



## 2009 ASSEMBLY BILL 161

March 19, 2009 – Introduced by Representatives BROOKS, PASCH, LOTHIAN, MURSAU, LEMAHIEU, A. OTT, MURTHA and NERISON, cosponsored by Senators SCHULTZ and OLSEN. Referred to Committee on Agriculture.

1     **AN ACT** *to repeal* 174.12 (6); *to renumber and amend* 174.12 (2); *to amend*  
2           174.05 (3), 174.09 (1), 174.09 (2), 174.09 (3), 174.11 (1), 174.11 (2) (b), 174.11 (3)  
3           and 174.12 (1); and *to create* 174.09 (1m) of the statutes; **relating to:**  
4           reimbursement for damages caused by dogs and the use of funds derived from  
5           the licensing of dogs.

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### ***Analysis by the Legislative Reference Bureau***

Under current law, the owner of a farm animal, dog, or cat that was injured or killed by another person's dog may, within three days of becoming aware of the incident, file a claim with the city, village, or town in which the incident occurred. The city, village, or town is required to investigate the claim and provide a report on the investigation to the county clerk. The county clerk submits the claim and the report to the county board and the county board decides whether to make a payment to the owner as compensation for the injury or death of the animal. If there is no money in the dog license fund, described below, the county is not required to make any payment. If the county makes a payment, it may sue the owner of the dog for the amount of damages that the dog caused.

Under this bill the owner of a farm animal, dog, or cat that was injured or killed by another person's dog may make a claim for the damage if the owner files the claim within five business days, rather than three days, of becoming aware of the incident.

Current law requires a person who owns a dog to have the dog licensed. The statutes establish a minimum fee for a dog license but authorize higher fees to be

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charged by municipalities and counties. The dog license fees are collected by municipalities. A municipality keeps any amount of the fee that it imposes above the minimum and pays the rest to the county. The law requires the county to pay 5 percent of the minimum dog license fee to the state and to keep the remainder of the fee in a separate dog license fund. The county may use the dog license fund for administering the dog license law and for the expenses of a pound for dogs run by the county or a humane society. The law also authorizes a county to use any remaining money in the dog license fund to pay claims for damages caused by dogs to farm animals, dogs, or cats.

This bill requires a county to place into a separate dog damage reimbursement fund 25 percent of the dog license fees that remain after making the required 5 percent payment to the state. This fund may be used only to pay claims by persons whose farm animals, dogs, or cats are injured by dogs, except that on March 1 any funds from fees paid for dog licenses for the previous year that have not been used to pay dog damage claims may be returned to the dog license fund and used for the purposes allowed under current law.

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

1           **SECTION 1.** 174.05 (3) of the statutes is amended to read:

2           174.05 **(3)** ADDITIONAL TAX. The governing body of any county may by a majority  
3 vote of the members present at any regular meeting raise the minimum dog license  
4 tax on dogs within its jurisdiction and the governing body of any town, village or city  
5 may by resolution raise the minimum dog license tax on dogs within its jurisdiction.  
6 If the governing body of any county, town, village or city increases the minimum tax,  
7 it shall provide that the tax for unneutered male dogs and unspayed female dogs is  
8 greater than the tax for neutered male dogs and spayed female dogs. The additional  
9 tax may not exceed the total cost of all dog licensing, regulating and impounding  
10 activities for the previous year, ~~less any refunds which may be received under s.~~  
11 ~~174.09 (2)~~, and shall be levied and collected in the same manner as other dog license  
12 taxes.

