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1983 Senate Bill 391

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1983 Wisconsin Act 451

AN ACT to repeal 174.01 (4); to renumber 95.21 (1) (a); to amend 29.05 (8) (b), 58.07 (2), 59.877, 95.21 (2) (a) and (f), 174.02 (title) and (1), 174.042 (3), 174.05 (1) and (3), 174.053 (1), 174.06 (5), 174.07 (1) (a), (b) and (c), 174.09 (1) and (2) and 174.11; to repeal and recreate 174.01 (1) to (3); and to create 95.21 (1) (a), 95.21 (4) (c), 174.001 (2g), 174.02 (3) and 174.054 of the statutes, relating to revising laws relating to dogs and cats.

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 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 A~~ 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~~ may kill a dog found running, injuring, causing injury to, or killing any deer, or destroying game birds, their eggs or nests, if they deem it advisable and immediate action is necessary to protect the deer or game birds, their nests or eggs, from injury or death.

SECTION 2. 58.07 (2) of the statutes is amended to read:

58.07 (2) The board or council shall prescribe the duties of such officers, which shall include the enforcement of ~~the laws relating to the prevention of neglect or cruelty to animals s. 95.21 and chs. 174 and 948.~~ Humane officers are vested with the powers of police officers or constables within their counties or municipalities for the purpose of carrying out their duties.

SECTION 3. 59.877 of the statutes is amended to read:

59.877 Licenses for cats. A county having a population of 500,000 or more may enact an ordinance requiring licenses for cats. The ordinance may require a person who owns or keeps a cat within the county's boundaries to pay a license fee, obtain a license tag and otherwise control the cat. An ordinance enacted under this section shall require the owner of a cat to present evidence that the cat is currently immunized against rabies before a license may be issued. All proceeds from cat licenses shall be used for licensing, regulating and impounding of cats.

SECTION 4. 95.21 (1) (a) of the statutes is renumbered 95.21 (1) (am).

SECTION 5. 95.21 (1) (a) of the statutes is created to read:

95.21 (1) (a) "Domestic animal" has the meaning provided under s. 174.001 (2g).

SECTION 6. 95.21 (2) (a) and (f) of the statutes are amended to read.

95.21 (2) (a) *Requirement for vaccination.* ~~The~~ Except as provided in s. 174.054, the owner of a dog shall have the dog vaccinated against rabies by a veterinarian within 30 days after the dog reaches 4 months of age and revaccinated within one year after the initial vaccination. If the owner obtains the dog or brings the dog into this state after the dog has reached 4 months of age, the owner shall have the dog vaccinated against rabies within 30 days after the dog is obtained or brought into the state unless the dog has been vaccinated as evidenced by a current certificate of rabies vaccination from this state or another state. The owner of a dog shall have the dog revaccinated against rabies by a

veterinarian before the date that the immunization expires as stated on the certificate of vaccination or, if no date is specified, within 3 years after the previous vaccination.

(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 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 or to a dog while actively involved in herding or controlling livestock if the dog is under the control of its owner. 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).

SECTION 7. 95.21 (4) (c) of the statutes is created to read:

95.21 (4) (c) *Sacrifice of a dog or cat.* An officer may order killed or may kill a dog or cat if the owner of the dog or cat violates sub. (5) (a), (b) or (c).

SECTION 8. 174.001 (2g) of the statutes is created to read.

174.001 (2g) “Domestic animal” includes livestock, dogs and cats.

SECTION 9. 174.01 (1) to (3) of the statutes are repealed and recreated to read:

174.01 (1) **KILLING A DOG.** (a) Except as provided in par. (b), a person may intentionally kill a dog only if a person is threatened with serious bodily harm by the dog and:

1. Other restraining actions were tried and failed; or
2. Immediate action is necessary.

(b) A person may intentionally kill a dog if a domestic animal that is owned or in the custody of the person is threatened with serious bodily harm by the dog and the dog is on property owned or controlled by the person and:

1. Other restraining actions were tried and failed; or
2. Immediate action is necessary.

(2) **INAPPLICABLE TO OFFICERS, VETERINARIANS AND PERSONS KILLING THEIR OWN DOG.** This section does not apply to an officer acting in the lawful performance of his or her duties under s. 29.05 (8) (b), 95.21, 174.02 (3) or 174.046 (9), or to a veterinarian killing a dog in a proper and humane manner or to a person killing his or her own dog in a proper and humane manner.

