

AND WHEREAS, The foregoing proposed amendment to the constitution of this state has been approved and agreed to by the legislature thereof at the biennial session of 1921 by a majority of all the members elected to each house thereof; therefore

*The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:*

SECTION 1. The foregoing proposed amendment to the constitution of this state shall be submitted to the people at an election to be held in the several election districts in this state on the Tuesday next succeeding the first Monday in November, 1922, in the manner provided by law for the submission of amendments to the constitution at a general election, and if the people shall approve and ratify said amendment by a majority of the electors voting thereon such amendment so ratified shall become a part of the constitution of this state.

SECTION 2. This act shall take effect upon passage and publication.

Approved June 27, 1921.

No. 24, A.]

[Published June 30, 1921.

### CHAPTER 438.

AN ACT to repeal subsection (12) of section 20.60, and to amend subsection (11) of section 20.60, and sections 1623 to 1630, inclusive, of the statutes, relating to dogs, and making an appropriation.

*The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Subsection (12) of section 20.60 of the statutes is repealed.

SECTION 2. Subsection (11) of section 20.60, and sections 1625 to 1630, inclusive, of the statutes are amended to read: (20.60) (11) All moneys received by the state treasurer for, and on account of dog license fees, paid into the treasury pursuant to the provisions of section 1627, are appropriated therefrom as a revolving appropriation, for defraying the expenses incurred in administering and carrying into effect the provisions of sections 1623 to 1630, inclusive, of the statutes; provided that on \* \* \* January 1 of each year all funds remaining in the state treasury in this appropriation shall be returned to the county treasurers of the counties having made deposits in said fund

pursuant to the provisions of section 1627, such division to be made to each county in proportion to the amount deposited by it, and when so returned shall again belong to the county dog license fund.

Section 1623. 1. Every owner of a dog more than six months of age *on January first of any year* (the word "owner" when used in chapter 72 of the statutes in relation to property in, or possession of, dogs shall include every person who owns, harbors or keeps a dog) shall annually, before the \* \* \* *first day of \* \* \* February*, obtain a license therefor, and shall pay for such license \* \* \* *one dollar for each male dog, and spayed female dog*, and \* \* \* *two dollars for each female dog*; such payments to be made to the town, village or city \* \* \* *treasurer or his deputy* of the town, village or city in which said dog is kept; \* \* \* *such treasurer, excepting treasurers of cities of the first class, shall retain out of the moneys thus received the sum of fifteen cents for each dog licensed, which fee shall be in addition to his salary.* The application for such license shall be in such form as shall be prescribed by the department of agriculture, shall be in writing, and shall state the name, sex, breed, age, color and marking of the dog for which the license is sought.

2. The license year shall commence on the first day of \* \* \* *January* and end on the \* \* \* *thirty-first day* of the following \* \* \* *December*. The \* \* \* *current license \* \* \* year* shall \* \* \* *expire \* \* \* December 31, 1921*. Every owner of a dog for which a license is required shall make application for *and shall obtain* such license before the \* \* \* *first of February each year*. \* \* \* The sale or transfer of any licensed dog shall carry with it and transfer the license. \* \* \* *Existing dog licenses which would expire by their terms on June 30, 1921, are continued until January 1, 1922.*

Section 1624. 1. Every assessor shall annually \* \* \* ascertain by diligent inquiry the dogs owned, harbored or kept within his assessment district. Every person shall answer frankly and fully all questions which shall be put to him by such assessor relative to the ownership or keeping of dogs within the assessor's district. The assessor shall prepare a list containing the names and addresses of all owners of dogs in his district, *and the number and sex of dogs owned, harbored or kept. He shall make a list of the names of persons owning and operating*

