CHAPTER 174

DOGS

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174.001 Definitions. As used in this chapter, unless the context indicates otherwise:

(1) "Collar" means a band, strip or chain placed around the neck of a dog.

(2) "Department" means the department of agriculture, trade and consumer protection.

(2g) "Domestic animal" includes livestock, dogs and cats.

(2j) "Intergovernmental commission" means an intergovernmental commission formed by contract under s. 66.0301 (2) by all of the municipalities in a county with a population of 500,000 or more for the purpose of providing animal control services.

(3) "Livestock" means any horse, bovine, sheep, goat, pig, llama, alpaca, domestic rabbit, farm−raised deer, as defined in s. 95.001 (1) (ag), or domestic fowl, including any farm−raised game bird, as defined in s. 169.01 (12m).

(4) "Officer" has the meaning designated under s. 95.21 (1) (b).

(5) "Owner" includes any person who owns, harbors or keeps a dog.

History: 1979 c. 289 ss. 8m, 17; 1983 a. 451; 1995 a. 79, 316; 1997 a. 35; 2001 a. 16, 56; 2003 a. 133.

The casual presence of a dog on someone's property does not make that person a "keeper." "Harboring" a dog means to afford it lodging, to shelter it, or give it refuge; it does not include the transient presence in one's home of another's dog. Pattermann v. Pattermann, 173 Wis. 2d 143, 496 N.W.2d 613 (Ct. App. 1992).

There is a distinction between "keeping" and "harboring." Keeping generally requires exercising some measure of care, custody, or control over the dog, while harboring is often defined as sheltering or giving refuge to a dog. Thus, harboring lacks the proprietary aspect of keeping. However, the concepts of "harbor" and "keep" are similar, and the liability of one who harbors a dog and one who keeps a dog is the same. Pawlowski v. American Family Mutual Insurance Co. 2009 WI 105, 322 Wis. 2d 21, 777 N.W.2d 67, 07−2651.

The relevant consideration in deciding a question of "harboring" is whether the owner of the home knowingly afforded lodging and shelter to the dog. That an owner resided in a separate home from the dog and was not in a convenient position to and in fact did not exercise custody or control over or care for the dog, would be most relevant if the issue was whether the owner was a "keeper" of the dog, but not a harborer. Augsburger v. Homestead Mutual Insurance Company, 2013 WI App 106, 350 Wis. 2d 486, 838 N.W.2d 88, 12−0641.

174.01 Restraining action against dogs. (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. 29.921 (7), 95.21, 173.23 (1m) (c), (3), or (4), or 174.02 (3), 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. 951.02.

History: Sup. Ct. Order, 67 Wis. 2d 585, 775 (1975); 1975 c. 218; 1979 c. 289; 1981 c. 285; 1983 a. 451; 1987 a. 332 s. 64; 1997 a. 192, 248; 1999 a. 32; 2005 a. 162.

Within the meaning of the 4th amendment, domestic animals are effects and the killing of a companion dog constitutes a seizure, which is constitutional only if reasonable. Viilo v. Eyre, 547 F.3d 707 (2008).

174.02 Owner's liability for damage caused by dog; penalties; court order to kill a dog. (1) LIABILITY FOR INJURY. (a) *Without notice.* Subject to s. 895.045 and except as provided in s. 895.57 (4), the owner of a dog is liable for the full amount of damages caused by the dog injuring or causing injury to a person, domestic animal or property.

(b) *After notice.* Subject to s. 895.045 and except as provided in s. 895.57 (4), the owner of a dog is liable for 2 times the full amount of damages caused by the dog biting a person with sufficient force to break the skin and cause permanent physical scarring or disfigurement if the owner was notified or knew that the dog had previously, without provocation, bitten a person with sufficient force to break the skin and cause permanent physical scarring or disfigurement.

(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 $2,500 if the dog injures or causes injury to a person, domestic animal, 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 $200 nor more than $5,000 if the dog injures or causes injury to a person, domestic animal, property, deer, game birds or the nests or eggs of game birds, and if the owner was notified or knew that the dog previously injured or caused injury to a person, domestic animal, 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.

