

CHAPTER 173

ANIMALS; HUMANE OFFICERS

173.01	Definitions.	173.17	Records.
173.03	Appointment of humane officer.	173.19	Animals considered unclaimed.
173.05	Certification required.	173.21	Holding animals for cause.
173.07	Powers and duties of humane officers.	173.22	Review of seizure or withholding.
173.09	Investigations.	173.23	Disposition of animals.
173.10	Investigation of cruelty complaints.	173.24	Reimbursement for expenses.
173.11	Abatement of violations.	173.25	Immunity for euthanizing animals.
173.12	Animal fighting; seizure.	173.27	Duties of the department.
173.13	Taking custody of animals.	173.41	Regulation of persons who sell dogs or operate animal shelters.
173.15	Provision of care, treatment or disposal services.		

173.01 Definitions. In this chapter:

(1) “Department” means the department of agriculture, trade and consumer protection.

(2) “Law enforcement officer” has the meaning given in s. 165.85 (2) (c).

(3) “Political subdivision” means a city, village, town or county.

History: 1997 a. 192.

173.03 Appointment of humane officer. (1) APPOINTMENT. The governing body of any political subdivision may appoint one or more humane officers. The governing body of a political subdivision shall report all appointments and terminations of appointments of humane officers to the department.

(2) **ORDINANCE.** Before, or at the time of, appointing a humane officer under sub. (1), the governing body making the appointment shall enact an ordinance that designates one or more officials of the political subdivision who may modify or withdraw abatement orders issued under s. 173.11 by humane officers appointed by the political subdivision.

(3) **JURISDICTION.** A humane officer appointed by a city, village or town shall carry out his or her duties within the boundaries of the city, village or town. A humane officer appointed by a county shall carry out his or her duties throughout the county, other than within the boundaries of a city or village whose governing body adopts a resolution withdrawing from county enforcement of humane laws and transmits a copy of the resolution to the county.

History: 1997 a. 192.

Cross-reference: See also ch. ATCP 15, Wis. adm. code.

173.05 Certification required. (1) (a) Any person appointed as a humane officer under s. 173.03 on or after December 1, 1999, shall, before appointment or by the applicable deadline established under s. 173.27 (1) (b), complete a course of training approved by the department, except as provided in par. (b) or (c), and receive certification under s. 173.27 (3).

(b) A person to whom par. (a) applies who is a veterinarian licensed under ch. 453 is not required to complete a course of training approved by the department if he or she takes an examination given by the department and passes the examination on the first attempt.

(c) A person to whom par. (a) applies who is certified or otherwise approved as a humane officer by another state is not required to complete a course of training approved by the department if he or she takes an examination given by the department and passes the examination on the first attempt.

(2) (a) A person appointed as a humane officer before December 1, 1999, shall complete a course of training approved by the department, except as provided in par. (b), and shall receive certification under s. 173.27 (3) by the applicable deadline established under s. 173.27 (1) (b).

(b) A person to whom par. (a) applies is not required to complete a course of training approved by the department if he or she takes an examination given by the department and passes the examination on the first attempt.

(3) The governing body of a political subdivision that appoints a humane officer who fails to obtain certification within the required time shall terminate the appointment.

History: 1997 a. 192.

Cross-reference: See also ch. ATCP 15, Wis. adm. code.

173.07 Powers and duties of humane officers.

(1) **ENFORCEMENT.** A humane officer shall enforce s. 95.21, this chapter, chs. 174 and 951 and ordinances relating to animals enacted by political subdivisions in which the humane officer has jurisdiction under s. 173.03 (3).

(2) **INVESTIGATION.** A humane officer shall investigate alleged violations of statutes and ordinances relating to animals and, in the course of the investigations, may execute inspection warrants under s. 66.0119.

(3) **SEEK SUBPOENAS.** A humane officer may request the district attorney for the county to obtain subpoenas to compel testimony and obtain documents in aid of investigations.

(4) **ISSUE CITATIONS.** If authorized by the appointing political subdivision, a humane officer shall issue citations under s. 66.0113 for violations of ordinances relating to animals.

(4m) **REQUEST PROSECUTIONS.** A humane officer may request law enforcement officers and district attorneys to enforce and prosecute violations of state law and may cooperate in those prosecutions.

(5) **PROHIBITED ACTIONS.** Unless also a law enforcement officer, a humane officer may not in the course of his or her duties do any of the following:

(a) Execute a search warrant.

(b) Carry firearms.

(c) Stop or arrest persons.

(d) Stop, search, or detain vehicles, except under an inspection warrant under s. 66.0119.

(e) Enter any place or vehicle by force or without the consent of the owner, except in an emergency occasioned by fire or other circumstance in which that entry is reasonable and is necessary to save an animal from imminent death or a person from imminent death or injury.

(f) Remove any animal from the custody of another person by force.

(6) **CONFLICT OF INTEREST PROHIBITED.** No humane officer may sell or otherwise dispose of any animal that came into the humane officer’s custody in the course of his or her duties.

History: 1997 a. 192; 2001 a. 30.