(3) **LIABILITY AND PENALTIES.** A person who violates this section:

- (a) Is liable to the owner of the dog for double damages resulting from the killing;
- (b) Is subject to the penalties provided under s. 174.15; and
- (c) May be subject to prosecution, depending on the circumstances of the case, under s. 948.02.

SECTION 10. 174.01 (4) of the statutes is repealed.

SECTION 11. 174.02 (title) and (1) of the statutes are amended to read:

174.02 (title) Owner’s liability for damage caused by a dog; penalties; court order to kill a dog. (1) **LIABILITY FOR INJURY.** (a) *Without notice.* The owner of a dog is may be 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 may be 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.

SECTION 12. 174.02 (3) of the statutes is created to read:

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174.02 (3) COURT ORDER TO KILL A DOG. (a) The state or any municipality may commence a civil action to obtain a judgment from a court ordering an officer to kill a dog. The court may grant the judgment if the court finds both of the following:

1. The dog caused serious injury to a person or livestock on 2 separate occasions off the owner's property, without reasonable cause.
2. The owner of the dog was notified or knew prior to the 2nd injury, that the dog caused the first injury.

(b) Any officer enforcing a judgment under this subsection shall kill a dog in a proper and humane manner.

SECTION 13. 174.042 (3) of the statutes is amended to read:

174.042 (3) DOG RUNNING AT LARGE OR UNTAGGED DOG SUBJECT TO IMPOUNDMENT. ~~Any~~ An officer ~~may and a humane officer~~ shall attempt to capture and restrain any dog running at large and any untagged dog.

SECTION 15. 174.05 (1) and (3) of the statutes are amended to read:

174.05 (1) REQUIREMENT. ~~The~~ Except as provided in s. 174.054, the owner of a dog more than 5 months of age on January 1 of any year, or 5 months of age within the license year, shall annually, or on or before the date the dog becomes 5 months of age, pay the dog license tax and obtain a license.

(3) ADDITIONAL TAX. The governing body of any county may by a majority vote of the members present at any regular meeting raise the minimum dog license tax on dogs within its jurisdiction and the governing body of any town, village or city may by resolution raise the minimum dog license tax on dogs within its jurisdiction. If the governing body of any county, town, village or city increases the minimum tax, it shall provide that the tax for unneutered male dogs and unspayed female dogs is greater than the tax for neutered male dogs and spayed female dogs. The additional tax may not exceed the total cost of all dog licensing, regulating and impounding activities for the previous year, less any refunds which may be received under s. 174.09 (2), and shall be levied and collected in the same manner as other dog license taxes.

SECTION 16. 174.053 (1) of the statutes is 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. Such person shall pay 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.

SECTION 17. 174.054 of the statutes is created to read:

174.054 Exemption for owners of dogs kept for educational or scientific purposes. Sections 95.21 (2) (a), 174.05 (1) and 174.07 (1) (a) do not apply to a person who owns dogs that are kept only for educational or scientific purposes.

SECTION 18. 174.06 (5) of the statutes is amended to read:

174.06 (5) RECORDS. The listing official shall enter in the records for personal property assessments, or in a separate record, all dogs in the district subject to tax, to whom they are assessed, the name, number, sex, spayed or unspayed, neutered or unneutered, breed and color of each dog. The listing official shall make in triplicate a list of the owners of all dogs assessed.

SECTION 19. 174.07 (1) (a), (b) and (e) of the statutes are amended to read:

174.07 (1) (a) *License required.* ~~A~~ Except as provided in s. 174.054, a dog license is necessary for the keeping of any dog over 5 months of age.