(3) COURT ORDER TO KILL A DOG. (a) The state, any municipality, or a person who is injured by the dog, whose minor child was injured by the dog, or whose domestic animal is injured by the dog 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 domestic animal 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.

(4) LAW ENFORCEMENT DOGS. (a) In this subsection, "law enforcement agency" has the meaning given in s. 165.83 (1) (b).

(b) The owner of a dog that is used by a law enforcement agency is not liable under sub. (1) for damages caused by the dog to a crime suspect while the dog is performing law enforcement functions.

(c) Subsection (2) does not apply to the owner of a dog that is used by a law enforcement agency if the dog injures a crime suspect while the dog is performing law enforcement functions.

(d) Subsection (3) does not apply to a dog that is used by a law enforcement agency if the dog injures a crime suspect while the dog is performing law enforcement functions.

History: 1981 c. 285; 1983 a. 451; 1985 a. 92; 1993 a. 154; 1995 a. 181; 1997 a. 141; 1999 a. 45; 2015 a. 112.

Public policy does not prohibit insurance coverage for statutorily imposed multiple damages. Cieslewicz v. Mutual Service Cas. Ins. Co. 84 Wis. 2d 91, 267 N.W.2d 595 (1978).

Doubling of damages under s. 174.02 (1) (b) operates only after application of the laws of comparative negligence. Sprague v. Sprague, 132 Wis. 2d 68, 389 N.W.2d 823 (Ct. App. 1986).

To be a "keeper" of a dog within the definition of "owner" under this statute, the person must exercise some measure of custody, care, or control. An "owner" injured while in control of the dog may not use the statute to hold another owner liable. Armstrong v. Milwaukee Mutual Insurance Co. 202 Wis. 2d 258, 549 N.W.2d 723 (1996), 93−1918.

A landlord does not become a harborer of a tenant's dog by merely permitting the tenant to keep the dog. Malone v. Fons, 217 Wis. 2d 746, 580 N.W.2d 697 (Ct. App. 1998), 96−3326.

Armstrong has no application when one who is neither an owner or keeper of the dog is injured. Sub. (1) imposes strict liability on an owner when the person injured is neither the dog's owner or keeper. Fifer v. Dix, 2000 WI App 66, 234 Wis. 2d 117, 608 N.W.2d 740, 99−1717.

An owner may sue a keeper for contribution when an innocent 3rd−party has been injured. Fire Insurance Exchange v. Cincinnati Insurance Company, 2000 WI App 82, 234 Wis. 2d 314, 610 N.W.2d 98, 99−1094.

A keeper of a dog may not recover under this section, notwithstanding an allegation that the actual owner was negligent. While the keeper may pursue a common law negligence claim, sub. (1) (b) and its provision of double damages are not applicable to that action. Malik v. American Family Mutual Insurance Co. 2001 WI App 82, 243 Wis. 2d 27, 625 N.W.2d 640, 00−1129.

A dog owner does not have notice under sub. (1) (b) because the owner knows that the dog as a puppy chewed on household items in the course of normal teething behavior. Gasper v. Parbs, 2001 WI App 259, 249 Wis. 2d 106, 637 N.W.2d 399, 00−2476.

Courts may utilize the traditional 6 public policy factors, formerly referred to as proximate cause, to limit liability in appropriate cases under this section. Fandrey v. American Family, 2004 WI 62, 272 Wis. 2d 46, 680 N.W.2d 345, 02−2628.

Public policy does not preclude a police officer from suing for injuries received because of a dog attack that occurred during the course of the officer's duties. Cole v. Hubanks, 2004 WI 74, 272 Wis. 2d 539, 681 N.W.2d 147, 02−1416.

Under s. 174.001 (5), "owner" includes anyone who keeps or harbors a dog. The concepts of "harbor" and "keep" are similar, and the liability of one who harbors a dog and one who keeps a dog is the same. When a homeowner has become a statutory owner by virtue of the dog's living in her residence for several months, that status does not vary on a minute−to−minute basis, depending on which person controls the dog. The homeowner's status as a harborer of the dog is not extinguished when the dog's legal owner takes momentary control of the dog. Pawlowski v. American Family Mutual Insurance Co. 2009 WI 105, 322 Wis. 2d 21, 777 N.W.2d 67, 07−2651.