173.09 Investigations. In the course of investigation of suspected violations of statutes or ordinances, a humane officer may enter any building, vehicle, or place where animals may be present

for the purpose of inspection, examination of animals, or the gathering of evidence. If the building, vehicle, or place to be entered is not public, and consent of the owner or person in charge is not obtained, entry shall be under authority of a special inspection warrant issued under s. 66.0119 or a search warrant.

History: 1997 a. 192; 2001 a. 30.

173.10 Investigation of cruelty complaints. A person may apply for a search warrant under s. 968.12 if there is reason to believe that a violation of ch. 951 has taken place or is taking place. If the court is satisfied that probable cause exists, it shall issue a search warrant directing a law enforcement officer in the county to proceed immediately to the location of the alleged violation with a doctor of veterinary medicine, if the court determines that a veterinarian is necessary for purposes of the search, and directing the law enforcement officer to search the place designated in the warrant, retaining in his or her custody subject to the order of the court such property or things as are specified in the warrant, including any animal. If the person applying for the search warrant is a humane officer, the warrant shall direct that the humane officer accompany the law enforcement officer who is directed to perform the search. The warrant shall be executed and returned to the court which issued the warrant in accordance with ss. 968.15 and 968.17. This section does not affect other powers and duties of law enforcement officers.

History: 1973 c. 314; 1977 c. 449; 1987 a. 332 s. 54; Stats. 1987 s. 951.16; 1995 a. 90; 1997 a. 192 s. 26; Stats. 1997 s. 173.10.

173.11 Abatement of violations. (1) ISSUANCE OF ORDER. If a humane officer or law enforcement officer after investigation has reasonable grounds to believe that a violation of a statute or ordinance is occurring and the violation is causing or has the potential to cause injury to an animal, the humane officer or law enforcement officer may issue and serve an order of abatement directed to named persons. An official designated in an ordinance under s. 173.03 (2) may not participate in the decision to issue the order or in any activity leading to that decision.

(1m) CONTENT OF ORDER. An abatement order issued under sub. (1) shall contain all of the following:

- (a) The name and address of the person to whom directed.
- (b) The statute or ordinance alleged to be violated.
- (c) A prohibition on further violations.
- (d) A description of measures necessary to correct the alleged violation.
- (e) A description of the hearing and appeal provisions under subs. (2) and (4).

(2) HEARING. Any person named in an abatement order issued under sub. (1) may, within the 10-day period following service of the order, request a hearing before an official designated in an ordinance under s. 173.03 (2). The hearing shall be held within 10 days after the request is made, unless the requester agrees to a later date. The hearing shall be informal in nature.

(3) DECISION. Within 10 days after a hearing under sub. (2), the official who conducts the hearing shall affirm the order, modify and affirm the order or withdraw the order.

(4) APPEAL. Any person adversely affected by a decision under sub. (3) may seek judicial review by commencing an action in circuit court within 30 days after the day that the decision is issued.

History: 1997 a. 192.

173.12 Animal fighting; seizure. (1) Any veterinarian who has reason to believe that an animal has been in a fight in violation of s. 951.08 shall report the matter to the local humane officer or to a local law enforcement agency. The report shall be in writing and shall include a description and the location of the animal, any injuries suffered by the animal and the name and address of the owner or person in charge of the animal, if known.

(1m) If an animal has been seized because it is alleged that the animal has been used in or constitutes evidence of any crime spec-

ified in s. 951.08, the animal may not be returned to the owner by an officer under s. 968.20 (2). In any hearing under s. 968.20 (1), the court shall determine if the animal is needed as evidence or there is reason to believe that the animal has participated in or been trained for fighting. If the court makes such a finding, the animal shall be retained in custody.

(2) If the charges under s. 951.08 are dismissed or if the owner is found not guilty of a crime specified in s. 951.08, the animal shall be returned to the owner unless he or she is subject to the restrictions under s. 951.08 (2m).

(3) (a) If the owner is convicted under s. 951.08 or is subject to the restrictions under s. 951.08 (2m), the animal shall be delivered to the local humane officer or county or municipal pound. If there is no local humane officer or pound, the animal may be delivered to a local humane society or to another person designated by the court. If the animal is one year old or older or shows indication of having participated in fighting, the animal shall be disposed of in a proper and humane manner.

(b) If the animal is less than one year old and shows no indication of having participated in fighting, the animal shall be released to a person other than the owner or disposed of in a proper and humane manner. If the animal is a dog, the release or disposal shall be in accordance with s. 173.23 (1m), except that the fees under s. 173.23 (1m) (a) 4. are covered under s. 173.24.

History: 1981 c. 160; 1983 a. 95; 1987 a. 248; 1987 a. 332 ss. 54, 64; Stats. 1987 s. 951.165; 1997 a. 192 ss. 28, 29; Stats. 1997 s. 173.12.