13           **SECTION 2.** 174.09 (1) of the statutes is amended to read:

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1           174.09 (1) ~~Except as provided in sub. (3), the~~ The dog license taxes so paid to  
2 the county treasurer or intergovernmental commission under s. 174.08 shall be kept  
3 placed in a separate account and shall to be known as the “dog license fund” and shall  
4 be appropriated and disbursed for the purposes and in the manner following: Within  
5 30 days after receipt of the same, the provided in this section. The county treasurer  
6 or intergovernmental commission shall pay into the state treasury 5% 5 percent of  
7 the minimum tax as provided for under s. 174.05 (2) of all dog license taxes which  
8 shall have been that are received by the county treasurer or intergovernmental  
9 commission, within 30 days after their receipt. The county treasurer or  
10 intergovernmental commission shall place 25 percent of the remainder of the dog  
11 license taxes into a separate account to be known as the dog damage reimbursement  
12 fund.

13           **SECTION 3.** 174.09 (1m) of the statutes is created to read:

14           174.09 (1m) A county or an intergovernmental commission may use the dog  
15 damage reimbursement fund only to pay claims allowed by the county or  
16 intergovernmental commission under s. 174.11 to the owners of domestic animals  
17 because of damages done by dogs, except that on March 1 of the year following the  
18 license year for which dog license taxes were paid, the county or intergovernmental  
19 commission may transfer any amount remaining in the dog damage reimbursement  
20 fund from that license year to the dog license fund.

21           **SECTION 4.** 174.09 (2) of the statutes is amended to read:

22           174.09 (2) Except as provided in sub. (3), expenses necessarily incurred by the  
23 county in purchasing and providing books, forms, and other supplies required in  
24 administering the dog license law, expenses incurred by the county under s. 95.21 (4)  
25 (b) and (8) and expenses incurred by the county pound or by a humane society or other

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1 organization designated to provide a pound for collecting, caring for, and disposing  
2 of dogs may be paid out of the dog license fund. The amount remaining in the fund  
3 after deducting these expenses ~~shall be available for and may be used as far as~~  
4 ~~necessary for paying claims allowed by the county to the owners of domestic animals~~  
5 ~~because of damages done by dogs during the license year for which the taxes were~~  
6 ~~paid. Any surplus in excess of \$1,000 which may remain from the dog license taxes~~  
7 ~~of any license year shall on March 1 of the succeeding year be paid by the county~~  
8 ~~treasurer to the county humane society or other organization designated by the~~  
9 ~~county board to provide a pound. If there is no humane society or other organization~~  
10 ~~designated to provide a pound, these funds shall be paid to the towns, villages, and~~  
11 ~~cities of the county for their use in the proportion in which the towns, villages, and~~  
12 ~~cities contributed to the fund out of which the surplus arises.~~

13 **SECTION 5.** 174.09 (3) of the statutes is amended to read:

14 174.09 (3) In a county in which an agreement under s. 174.10 (2) is in effect,  
15 the intergovernmental commission shall maintain the dog license fund, ~~consisting~~  
16 ~~of the dog license taxes.~~ The intergovernmental commission shall pay 5% of the  
17 ~~minimum dog license tax provided for under s. 174.05 (2) to the department and shall~~  
18 ~~expend the remainder of the dog license fund for the purposes of administering the~~  
19 ~~dog license law, providing a pound for dogs, and paying claims allowed under s.~~  
20 ~~174.11. If on March 1 there is remaining in the dog license fund a surplus from the~~  
21 ~~dog license taxes of the previous license year that exceeds 5% of the dog license taxes~~  
22 ~~collected in that license year, the intergovernmental commission shall return the~~  
23 ~~excess to the towns, villages, and cities of the county in the proportion in which the~~  
24 ~~towns, villages, and cities contributed to the fund in that license year.~~

25 **SECTION 6.** 174.11 (1) of the statutes is amended to read:

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1           174.11 (1) The owner of any domestic animal, including a ranch mink, when  
2 it is proven that a dog forcibly entered an enclosure in which the mink was kept,  
3 which is attacked, chased, injured, or killed by a dog may, within ~~3~~ 5 business days  
4 after the owner has knowledge or notice thereof, file a written claim for damages with  
5 the clerk of the town, village, or city in which the damage occurred or, if it occurred  
6 in a town or village, with the chairperson of ~~such~~ the town or the president of ~~such~~  
7 the village. The form of the claim may be prescribed by the department of  
8 agriculture, trade and consumer protection. Upon presentation of a claim the  
9 supervisors of the town, the board of trustees of the village, or the common council  
10 of the city, or a committee appointed for that purpose by the supervisors, the board  
11 of trustees, or the common council shall promptly investigate the claim and may  
12 subpoena witnesses, administer oaths, and take testimony relative to the claim and  
13 shall within 30 days after the filing of the claim make, certify, and return to the  
14 county clerk or, in a county in which an agreement under s. 174.10 (2) is in effect, to  
15 the intergovernmental commission the claim, a report of the investigation, the  
16 testimony taken, and the amount of damages suffered by the owner of the domestic  
17 animal.

18           **SECTION 7.** 174.11 (2) (b) of the statutes is amended to read:

19           174.11 (2) (b) Except as provided in par. (c), the county clerk shall submit to the  
20 county board at its first meeting, following the receipt of any ~~such~~ claim under sub.  
21 (1), all claims filed and reported, and the claims shall be acted upon and determined  
22 by the county board as other claims are determined and acted upon. Except as  
23 provided in par. (c), the amount of damages filed and reported to the county clerk  
24 shall be prima facie proof of the actual damages sustained, but evidence may be  
25 taken before the county board relative to the claims as in other cases, and appeals

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1 from the action of the county board shall lie as in other cases. A county or an  
2 intergovernmental commission may not allow any claim on account of damages done  
3 by a dog, unless the claimant furnishes satisfactory proof that the damage was not  
4 done in whole or in part by any dog owned, kept, or harbored by the claimant.

5 **SECTION 8.** 174.11 (3) of the statutes is amended to read:

6 174.11 (3) The claims shall be solely against the dog damage reimbursement  
7 fund and the dog license fund and shall create no other liability on the part of the  
8 county.

9 **SECTION 9.** 174.12 (1) of the statutes is amended to read:

10 174.12 (1) The allowance by a county of any claim for damages done by dogs  
11 constitutes an assignment to the county of the cause of the action of the claimant for  
12 which the claim is filed, and the county may sue and recover from the owner of the  
13 dog or dogs doing the damages the full amount thereof and which shall not be limited  
14 to the sum paid the claimant by the county. The allowance under s. 174.11 (2) (c) by  
15 an intergovernmental commission of any claim for damages done by dogs constitutes  
16 an assignment to the intergovernmental commission of the cause of the action of the  
17 claimant for which the claim is filed, and the intergovernmental commission may sue  
18 and recover from the owner of the dog or dogs doing the damages the full amount  
19 thereof and which shall not be limited to the sum paid the claimant by the  
20 intergovernmental commission. ~~Before any claim shall be allowed by a county or an~~  
21 ~~intergovernmental commission on account of damages done by dogs, the claimant~~  
22 ~~shall furnish satisfactory proof that the damage was not done in whole or in part by~~  
23 ~~any dog owned, kept, or harbored by the claimant~~ A county or an intergovernmental  
24 commission that recovers money from the owner of a dog under this subsection shall

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1 place the amount recovered, up to the amount paid the claimant, into the dog damage  
2 reimbursement fund.

3 **SECTION 10.** 174.12 (2) of the statutes is renumbered 174.11 (3m) and amended  
4 to read:

5 174.11 **(3m)** ~~No claim shall be allowed by~~ Except as provided under sub. (5),  
6 a county board or an intergovernmental commission may not allow a claim under this  
7 section at less than the amount so certified and reported under sub. (1), unless the  
8 claimant ~~shall~~ is first be notified that such action is contemplated and ~~shall have~~  
9 ~~been~~ is given a reasonable opportunity to be heard and to offer further evidence in  
10 support of the claimant's claim.

11 **SECTION 11.** 174.12 (6) of the statutes is repealed.

12 **SECTION 12. Effective date.**

13 (1) This act takes effect on January 1 of the first year beginning after  
14 publication.

15 (END)