Mere ownership of the property on which a dog resides is not sufficient to establish that an individual is an owner of a dog under this section. The totality of the circumstances determines whether the legal owner of the property has exercised the requisite control over the property to be considered a harborer and thus an owner under the statute. Augsburger v. Homestead Mutual Insurance Company, 2014 WI 133, 359 Wis. 2d 385, 856 N.W.2d 874, 12−0641.

Recent changes in the statutory liability of Wisconsin dog owners: How expensive is fido? Eiche. WBB April 1984.

Unleashed: Wisconsin's Dog Statute. Mullaney. Wis. Law. June 2006.

174.042 Dogs running at large and untagged dogs subject to impoundment; penalties. (1) DOG RUNNING AT LARGE. (a) Except as provided in par. (b), a dog is considered to be running at large if it is off the premises of its owner and not under the control of the owner or some other person.

(b) A dog that is actively engaged in a legal hunting activity, including training, is not considered to be running at large if the dog is monitored or supervised by a person and the dog is on land that is open to hunting or on land on which the person has obtained permission to hunt or to train a dog.

(2) UNTAGGED DOG. A dog is considered to be untagged if a valid license tag is not attached to a collar which is kept on the dog whenever the dog is outdoors unless the dog is securely confined in a fenced area.

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

(4) PENALTIES. If the owner of a dog negligently or otherwise permits the dog to run at large or be untagged, the owner shall forfeit not less than $25 nor more than $100 for the first offense and not less than $50 nor more than $200 for subsequent offenses.

History: 1979 c. 289; 1983 a. 451; 1999 a. 50.

174.05 Dog license tax. (1) REQUIREMENT. 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.

(2) TAX. The minimum dog license tax is $3 for a neutered male dog or spayed female dog, upon presentation of evidence that the dog is neutered or spayed, and $8 for an unneutered male dog or unspayed female dog, or one−half of these amounts if the dog became 5 months of age after July 1 of the license year.

(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.

(4) LICENSE YEAR. The license year commences on January 1 and ends on the following December 31.

(5) LATE FEES. The collecting official shall assess and collect a late fee of $5 from every owner of a dog 5 months of age or over, if the owner failed to obtain a license prior to April 1 of each year, or within 30 days of acquiring ownership of a licensable dog or if the owner failed to obtain a license on or before the dog reached licensable age. All late fees received or collected shall be paid into the local treasury as revenue of the town, village or city in which the license was issued. The governing body of any county, town, village or city may, when setting the amount of the tax, provide that any person purchasing a dog license for a dog 5 months of age or over after April 1 shall pay an additional late fee.

History: 1979 c. 289; 1983 a. 451; 1991 a. 39.

174.052 Publication of the dog license requirement and rabies vaccination requirement. (1) JANUARY NOTICE. Except as provided in sub. (3), the county board of each county shall cause a class 1 notice under ch. 985 to be published between January 1 and January 15 of each year in a newspaper having general circulation in the county notifying the public that rabies vaccinations and dog licenses are required under the statutes.

(2) MARCH NOTICE. Except as provided in sub. (3), the county board of each county shall cause a class 1 notice under ch. 985 to be published between March 1 and March 15 of each year in a newspaper having general circulation in the county notifying the public that rabies vaccinations and dog licenses are required under the statutes and that late fees may be assessed after April 1.

(3) NOTICE IN CERTAIN POPULOUS COUNTIES. In a county in which an agreement under s. 174.10 (2) is in effect, the intergovernmental commission shall cause the notices under subs. (1) and (2) to be published.

History: 1979 c. 289; 2003 a. 133.

174.053 Multiple dog licenses. (1) MULTIPLE DOG LICENSE OPTION. Any person who keeps more than one dog may, instead of the license tax for each dog required by this chapter, apply to the collecting official for a multiple dog license for the keeping of the dogs. Such person shall pay for the license year a license tax of $35 for 12 or fewer dogs and an additional $3 for each dog in excess of 12. Upon payment of the required multiple dog license tax and upon presentation of evidence that all dogs over 5 months of age are currently immunized against rabies, the collecting official shall issue the multiple dog license and a number of tags equal to the number of dogs authorized to be kept by the person.