173.13 Taking custody of animals. (1) INTAKE. (a) A humane officer, on behalf of a political subdivision in which the humane officer has jurisdiction under s. 173.03 (3), or a law enforcement officer, on behalf of a political subdivision, may take custody of an animal if the humane officer or law enforcement officer has reasonable grounds to believe that the animal is one of the following:

1. An abandoned or stray animal.
2. An unwanted animal delivered to the humane officer or law enforcement officer.
3. A dog not tagged as required by ch. 174.
4. An animal not licensed in compliance with any ordinance.
5. An animal not confined as required by a quarantine order under any statute, rule or ordinance relating to the control of any animal disease.
6. An animal that has caused damage to persons or property.
7. A participant in an animal fight intentionally instigated by any person.
8. An animal mistreated in violation of ch. 951.
9. An animal delivered by a veterinarian under sub. (2).

(b) A humane officer shall accept into custody any animal delivered by a law enforcement officer or delivered under a court order.

(c) A person other than a humane officer or a law enforcement officer may not take an animal into custody on behalf of a political subdivision unless the animal is an abandoned or stray animal. If a person other than a humane officer or a law enforcement officer takes custody of an abandoned or stray animal on behalf of a political subdivision, he or she shall deliver the animal to a person contracting under s. 173.15 (1), to a humane officer or law enforcement officer for disposition under s. 173.23 or to a pound.

(2) DELIVERY OF ANIMAL BY VETERINARIAN. (a) A humane officer or law enforcement officer or a person contracting under s. 173.15 (1) may accept an animal delivered by a veterinarian, or his or her employee, if the animal has not been picked up by its owner and all of the following apply:

1. The veterinarian notified the owner of the animal by certified mail, return receipt requested, that the animal was ready to be picked up and that the animal would be delivered to a humane officer if not picked up within 7 days.

2. The veterinarian retained the animal for 7 days after the day on which the return receipt was signed or until the letter was returned to the veterinarian as undeliverable.

3. The veterinarian certifies in writing to the humane officer or law enforcement officer that subs. 1. and 2. apply.

(b) If an animal is accepted under par. (a), the veterinarian shall provide the person accepting the animal with any requested records concerning the animal's ownership, health or licensure.

(3) **NOTIFICATION OF OWNER.** (a) If a humane officer or law enforcement officer takes custody of an animal with the knowledge of the owner, the humane officer or law enforcement officer shall explain the procedure by which the owner can recover the animal, including the procedure under s. 173.22, and the procedure to be followed if the animal is not returned to the owner.

(b) If a humane officer or law enforcement officer takes custody of an animal without the knowledge of the owner, the humane officer or law enforcement officer shall promptly notify the owner in writing if he or she can be identified and located with reasonable effort. The notice shall explain the procedure by which the owner can recover the animal, including the procedure under s. 173.22, and the procedure to be followed if the animal is not returned to the owner. The notice shall also inform the owner that the owner must notify any person with a lien on the animal that the animal has been taken into custody.

(c) If the owner informs the humane officer or law enforcement officer in writing that he or she will not claim the animal, it may be treated as an unclaimed animal under s. 173.23 (1m).

History: 1997 a. 192; 1999 a. 32.

173.15 Provision of care, treatment or disposal services. (1) **PROVIDING SERVICES.** A political subdivision may provide for the care, treatment or disposal of animals taken into custody by a humane officer or law enforcement officer. A political subdivision may provide these services directly or by contracting with any other person. A political subdivision may establish standard fees for the care, custody and treatment of animals in its custody. The political subdivision may establish different fees for animals released to their owners and animals released to persons other than their owners. If the political subdivision does not establish standard fees, it may charge no more than the actual costs of care, custody or treatment to any person required to pay for the care, custody or treatment of an animal.

(2) **CONTRACT FOR SERVICES.** Every person entering into a contract with a political subdivision under sub. (1) shall agree to do all of the following:

(a) Provide adequate care and treatment of all animals delivered under the contract.

(b) Maintain adequate records consistent with s. 173.17.

(c) Release or dispose of animals under s. 173.23 or as provided in a court order.

History: 1997 a. 192.

173.17 Records. A humane officer or law enforcement officer taking custody of an animal on behalf of a political subdivision shall maintain, or require any person to whom the animal is delivered under a contract under s. 173.15 (1) to maintain, as appropriate, records for each animal containing the following information:

(1) A physical description of the animal.

(2) The date that custody was taken of the animal, the date that the animal was delivered into the possession of another person and the identity of the person to whom delivered.

(3) The reason for taking custody of the animal.

(4) The ultimate disposition of the animal, including the name and address of any person into whose custody the animal was ultimately released.

History: 1997 a. 192.

173.19 Animals considered unclaimed. A political subdivision or person contracting under s. 173.15 (1) may treat any animal taken into custody under s. 173.13 (1) (a) 1., 3., 4. or 9. as

an unclaimed animal subject to s. 173.23 (1m) if, within 7 days after custody is taken of the animal, it is not claimed by and returned to its owner under s. 173.23 (1), except that an animal taken into custody under s. 173.13 (1) (a) 3. or 4. may not be treated as unclaimed if its owner files a petition under s. 173.22 (1) within 7 days after custody is taken.

History: 1997 a. 192.

