

2003 Senate Bill 97

Date of enactment: February 27, 2004

Date of publication\*: March 12, 2004

## 2003 WISCONSIN ACT 133

AN ACT *to renumber and amend* 174.06 (3), 174.08 and 174.11 (2); *to amend* 20.115 (2) (j), 174.052, 174.065 (1), 174.07 (3) (b), 174.09, 174.11 (1), 174.11 (4), 174.12 (1) and 174.12 (2); *to repeal and recreate* 20.115 (2) (j); and *to create* 174.001 (2j), 174.052 (3), 174.06 (3) (b), 174.07 (2) (e), 174.07 (3) (bm), 174.08 (2), 174.09 (3), 174.10 and 174.11 (2) (c) of the statutes; **relating to:** dog licensing and claims for damage that is caused by dogs in certain populous counties.

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

**SECTION 1.** 20.115 (2) (j) of the statutes is amended to read:

20.115 (2) (j) *Dog licenses, rabies control, and related services.* The amounts in the schedule to provide dog license tags and forms under s. 174.07 (2), to perform other program responsibilities under ch. 174, to administer the rabies control program under s. 95.21, to help administer the rabies control media campaign, and to carry out humane activities under s. 93.07 (11) and ch. 173. All moneys received under ss. 95.21 (9) (c), 173.27, and 174.09 (1) and (3) shall be credited to this appropriation.

**SECTION 2.** 20.115 (2) (j) of the statutes, as affected by 2001 Wisconsin Act 16 and 2003 Wisconsin Act .... (this act), is repealed and recreated to read:

20.115 (2) (j) *Dog licenses, rabies control, and related services.* All moneys received under ss. 95.21 (9) (c), 173.27, 173.40, and 174.09 (1) and (3), to provide dog license tags and forms under s. 174.07 (2), to perform other program responsibilities under ch. 174, to administer the rabies control program under s. 95.21, to help

administer the rabies control media campaign, and to carry out activities under s. 93.07 (11) and ch. 173.

**SECTION 3.** 174.001 (2j) of the statutes is created to read:

174.001 (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.

**SECTION 4.** 174.052 of the statutes is amended to read:

**174.052 Publication of the dog license requirement and rabies vaccination requirement.** (1) JANUARY NOTICE. The 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. The 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

\* Section 991.11, WISCONSIN STATUTES 2001-02 : Effective date of acts. “Every act and every portion of an act enacted by the legislature over the governor’s partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated” by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

vaccinations and dog licenses are required under the statutes and that late fees may be assessed after April 1.

**SECTION 5.** 174.052 (3) of the statutes is created to read:

174.052 (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.

**SECTION 6.** 174.06 (3) of the statutes is renumbered 174.06 (3) (a) and amended to read:

174.06 (3) (a) ~~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.

**SECTION 7.** 174.06 (3) (b) of the statutes is created to read:

174.06 (3) (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).

**SECTION 8.** 174.065 (1) of the statutes is amended to read:

174.065 (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.

**SECTION 9.** 174.07 (2) (e) of the statutes is created to read:

174.07 (2) (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.

**SECTION 10.** 174.07 (3) (b) of the statutes is amended to read:

174.07 (3) (b) *Return of tags and licenses.* The 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, ~~and to.~~ 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.

**SECTION 11.** 174.07 (3) (bm) of the statutes is created to read:

174.07 (3) (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.

**SECTION 12.** 174.08 of the statutes is renumbered 174.08 (1) and amended to read:

174.08 (1) ~~Every~~ 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 ~~which 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.

**SECTION 13.** 174.08 (2) of the statutes is created to read:

174.08 (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.

**SECTION 14.** 174.09 of the statutes is amended to read:

**174.09 Dog license fund; how disposed of and accounted for.** (1) The 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 dis-

bursed 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% 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 Except as provided in sub. (3), 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 15.** 174.09 (3) of the statutes is created to read:

174.09 (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% 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% 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.

**SECTION 16.** 174.10 of the statutes is created to read:

**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.

**SECTION 17.** 174.11 (1) of the statutes is amended to read:

174.11 (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.

**SECTION 18.** 174.11 (2) of the statutes is renumbered 174.11 (2) (a) and amended to read:

174.11 (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. The

(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. The 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.

(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.

**SECTION 19.** 174.11 (2) (c) of the statutes is created to read:

174.11 (2) (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).

**SECTION 20.** 174.11 (4) of the statutes is amended to read:

174.11 (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.

**SECTION 21.** 174.12 (1) of the statutes is amended to read:

174.12 (1) The allowance by ~~the a~~ county of any claim for damages done by dogs ~~shall work~~ 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 ~~the 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.

**SECTION 22.** 174.12 (2) of the statutes is amended to read:

174.12 (2) No claim shall be allowed by ~~the 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.

**SECTION 23. Effective dates.** This act takes effect on January 1, 2004, except as follows:

(1) The repeal and recreation of section 20.115 (2) (j) of the statutes takes effect on February 1, 2004.

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