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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 harbinger 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. *Gaspar 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 harbinger 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 harbinger 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.

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(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.

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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.

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taxes are paid under s. 174.08 shall provide 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.



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- (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.

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