173.21 Holding animals for cause. (1) **GROUNDS.** A political subdivision may withhold, or direct a person contracting under s. 173.15 (1) to withhold, an animal in custody from an owner who makes an otherwise adequate claim for the animal under s. 173.23 (1) on any of the following grounds:

(a) There are reasonable grounds to believe that the owner has mistreated the animal in violation of ch. 951.

(b) There are reasonable grounds to believe that the animal poses a significant threat to public health, safety or welfare.

(c) The animal may be used as evidence in a pending prosecution.

(d) A court has ordered the animal withheld for any reason.

(2) **EXAMINATION PERMITTED.** If an animal is withheld under sub. (1), upon request by the owner, a veterinarian retained by the owner may examine the animal.

(3) **COSTS.** The owner of an animal withheld under sub. (1) is not liable for any costs of custody, care or treatment except as provided by court order.

(4) **RETURN.** A political subdivision or person contracting under s. 173.15 (1) having custody of an animal withheld under sub. (1) shall release the animal to the owner at the direction of the humane officer or law enforcement officer that took custody of the animal if the requirements of s. 173.23 (1) (a) to (c) are satisfied.

History: 1997 a. 192.

173.22 Review of seizure or withholding. (1) **PETITION.** A person claiming that an animal that he or she owns was improperly taken into custody under s. 173.13 (1) (a) 3., 4., 5., 6. or 8. or is wrongfully withheld under s. 173.21 (1) may seek return of the animal by petitioning for an order from the circuit court for the county in which the animal was taken into custody or in which it is held.

(2) **NOTICE AND HEARING.** The court shall provide notice of a petition under sub. (1) to the humane officer or law enforcement officer who took the animal into custody or to the political subdivision that withheld the animal and shall hold a hearing on the issue of whether the animal was improperly taken into custody or is wrongfully withheld.

(3) **ORDER.** (a) If the animal was taken into custody under s. 173.13 (1) (a) 8. or is withheld under s. 173.21 (1), the court shall order the animal returned to the owner unless it determines that one of the following conditions is satisfied:

1. There are reasonable grounds to believe that the owner has mistreated the animal in violation of ch. 951.

2. There are reasonable grounds to believe that the animal poses a significant threat to public health, safety or welfare.

3. The animal may be used as evidence in a pending prosecution.

4. A court has ordered the animal withheld for any reason.

(b) If the animal was taken into custody under s. 173.13 (1) (a) 3., the court shall order the animal returned to its owner if the court determines that the animal was tagged or was not required to be tagged under ch. 174.

(c) If the animal was taken into custody under s. 173.13 (1) (a) 4., the court shall order the animal returned to its owner if the court determines that the animal was licensed or was not required to be licensed.

(d) If the animal was taken into custody under s. 173.13 (1) (a) 5., the court shall order the animal returned to its owner if the court determines that the animal was not subject to a quarantine order or was confined as required by a quarantine order.

(e) If the animal was taken into custody under s. 173.13 (1) (a) 6., the court shall order the animal returned to its owner if the court determines that the animal did not cause damage to persons or property.

History: 1997 a. 192.

173.23 Disposition of animals. (1) CLAIM AND RETURN. Except as provided in sub. (4) or s. 173.21 (1), a political subdivision or person contracting under s. 173.15 (1) shall return an animal described in s. 173.13 (1) (a) 1., 3., 4., 6., 8. or 9. to its owner upon the happening of all of the following:

(a) The owner claims the animal and provides reasonable evidence of ownership.

(b) If licensure is required by statute or ordinance, the animal is licensed or assurance of licensure by prepayment is given.

(c) If vaccination is required by statute or ordinance, the animal is vaccinated or assurance of vaccination by prepayment is given.

(d) All charges for custody, care, vaccination and treatment are paid.

(1m) UNCLAIMED ANIMALS. A political subdivision or a person contracting under s. 173.15 (1) that has custody of an animal considered unclaimed under sub. (5) (c) or (6) or s. 173.13 (3) (c) or 173.19 or an unwanted animal may do any of the following:

(a) Release the animal to any person other than the owner if all of the following apply:

1. The person provides his or her name and address.

2. If licensure is required by statute or ordinance, the animal is licensed or assurance of licensure is given by evidence of prepayment.

3. If vaccination is required by statute or ordinance, the animal is vaccinated or assurance of vaccination is given by evidence of prepayment.

4. Any charges imposed by the political subdivision or person contracting under s. 173.15 (1) for custody, care, vaccination and treatment are paid or waived.

(b) If the animal is not a dog or cat, sell the animal at public auction, including sale at a licensed animal market.

(c) Euthanize the animal.

(d) If the animal is a stray or abandoned dog, release the dog under s. 174.13.

(1s) PROCEEDS OF SALE. If the owner of an animal sold under sub. (1m) (b) files a claim and provides proof of ownership within 30 days after the sale, the sale proceeds, less the cost of custody, care, treatment and sale, shall be returned to the owner.

