assessments or if there is none, then the assessed value of similar animals on such blotter or record~~ value of the livestock or mink as determined by the agricultural committee of the county board of supervisors.

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