(2) MULTIPLE DOG LICENSE TAGS. Multiple dog 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 dogs for which a multiple dog license has been issued shall keep at all times a multiple dog license tag attached to the collar of each dog over 5 months old kept by the owner or keeper under a multiple dog license, 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. An owner or keeper may transfer a multiple dog license tag from a dog that the owner or keeper no longer owns or keeps to another dog if the other dog is currently immunized against rabies. 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 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 multiple dog license tag shall be permitted to stray or to be taken anywhere outside the limits of the owner's or keeper's premises unless the dog is in leash or temporarily out for the purposes of hunting, breeding, trial, training, or competition.

(3) APPLICABILITY OF OTHER REQUIREMENTS. Unless clearly inapplicable, all the provisions of this chapter relating to the individual dog license tax, licenses, and tags shall apply to the multiple dog license and tags.

History: 1979 c. 289 ss. 12, 18, 19, 21; 1981 c. 285; 1983 a. 451; 1991 a. 39; 2001 a. 16.

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.

History: 1983 a. 451.

174.055 Exemption of dogs for blind, deaf and mobility−impaired. Every dog specially trained to lead blind or deaf persons or to provide support for mobility−impaired persons is exempt from the dog license tax and every person owning such a dog shall receive annually a free dog license from the local collecting officer upon application.

History: 1979 c. 247; 1985 a. 67.

174.06 Listing. (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.

(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) Except as provided in par. (b), a listing official who is not a full−time, salaried municipal employee shall receive as compensation 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 employee shall receive this compensation from the county board but shall be required to pay the compensation into the town, village, or city treasury.

(b) In a county in which an agreement under s. 174.10 (2) is in effect, the intergovernmental commission shall pay the compensation required under par. (a).

(4) COOPERATION WITH LISTING OFFICIAL. Every person shall answer frankly and fully all questions asked by the listing official relative to the ownership or keeping of dogs within the district.

(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.

(6) MULTIPLE DOG LICENSE RECORDS. The listing official shall make in triplicate a list of the names of persons holding multiple dog licenses and the number of dogs kept by each of those persons.

(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 and one copy to the official to whom license taxes are paid under s. 174.08, and retain one copy for his or her files.

(8) ASSESSMENT OR TAX ROLL. Dog licenses need not be entered on any assessment or tax roll other than the lists prepared by the listing official under subs. (5) and (6). These lists may be deemed property assessment and tax rolls for all tax collection purposes.

History: 1973 c. 90, 333; 1975 c. 290, 421; 1977 c. 29 s. 1650m (4); 1979 c. 289; 1981 c. 285, 314; 1983 a. 451; 2001 a. 16; 2003 a. 133.

174.065 Collection. (1) COLLECTING OFFICIAL. The collecting official is any city, village, or town treasurer or other tax collecting officer or any 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. Veterinarians and humane societies may voluntarily become collecting officials for a city, village, or town if the governing body of the city, village, or town by resolution or ordinance provides that veterinarians and humane societies may be collecting officials for the city, village, or town. In a county in which an agreement under s. 174.10 (2) is in effect, the intergovernmental commission is also a collecting official for a city, village, or town if the governing body of the city, village, or town by resolution or ordinance provides that the intergovernmental commission is a collecting official.

(3) COLLECTION OF DELINQUENT DOG LICENSE TAXES. Delinquent dog license taxes may be collected in the same manner as in s. 74.55 and ch. 799 for the collecting of personal property taxes.

History: 1979 c. 289 ss. 14, 24; 1981 c. 285; 1987 a. 378; 2001 a. 16; 2003 a. 133.

174.07 Dog licenses and collar tags. (1) (a) *License required.* 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, except as provided in s. 95.21 (9) (d), 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) *Copies.* The collecting official shall keep a duplicate copy of the license on file. In counties having a population of 500,000 or more, the collecting official shall immediately send to the county clerk or whatever agency the county board may direct, a triplicate copy of the license. A collecting official who is not the official to whom license taxes are paid under s. 174.08 shall pro-

vide a copy of each license issued to the official to whom license taxes are paid under s. 174.08.