(2) ANIMALS NOT RETURNED TO OWNER. If an animal in the custody of a political subdivision, other than an animal to which sub. (1m) applies, is not returned to the owner under sub. (1) or (5) (b) or s. 173.12 (2), 173.21 (4) or 173.22 or disposed of under sub. (4) or (5) (a) or s. 173.12 (3), it shall be disposed of under a court order under sub. (3) or s. 951.18 (4).

(3) COURT ORDER. (a) A political subdivision may petition the circuit court for an order doing any of the following with respect to an animal taken into custody by a law enforcement officer or a humane officer or withheld under s. 173.21 (1):

1. Providing for payment for the custody, care or treatment of the animal.

2. Requiring the owner of the animal to post bond for the costs of custody, care or treatment of the animal pending the outcome of any other proceeding.

3. Authorizing the sale, destruction or other disposal of the animal.

(b) The petition shall set forth the basis for the petitioned-for relief.

(c) The political subdivision shall serve a copy of the petition, in the manner provided in s. 801.11, upon the owner of the animal, if known.

(d) The court shall conduct a hearing on the petition. The petitioner and any person upon whom a copy of the petition was served may appear as a party.

(e) The court shall issue its order after hearing and may grant, modify and grant or deny the petitioned-for relief, after considering the interests of the animal, the owner of the animal, the political subdivision and the public.

(4) INJURED OR DANGEROUS ANIMALS. A political subdivision or person contracting under s. 173.15 (1) who has custody of an animal may have the animal euthanized if there are reasonable grounds to believe that any of the following applies:

(a) The animal is hopelessly injured beyond any reasonable chance of recovery.

(b) The animal poses an imminent threat to public health or safety.

(c) The animal poses an imminent threat to the health or safety of itself or its custodian.

(5) ANIMAL NOT CONFINED AS REQUIRED BY QUARANTINE ORDER. (a) A political subdivision or person contracting under s. 173.15 (1) that has custody of an animal that was not confined as required by a quarantine order issued under any statute, rule or ordinance relating to the control of any animal disease shall confine the animal for the duration of the quarantine or shall euthanize the animal with the written permission of the owner or, if the animal is determined to be diseased, at the direction of the person issuing the quarantine order.

(b) Unless the person issuing the quarantine order directs that the animal be euthanized because it is diseased, at the end of the quarantine period the political subdivision or person contracting under s. 173.15 (1) shall return the animal to its owner if the owner complies with sub. (1) (a) to (d) no later than the 7th day after the day on which the political subdivision or person contracting under s. 173.15 (1) demands that the owner claim the animal and pay for its custody, care and treatment.

(c) If an owner does not comply with sub. (1) (a) to (d) within the time provided in par. (b), the animal is considered an unclaimed animal under sub. (1m).

(d) Before euthanizing an animal that is in custody because it was not confined as required by a quarantine order, the person with custody of the animal shall notify the person who issued the order. If the person who issued the order determines that testing of specimens is necessary to determine the disease status of the animal, the person with custody shall collect the specimens.

(6) NONCOMPLIANCE BY OWNER. If an owner is ordered under sub. (3) to pay, or post bond for the payment of, costs of custody, care or treatment of an animal, and refuses to do so upon demand, the animal shall be treated as an unclaimed animal subject to sub. (1m).

History: 1997 a. 192; 2001 a. 56; 2005 a. 253.

173.24 Reimbursement for expenses. (1) A court shall assess the expenses under this section in any case in which there has been a search authorized under s. 173.10 or in which an animal has been seized because it is alleged that the animal has been used in or constitutes evidence of any crime under ch. 951.

(2) Expenses covered under this section include:

(a) Investigative expenses of any search under s. 173.10 or any seizure under this chapter.

(b) Any fees of a doctor of veterinary medicine.

(c) Expenses of taking any animal into custody under this chapter, including expenses reasonably incident to taking the animal into custody.

(d) Expenses of keeping or disposing of any animal taken into custody.

(3) If the person alleged to have violated ch. 951 is found guilty of the violation, the person shall be assessed the expenses under subs. (1) and (2). If the person is not found guilty, the county

treasurer shall pay the expenses from the general fund of the county.

History: 1973 c. 314; 1983 a. 95; 1987 a. 332 ss. 54, 64; Stats. 1987 s. 951.17; 1997 a. 192 s. 30; Stats. 1997 s. 173.24.

A court may only assess reasonable expenses for maintenance of seized animals. *State v. Berndt*, 161 Wis. 2d 116, 467 N.W.2d 205 (Ct. App. 1991).

173.25 Immunity for euthanizing animals. A political subdivision, a person contracting under s. 173.15 (1), a humane officer or a law enforcement officer who has reasonable grounds to believe that s. 173.23 (1m) (c), (4) or (5) or a court order issued under s. 173.23 (3) authorize an animal to be euthanized is not liable for damages for the loss of the animal resulting from euthanizing the animal.

History: 1997 a. 192.

173.27 Duties of the department. The department shall do all of the following:

(1) **RULES.** (a) Adopt, by rule, standards for the training and certification of humane officers to ensure that humane officers are at least minimally qualified to perform the duties of a humane officer. The standards shall provide for training offered by the department or by others.

