



CHAPTER 174

DOGS

- 174.001 Definitions.
- 174.01 Restraining action against dogs.
- 174.02 Owner's liability for damage caused by dog; penalties; court order to kill a dog.
- 174.042 Dogs running at large and untagged dogs subject to impoundment; penalties.
- 174.05 Dog license tax.
- 174.052 Publication of the dog license requirement and rabies vaccination requirement.
- 174.053 Multiple dog licenses.
- 174.054 Exemption for owners of dogs kept for educational or scientific purposes.
- 174.055 Exemption of dogs for blind, deaf and mobility-impaired.
- 174.06 Listing.
- 174.065 Collection.
- 174.07 Dog licenses and collar tags.
- 174.08 License fees paid to county treasurer.
- 174.09 Dog license fund; how disposed of and accounted for.
- 174.10 Dog licensing in populous counties.
- 174.11 Claims for damage by dogs to domestic animals including ranch mink.
- 174.12 Actions against owners.
- 174.13 Humane use of dogs for scientific or educational purposes.
- 174.15 Penalty.

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.

(1) KILLING A

Search statutes: '13.92' or 'public parks'

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- (a) Except as **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:



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