(d) *Tag*. After issuing the license the collecting official shall deliver to the owner a tag of durable material bearing the same serial number as the license, the name of the county in which issued and the license year.

(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 dog during competition or training, to a dog securely confined indoors, to a dog while hunting, 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.

(f) *Duplicate tags*. A new tag with a new number shall be furnished to the owner by a collecting official in place of the original tag upon presentation of the license. The collecting official shall then endorse the new tag number on the license and shall keep a record in the file.

(2) PROVISION AND DISTRIBUTION OF FORMS AND TAGS. (a) The department shall contract for and have prepared and furnished annually to the county clerk of each county a sufficient number of tags. The cost of making and furnishing the tags and the cost of printing all forms shall be paid by the counties out of the dog license fund.

(b) The county clerks shall distribute tags and license forms to the collecting officials in proper amounts together with blank license receipts.

(c) The department shall provide and the clerk shall distribute triplicate or quadruplicate copy license forms to any collecting official who makes such a request.

(d) The department shall furnish county clerks with suitable multiple dog license tags and blank licenses for distribution to the collecting officials.

(e) Notwithstanding pars. (a) to (d), in a county in which an agreement under s. 174.10 (2) is in effect, all of the following apply:

1. The department shall provide tags and, upon request, license forms to the intergovernmental commission, rather than to the county clerk.

2. The intergovernmental commission shall pay the costs out of the dog license fund.

3. The intergovernmental commission shall distribute tags and license blanks to the other collecting officials.

(3) FILING AND ACCOUNTING. (a) *Copies*. A collecting official shall, at the time of issuing a license, make a complete duplicate upon the stub portion of the license form before delivering the license. A copy of each license shall be kept in a file maintained by the collecting official. In counties having a population of 500,000 or more, the collecting official shall send immediately to the county clerk or whatever agency the county board may direct an additional copy of the license.

(b) *Return of tags and licenses*. Except as provided in par. (bm), the collecting official shall annually by December 31 return to the county clerk all unused tags of the current license year, together with license books and all duplicate licenses of the current year. The county clerk shall carefully check the returned tags, duplicate licenses, and license forms to ascertain whether all tags and license forms that were furnished by the county clerk have been accounted for. To enable the county clerk to do that, the county clerk shall charge each collecting official with all tags and license forms furnished or delivered and credit those returned. In case of discrepancy, the county clerk shall notify the department.

(bm) *Certain populous counties*. In a county in which an agreement under s. 174.10 (2) is in effect, a collecting official who is not the intergovernmental commission shall return unused tags, license books, and duplicate licenses to the intergovernmental commission.

(c) *Reimbursement*. The collecting official may retain 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 the collecting official is not a full−time, salaried municipal employee. If the collecting official is a full−time, salaried municipal employee, this compensation shall be paid into the treasury of the town, village, or city.

History: 1975 c. 290, 421; 1977 c. 29 ss. 1260g, 1650m (4); 1979 c. 289 ss. 20, 25 to 30; 1981 c. 285; 1983 a. 451; 2001 a. 16, 107; 2003 a. 133; 2005 a. 240.

174.08 License fees paid to county treasurer. **(1)** Except as provided in sub. (2), every collecting official shall pay all dog license taxes to the town, village, or city treasurer or other tax collecting officer who shall deduct any additional tax that may have been levied by the municipal governing body and pay the remainder to the county treasurer at the time settlement is made with the county treasurer for collections of personal property taxes, and shall at the same time report in writing to the county clerk the licenses issued. The report shall be in the form prescribed by the department, and the forms shall be furnished by the county clerks.

(2) In a county in which an agreement under s. 174.10 (2) is in effect, a collecting official who is not the intergovernmental commission shall pay all dog license taxes to the intergovernmental commission and shall report the licenses issued to the intergovernmental commission.

History: 1977 c. 29; 1979 c. 289; 2003 a. 133.