(b) Adopt, by rule, deadlines by which humane officers must obtain certification.

(2) **TRAINING.** Offer training courses for humane officers or approve training courses offered by others, or both. The department may charge a fee sufficient to recover the costs of training courses that it provides.

(3) **CERTIFICATION.** Examine, as necessary, and certify humane officers as qualified. The department may charge a fee, established by rule, sufficient to recover the costs of certification.

(4) **REGISTRY OF HUMANE OFFICERS.** Maintain and keep current a registry of all persons serving as humane officers for political subdivisions.

History: 1997 a. 192.

Cross-reference: See also ch. ATCP 15, Wis. adm. code.

173.41 Regulation of persons who sell dogs or operate animal shelters. (1) **DEFINITIONS.** In this section:

(a) “Animal control facility” means a facility for the care of animals operated under a contract with a political subdivision under s. 173.15 (1).

(b) “Animal shelter” means a facility that is operated for the purpose of providing for and promoting the welfare, protection, and humane treatment of animals, that is used to shelter at least 25 dogs in a year, and that is operated by a humane society, animal welfare society, animal rescue group, or other nonprofit group.

(c) “Dog breeder” means a person who sells 25 or more dogs in a year that the person has bred and raised, except that “dog breeder” does not include a person who sells 25 or more dogs in a year that the person has bred and raised if all of those dogs are from no more than 3 litters.

(d) “Dog breeding facility” means a place at which dogs are bred and raised and from which 25 or more dogs are sold in a year, except that “dog breeding facility” does not include a place at which dogs are bred and raised and from which 25 or more dogs are sold in a year if all of the dogs that are sold in a year are from no more than 3 litters.

(e) “Dog dealer” means a person, other than an out-of-state dog dealer, who sells, distributes, or trades, or offers for sale, distribution, or trade, 25 or more dogs in a year that the person has not bred and raised or who operates an auction at which 50 or more dogs are sold or offered for sale in a year.

(em) “Dog trial” means an organized competitive field event involving sporting dog breeds that is sanctioned, licensed, or recognized by a local, state, regional, or national dog organization.

(f) “Out-of-state dog dealer” means a person who is not a resident of this state who brings 25 or more dogs into this state for sale in this state in a year.

(g) “Temporary dog market” means a place at which persons sell dogs, and may sell other items, from booths or other spaces that are rented from or provided at no cost by the person operating the place, except that “temporary dog market” does not include a dog trial.

(h) “Transfer” means to grant physical possession to another.

(2) **LICENSE REQUIRED.** (a) Except as provided in par. (e), (f), or (g), beginning on June 1, 2011, no person may do any of the following without an annual license from the department:

1. Operate an animal shelter.
2. Operate an animal control facility.
3. Operate as a dog breeder.
4. Operate a dog breeding facility.
5. Operate as a dog dealer.
6. Operate as an out-of-state dog dealer.

(b) A person operating as an out-of-state dog dealer shall obtain one license under this subsection. Any other person required to obtain a license under this subsection shall obtain one license for each premises at which the person operates an animal shelter, animal control facility, or dog breeding facility or operates as a dog breeder or dog dealer.

(c) A person shall apply for a license under par. (a) on a form provided by the department and shall provide information reasonably required by the department. An applicant shall submit the applicable fees required under sub. (3) with the application.

(d) The department shall grant or deny an application for an initial license within 30 days after the application is complete and the applicable fees have been submitted.

(e) A veterinarian licensed under ch. 453 practicing in the normal course of veterinary business within the scope of the license is not required to obtain a license under this subsection.

(f) An individual providing foster care to a dog in the individual’s home at the request of a person operating an animal shelter that is licensed under this subsection is not required to obtain a license under this subsection.

(g) An individual is not required to obtain a license for the purpose of conducting a one-time kennel liquidation, if all of the following apply:

1. The individual sells no more than 30 dogs and makes all of the dogs initially available for sale at the same time.
2. The individual sells only dogs that he or she owns.
3. The individual does not intend to engage in activities for which a license is required under this subsection in the next year.
4. The individual was not licensed under this subsection during the previous year.
5. The individual notifies the department at least 30 days before offering the dogs for sale.

(h) A person licensed under par. (a) 1. to 5. shall post a copy of the license in a location visible to any person coming onto the licensed premises.

(3) **LICENSE FEES.** (a) Except as provided under par. (b) or (c), the annual fee for a license under sub. (2) is as follows:

1. For a person who sells or offers to sell at least 25 but fewer than 50 dogs per year, \$250.
2. For a person who sells or offers to sell at least 50 but fewer than 100 dogs per year, \$500.
3. For a person who sells or offers to sell at least 100 but fewer than 250 dogs per year, \$750.
4. For a person who sells or offers to sell 250 or more dogs per year, \$1,000.

5. For a person who operates an animal shelter or animal control facility, \$125.

(b) Except as provided under par. (c), the annual license fee for an out-of-state dog dealer is 150 percent of the fee determined under par. (a), based on the number of dogs sold in this state.