(b) *Licenses.* Upon payment of the required dog license tax and, ~~if required by the governing body of the county, city, village or town,~~ upon presentation of evidence that the dog is currently immunized against rabies, the collecting official shall complete and issue to the owner a license for the dog bearing a serial number and in the form prescribed by the department stating the date of its expiration, the owner's name and address, and the name, sex, spayed or unspayed, neutered or unneutered, breed and color of the dog.

(c) *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 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 or to a dog while actively involved in herding or controlling livestock if the dog is under the control of its owner.

SECTION 20. 174.09 (1) and (2) of the statutes are amended to read:

174.09 (1) The dog license taxes so paid to the county treasurer shall be kept in a separate account and shall be known as the "dog license fund" and shall be appropriated and disbursed for the purposes and in the manner following: Within 30 days after receipt of the same the county treasurer shall pay into the state treasury 5 ~~per cent~~ % of the minimum tax as provided for under s. 174.05 (2) of all dog license taxes which shall have been received by the county treasurer.

(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, expenses incurred by the county under s. 95.21 (4) (b) and (8) 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 county humane society or other organization designated by the county board to provide a pound. If there is no humane society or other organization designated to provide a pound, these funds shall be paid 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 21. 174.11 of the statutes is amended to read:

174.11 (title) Claims for damage by dogs to livestock or ranch mink; payable, when, from dog license fund; appeals. (1) The owner of any 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, 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~~ president of such village. The form of ~~such~~ the claim may be prescribed by the department of agriculture, trade and consumer protection. Upon presentation of ~~such a~~ the 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~~ the claim and may subpoena witnesses, administer oaths and take testimony relative ~~thereto~~ to the claim and shall within 30 days after the filing of ~~said~~ the claim make, certify and return to the county clerk ~~said~~ the claim, a report of the

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investigation, the testimony taken and the amount of damages suffered by the owner of the livestock or mink, ~~together with the value of the livestock or mink as determined by the agricultural committee of the county board of supervisors.~~

(2) The form of the report and certification may be prescribed by the department of agriculture, trade and consumer protection, and shall be subscribed by the supervisors, board or committee making the ~~same report and certification.~~ The county clerk shall ~~lay before~~ submit to the county board at its first meeting, following the receipt of any such claim, all claims ~~so~~ filed and reported and the ~~same claims~~ shall be acted upon and determined by the county board as other claims are determined and acted upon, ~~and the county board shall equalize the values and claims between and within the various towns of the county.~~ The amount of damages filed and reported to the county clerk shall be prima facie proof of the actual damages sustained, but evidence may be taken before the county board relative to the claims as in other cases and appeals from the action of the county board shall lie as in other cases. On appeal from the action of the county board, ~~said~~ the trial shall be by the court without a jury.

(3) ~~Such~~ The claims shall be solely against the dog license fund and shall create no other liability on the part of the county.

(4) ~~The amount allowed by the county board shall be the amount of the equalized value of the personal property destroyed. In the alternative, damages may be allowed by the county board in an amount not to exceed 50% more than the assessed value of the personal property destroyed. When any assessable personal property for which claim is made does not appear on such assessor's blotter or record it shall be deemed to be of the same value as the assessed valuation of similar personal property upon such blotter or record in the town, city or village in which the claim arose. Whenever the claimant furnishes conclusive evidence as to the ownership of the dog doing the damage the claimant shall be paid the full market value of the damaged property; and for each horse or mule for which such claim is made the county board shall allow not to exceed \$100~~ county board shall allow, as the amount of a claim for livestock and ranch mink killed by dogs, the amount determined to be the fair market value of the livestock or ranch mink on the date the death occurred. The county board shall allow, as the amount of a claim for livestock and ranch mink injured by dogs, the amount determined to be the total of the costs resulting from the injury including a loss in fair market value but the total amount of the claim may not exceed the fair market value. No claim ~~shall~~ may be paid to any person who has failed or neglected to pay a dog tax on an assessable dog.