174.09 Dog license fund; how disposed of and accounted for. **(1)** Except as provided in sub. (3), 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 percent 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) Except as provided in sub. (3), expenses necessarily incurred by the county in purchasing and providing books, forms, and other supplies required in administering 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.

(3) In a county in which an agreement under s. 174.10 (2) is in effect, the intergovernmental commission shall maintain the dog license fund, consisting of the dog license taxes. The intergovernmental commission shall pay 5 percent of the minimum dog license tax provided for under s. 174.05 (2) to the department and shall expend the remainder of the dog license fund for the purposes of administering the dog license law, providing a pound for dogs, and paying claims allowed under s. 174.11. If on March 1 there is remaining in the dog license fund a surplus from the dog

license taxes of the previous license year that exceeds 5 percent of the dog license taxes collected in that license year, the intergovernmental commission shall return the excess to the towns, villages, and cities of the county in the proportion in which the towns, villages, and cities contributed to the fund in that license year.

History: 1979 c. 289; 1981 c. 285; 1983 a. 451; 2003 a. 133.

174.10 Dog licensing in populous counties. (1) In this section, "municipality" means a city, village, or town.

(2) If all of the municipalities in a county with a population of 500,000 or more form an intergovernmental commission by contract under s. 66.0301 (2) for the purpose of providing animal control services, the county and the intergovernmental commission may enter into an agreement under which the intergovernmental commission assumes the county's responsibility for activities related to dog licensing.

(3) If a county and an intergovernmental commission enter into an agreement under sub. (2), the intergovernmental commission shall provide a copy of the agreement to the department.

History: 2003 a. 133.

174.11 Claims for damage by dogs to domestic animals including ranch mink. (1) The owner of any domestic animal, including a ranch mink, when it is proven that a dog forcibly entered an enclosure in which the mink was kept, which is attacked, chased, injured, or killed by a dog 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 chairperson of such town or the president of such village. The form of the claim may be prescribed by the department of agriculture, trade and consumer protection. Upon presentation of a 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 the claim and may subpoena witnesses, administer oaths, and take testimony relative to the claim and shall within 30 days after the filing of the claim make, certify, and return to the county clerk or, in a county in which an agreement under s. 174.10 (2) is in effect, to the intergovernmental commission the claim, a report of the investigation, the testimony taken, and the amount of damages suffered by the owner of the domestic animal.

(2) (a) The form of the report and certification under sub. (1) may be prescribed by the department of agriculture, trade and consumer protection, and shall be subscribed by the supervisors, board, or committee making the report and certification.

(b) Except as provided in par. (c), the county clerk shall submit to the county board at its first meeting, following the receipt of any such claim, all claims filed and reported, and the claims shall be acted upon and determined by the county board as other claims are determined and acted upon. Except as provided in par. (c), 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.

(c) In a county in which an agreement under s. 174.10 (2) is in effect, the intergovernmental commission shall act upon and determine all claims filed and reported under sub. (1).

(d) On appeal from the action of the county board or, in a county in which an agreement under s. 174.10 (2) is in effect, from the action of the intergovernmental commission, the trial shall be by the court without a jury.

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

(4) Subject to sub. (5), the county board or, in a county in which an agreement under s. 174.10 (2) is in effect, the intergovernmental commission shall allow, as the amount of a claim for a domestic animal, including a ranch mink, killed by a dog, the amount determined to be the fair market value of the domestic animal, including a ranch mink, on the date the death occurred. Subject to sub. (5), the county board or, in a county in which an agreement under s. 174.10 (2) is in effect, the intergovernmental commission shall allow, as the amount of a claim for a domestic animal, including a ranch mink, injured by a dog, 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 may be paid to any person who has failed to pay a dog tax on an assessable dog.

(5) A county board may, by ordinance, establish the maximum amount that may be allowed for a claim under this section and may establish different maximums for different species of animals.

History: 1977 c. 29 s. 1650m (4); 1981 c. 285; 1983 a. 451; 1989 a. 56 s. 258; 1993 a. 154; 1995 a. 316; 2003 a. 133.

