

174.02 DOGS

(c) Subsection (2) does not apply to the owner of a dog that is used by a law enforcement agency if the dog injures a crime suspect while the dog is performing law enforcement functions.

(d) Subsection (3) does not apply to a dog that is used by a law enforcement agency if the dog injures a crime suspect while the dog is performing law enforcement functions.

History: 1981 c. 285; 1983 a. 451; 1985 a. 92; 1993 a. 154; 1995 a. 181; 1997 a. 141; 1999 a. 45.

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.

This statute applies in the case of a person tripping over a sleeping dog, but public policy precludes liability. *Alwin v. State Farm Fire and Casualty Company*, 2000 WI App 92, 234 Wis. 2d 441, 610 N.W.2d 218, 99–1957.

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. *Gasper 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.

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.

174.05 Dog license tax. (1) REQUIREMENT. Except as provided in s. 174.054, the owner of a dog more than 5 months of age on January 1 of any year, or 5 months of age within the license year, shall annually, or on or before the date the dog becomes 5 months of age, pay the dog license tax and obtain a license.

(2) TAX. The minimum dog license tax is \$3 for a neutered male dog or spayed female dog, upon presentation of evidence

that the dog is neutered or spayed, and \$8 for an unneutered male dog or unsplayed female dog, or one-half of these amounts if the dog became 5 months of age after July 1 of the license year.

(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 unsplayed 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

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