(c) The department may promulgate rules specifying fees for licenses under sub. (2) that are higher than the fees in pars. (a) and (b) if necessary to cover the costs of administering this section.

(4) LICENSE DENIAL OR REVOCATION. (a) The department may deny, refuse to renew, or revoke any license under sub. (2) if the applicant or licensee is not fit, qualified, or equipped to conduct the activity for which the license is required, has violated or failed to obey any applicable law, order, or regulation, or has misrepresented or intentionally failed to disclose a material fact in applying for the license.

(b) The department may issue any license under sub. (2) conditioned upon relevant circumstances or acts. If a license is conditioned upon compliance within a specified period and the condition is not met within the specified period, the license is void.

(5) SUMMARY LICENSE SUSPENSION. (a) The department may, by written notice, without prior notice or hearing, suspend a license issued under sub. (2) if, upon inspection of the licensed premises, the department finds any condition that imminently threatens the health, safety, or welfare of any animal on the licensed premises or there is evidence that an act of animal cruelty in violation of ch. 951 has been committed by the licensee or has occurred on the licensed premises.

(b) In the notice under par. (a), the department shall state the reasons for the suspension and specify conditions that must be met for reinstatement.

(c) The department shall specify in the notice under par. (a) a date after which a reinspection of the licensed premises may take place. The department may conduct a reinspection without notice to the licensee. The department may reinstate a license following a summary suspension if the department finds, based upon reinspection or evidence presented by the licensee, that circumstances warrant reinstatement. The department may specify a reinstatement date that it considers appropriate.

(d) A licensee may request a hearing contesting a summary suspension under par. (a), by written appeal to the department, within 10 days of receiving the notice of summary suspension. The department shall describe the right of hearing in the notice to the licensee under par. (a). The department shall promptly initiate proceedings to hear the appeal.

(6) INSPECTIONS. (a) The department shall inspect the premises at which a person who is required to obtain a license under sub. (2) (a) 1. to 5. operates before issuing the initial license and at least once every 2 years after the year in which the person is first licensed. The department is not required to inspect the out-of-state premises at which an out-of-state dog dealer operates.

(b) The department may enter and inspect the premises for which a person is required to obtain a license under sub. (2) at any time during normal business hours to ensure compliance with this section.

(c) The department may charge a fee for an inspection that it undertakes to determine whether a previous violation of this section or rules promulgated under this section has been corrected.

(d) An inspection fee under par. (c) is due upon written demand from the department. Unless otherwise specified by the department by rule, the fee for an inspection under par. (c) is \$150.

(7) OUT-OF-STATE DEALERS. The department may not issue a license under sub. (2) to a person who is an out-of-state dog dealer unless the person provides to the department a copy of any license required by the person's state of residence and any license required under federal law.

(8) HEALTH REQUIREMENTS FOR SELLING DOGS. (a) No person who is required to be licensed under sub. (2) may sell a dog without providing all of the following to the purchaser:

1. A certificate of veterinary inspection from a licensed veterinarian stating that the veterinarian has examined the dog and found that it has no signs of infectious or contagious diseases as of the date of the examination.

2. A copy of all vaccination records for the dog showing the date the vaccine was administered and the name of the person who administered the vaccine.

(b) No person who is required to be licensed under sub. (2) may sell at auction a dog that is not spayed or neutered without providing written proof that the dog has tested negative for brucellosis using a test approved by the department that was conducted no more than 30 days before the day of sale.

(9) AGE FOR TRANSFER OF PUPPY. A person required to be licensed under sub. (2) may not transfer a dog to a buyer until the dog is 7 weeks of age.

(10) STANDARDS OF CARE. A person who is required to be licensed under sub. (2) shall do all of the following with respect to each dog kept by the person:

(a) Provide sufficient food to maintain the dog in good health.

(b) Provide sufficient water to maintain the dog in good health. If fresh water is not available to the dog at all times, the person shall provide fresh water daily and in sufficient quantity for the health of the dog.

(c) Ensure that necessary and standard veterinary care is provided in a timely manner.

(d) Ensure that the dog is not kept in an enclosure unless all of the following apply:

1. The enclosure is of an appropriate size, as determined by the department, based on the size, age, and number of dogs kept in the enclosure and the length of time the dog is kept in the enclosure.

2. The enclosure is structurally sound and maintained in good repair to protect the dog from injury.

3. If wire flooring is used, it is coated, is of a sufficient gauge to ensure that it will not cause injury to the dog, and is used only in the manner specified by the department.

4. The enclosure is maintained in a clean and sanitary condition.

(e) Ensure that the dog is not kept in an enclosure for a period that the department determines to be excessive, considering the size of the enclosure and any other factors that the department considers relevant.

(f) Ensure that the dog is kept outdoors only if all of the following apply:

1. The dog is of a breed or type that is typically kept outdoors.

2. The dog is acclimated to the outdoors.

3. The person provides adequate shelter from the sun and inclement weather.

(g) Ensure that all facilities in which the person keeps the dog have adequate lighting and ventilation and that a proper temperature is maintained for the dog, considering its type or breed.