174.12 Actions against owners. (1) The allowance by a county of any claim for damages done by dogs constitutes an assignment to the county of the cause of the action of the claimant for which the claim is filed, and the county may sue and recover from the owner of the dog or dogs doing the damages the full amount thereof and which shall not be limited to the sum paid the claimant by the county. The allowance under s. 174.11 (2) (c) by an intergovernmental commission of any claim for damages done by dogs constitutes an assignment to the intergovernmental commission of the cause of the action of the claimant for which the claim is filed, and the intergovernmental commission may sue and recover from the owner of the dog or dogs doing the damages the full amount thereof and which shall not be limited to the sum paid the claimant by the intergovernmental commission. Before any claim shall be allowed by a county or an intergovernmental commission on account of damages done by dogs, the claimant shall furnish satisfactory proof that the damage was not done in whole or in part by any dog owned, kept, or harbored by the claimant.

(2) No claim shall be allowed by a county board or an intergovernmental commission at less than the amount so certified and reported, unless the claimant shall first be notified that such action is contemplated and shall have been given a reasonable opportunity to be heard and to offer further evidence in support of the claimant's claim.

(3) This chapter shall not in any way limit the existing right or authority of any town, village or city to pass ordinances for the keeping and regulating of dogs, or repeal or annul any existing statute or ordinance or local regulation governing the keeping and regulating of dogs; but on and after July 1, 1920, no town, village or city shall pass any ordinance for the licensing of dogs, and all town, village or city ordinances and local regulations licensing dogs then in force shall be null and void.

(4) No person except the owner or the owner's authorized agent shall remove any license tag from a dog collar or remove any collar with a license attached thereto from any dog. No person shall keep or harbor a dog wearing a fictitious, altered or invalid license tag, or a license tag not issued in connection with the licensing or keeping of the dog wearing the same. No license or license tag issued for one dog shall be transferable to another dog. Every town, village or city treasurer shall notify the district attorney of that treasurer's county of every refusal or failure of an owner to obtain a license for keeping the owner's dog and it shall be the duty of the district attorney to institute proceedings against such owner and against every owner within the district attorney's county who has violated any of the provisions of the dog license law.

(5) Dogs brought into the state temporarily for a period not to exceed 30 days if kept confined or in leash shall be exempt from this chapter.

(6) The provisions of this chapter relating to the licensing of dogs and the provisions for the payment of claims out of the dog license fund for damages done by dogs are severable and the pro-

visions relating to such payment of claims are not an inducement to the enactment of any other provisions of this chapter.

History: 1981 c. 390 s. 252; 1993 a. 482; 2003 a. 133.

174.13 Humane use of dogs for scientific or educational purposes. (2) Any officer or pound which has custody of an unclaimed dog may release the dog to the University of Wisconsin System, the Medical College of Wisconsin, Inc., or to any other educational institution of higher learning chartered under the laws of the state and accredited to the University of Wisconsin System, upon requisition by the institution. The requisition shall be in writing, shall bear the signature of an authorized agent, and shall state that the dog is requisitioned for scientific or educational purposes. If a requisition is made for a greater number of dogs than is available at a given time, the officer or pound may supply those immediately available and may withhold from other disposition all unclaimed dogs coming into the officer's or pound's custody until the requisition is fully discharged, excluding impounded dogs as to which ownership is established within a reasonable period. A dog left by its owner for disposition is not considered an unclaimed dog under this section. If operated by a county, city, village or town, the officer or pound is entitled to the payment of $1 for each dog requisitioned. An institution making a requisition shall provide for the transportation of the dog.

(3) An officer or pound that has custody of unclaimed dogs shall maintain records as provided under s. 173.17.

(4) It shall be unlawful for any person, except a person licensed or registered and regulated under federal animal welfare laws, to take or send outside the state or to purchase or otherwise acquire in this state for the purpose of taking or sending outside the state, any living cat or dog to be used for any medical, surgical or chemical investigation, experiment or demonstration.

History: 1971 c. 40 s. 93; 1973 c. 130; 1977 c. 418, 447; 1979 c. 289; 1991 a. 189; 1997 a. 192.

174.15 Penalty. Any person who violates this chapter shall be fined not more than $500 or imprisoned up to 60 days or both.

History: 1979 c. 289 ss. 34, 36; Stats. 1979 s. 174.15.