(h) Ensure that the dog is provided adequate daily access to exercise, as determined by the department.

(i) Ensure that the dog is observed every day by the caretaker of the premises at which the person operates or an individual under the direct supervision of the caretaker to monitor the health and temperament of the dog and to provide care to the dog as needed.

(10m) VACCINATIONS. A person who is required to be licensed under sub. (2) may have a dog kept by the person vaccinated by an individual who is not a veterinarian unless that is prohibited by law.

(11) RECORD KEEPING. A person who is required to be licensed under sub. (2) shall keep a record of each dog that comes into the person's possession that includes all of the following information:

(a) A description of the dog including the dog's breed or type, sex, date of birth or approximate age, color, and any distinctive markings.

(b) The dog's official federal department of agriculture tag number or tattoo or microchip information, if any.

(c) A statement that the dog was born in the person's possession or the name and address of the person from whom the dog was acquired and that person's federal department of agriculture license or registration number or, if the person is not licensed or registered by the federal department of agriculture, the person's state of residence.

(d) If the dog was not born in the person's possession, the date on which the person acquired the dog.

(e) The date and method of disposition of the dog.

(f) Any other information required by the department.

(12) TEMPORARY DOG MARKETS. (a) *Operator responsibilities.* A person who operates a temporary dog market shall do all of the following:

1. Register with the department.
2. Take reasonable steps to ensure that all persons selling or offering to sell dogs at the temporary dog market comply with par. (b).
3. Obtain, review, and keep, for at least 5 years, copies of the information provided under par. (b) and make the information available to the department for inspection and copying upon request.

4. If persons sell or offer to sell dogs at the temporary dog market for 2 or more consecutive days, employ or contract with a veterinarian licensed under ch. 453 to conduct an examination of the dogs offered for sale at the temporary dog market on each day on which dogs are offered for sale and to review the information provided under par. (b).

(b) *Seller responsibilities.* A person who sells or offers to sell a dog at a temporary dog market shall provide all of the following information to the operator of the temporary dog market:

1. The person's name and address.
2. If the person is required to be licensed under sub. (2), the person's license number.
3. A description of each dog sold or being offered for sale, including the dog's breed or type, sex, date of birth or approximate age, color, and any distinctive markings, and either a statement that the dog was born in the person's possession or the name and address of the person from whom the dog was acquired.

4. Documentation showing that the person complied with s. 95.21 (2) and with any applicable rules of the department relating to bringing dogs into this state.

(c) *Inspection.* The department may inspect a temporary dog market and the information provided under par. (b) at any time during normal business hours.

(13) REPORTING MISTREATMENT OF DOGS. If the department has reasonable grounds to believe that a dog in the possession of a person required to be licensed under sub. (2) is being mistreated in violation of ch. 951, the department shall report the information that supports its belief to a humane officer or law enforcement agency with jurisdiction over the area in which the dog is located.

(14) RULES. (a) The department, in consultation with the advisory committee established under par. (b), shall promulgate rules to implement and administer this section.

(b) Before the department promulgates rules under par. (a), it shall establish an advisory committee to assist in writing the rules that consists of at least one representative from each of the following groups but that does not consist of more than 12 members:

1. Persons selling dogs at retail.
2. Dog breeders that sell large dogs and that sell fewer than 50 dogs per year.
3. Dog breeders that sell small dogs and that sell fewer than 50 dogs per year.
4. Dog breeders that sell large dogs and that sell 50 or more dogs per year.
5. Dog breeders that sell small dogs and that sell 50 or more dogs per year.
6. Sporting associations whose primary activities involve dogs.
7. Humane societies providing shelter to fewer than 500 dogs per year.
8. Humane societies providing shelter to 500 or more dogs per year.
9. Veterinarians.
10. Animal control facilities.
11. Breed rescue groups.

(c) The department shall select any member of an advisory committee under par. (b) who represents veterinarians from nominations made by the Wisconsin Veterinary Medical Association and shall select each other member from nominations made by one or more organizations representing the group that the member represents.

(d) An advisory committee under par. (b) does not expire until 12 months after the rules are promulgated and shall make recommendations to the department for amendments to the rules.

(15) PENALTIES. (a) A person who operates without a license required under sub. (2) may be fined not more than \$10,000 or imprisoned for not more than 9 months or both.

(b) 1. Except as provided under par. (a), a person who violates this section or a rule promulgated under this section may be required to forfeit not more than \$1,000 for the first offense and may be required to forfeit not less than \$200 nor more than \$2,000 for the 2nd or any subsequent offense within 5 years.

2. If a violation under subd. 1. involves the keeping of animals, each animal with respect to which the statute or rule is violated constitutes a separate violation.

(c) In addition to the penalties under pars. (a) and (b), a court may order a person who violates this section to pay the expenses of caring for dogs that are removed from the person's possession because of mistreatment.

History: 2009 a. 90.

Cross-reference: See also ch. ATCP 16, Wis. adm. code. Enhancing Animal Welfare Laws. Goode & Aizenberg. Wis. Law. Dec. 2011.