*kennels and the number of dogs kept in each. The term kennel shall mean any establishment wherein or whereon dogs are kept for the purpose of breeding, sale or sporting purposes. Any person who keeps or operates a kennel may in lieu of the license for each dog required by this act apply to the town, city or village treasurer for a kennel license for the keeping or operating of such kennel. For such a kennel license he shall pay a fee of twenty dollars for the license year. With such kennel license the treasurer shall issue a number of metal tags equal to the number of dogs authorized to be kept in the kennel. Such tags shall be made in a form so that they may be readily distinguishable from the individual license tags for the same year. The licensee of a kennel shall at all times keep one of such tags attached to the collar of each dog over six months old kept by him under a kennel license. Such tags may be transferred from one dog to another within the kennel wherever any dog is removed from the kennel. No dog bearing any tag shall be permitted to stray or to be taken anywhere outside the limits of the kennel unless he is in leash or temporarily for the purposes of hunting, breeding, trial or show. Such list shall be \* \* \* filed with the town, village or city clerk \* \* \* at the time the assessor delivers to such clerk his assessment roll. Said clerk shall \* \* \* deliver the same to the local treasurer when the tax roll is delivered. The assessor shall receive as compensation therefor the sum of \* \* \* fifteen cents for each dog listed by him to be audited and allowed by the county board as other claims against the county, but to be paid solely out of the dog license fund. The treasurer, excepting treasurers of cities of the first class, may appoint a deputy or deputies to issue such licenses.*

\* \* \* 2. A license shall be issued by the \* \* \* treasurer or his deputy upon application being made therefor and upon payments made as herein provided. Such license shall be in the form prescribed by the department of agriculture and shall be executed by the proper town, village or city \* \* \* treasurer or his deputy. The license shall state the date of its expiration, shall bear a serial number, the owner's name and address, and the name, sex, breed and color of the dog license. *Whenever an affidavit is furnished that any dog on the assessor's list is dead the treasurer shall so indicate on such list.*

Section 1625. 1. The \* \* \* treasurer or his deputy issu-

ing a license shall at the same time deliver to the licensee a metal tag which shall bear the same serial number as the license. Said tag shall also bear the name of the county in which issued and the license year. The department of agriculture shall *contract for and* have prepared and furnished annually to the county clerk of each county a sufficient number of such metal tags, \* \* \* *and a sufficient supply of* suitable blank licenses to be bound in books of proper size and perforated so that a duplicate of each license may be kept upon the stub thereof. The cost of making, printing and furnishing said tags and blank license receipts shall be paid by the several counties out of the dog license fund. \* \* \*

2. The several county clerks shall distribute said tags and license blanks to the several town, village and city \* \* \* *treasurers* in proper amounts together with blank license receipts. The licensee shall securely attach the tag to a collar and this collar with the tag attached shall at all times be kept on the dog for which the license is issued. A new tag with a new number shall be furnished to the licensee by the town, village or city \* \* \* *treasurer or his deputy* in place of the original tag upon presentation of the license and proof of the loss of the original tag. The \* \* \* *treasurer or his deputy* shall then indorse the new tag number on such license and shall enter it upon the register. \* \* \* The \* \* \* *treasurer* shall receive for his services in issuing such new tag the sum of ten cents to be paid by the person obtaining the new tag.

3. Every town, village or city \* \* \* *treasurer or his deputy* shall at the time of issuing a license and before delivering the same make a complete duplicate thereof upon the stub portion of the license blank. Said \* \* \* *treasurer* shall annually during the month of \* \* \* *January* return to his county clerk all unused tags of the preceding license year, together with license books therefor and all duplicate licenses of the preceding year and the said county clerk shall carefully check said returned tags, duplicate licenses, and license blanks to ascertain whether all tags and license blanks which were furnished by the county clerk have been accounted for, and to enable the county clerk to do that he shall charge each town, village, or city \* \* \* *treasurer* with all tags and blank licenses furnished or delivered to him and credit him with those returned. In case of discrepancy, the county clerk shall notify the department of agriculture thereof.

4. *In cities of the first, second and third class the duties imposed by sections 1623 to 1630, statutes, upon local assessors shall be performed by the police force under the direction of the chief of police. In every such city a license shall be necessary for the keeping of any dog over six months of age, and in every such city the chief of police and the police force shall on February first of each year and from time to time thereafter check the dogs therein and cause to be disposed of as provided by law all unlicensed dogs which are required to be licensed; and all moneys received or collected by any policeman in the enforcement of said law shall be by him paid to the city treasurer and by the treasurer credited to the police pension fund.*

Section 1626. \* \* \* Every town, village or city \* \* \* treasurer or his deputy shall at the end of each month pay all license fees received by him and his deputy and not before paid, to the county treasurer and shall at the same time report in writing to the county clerk the licenses issued during the month and for which the license fees so deposited with the county treasurer were paid. Such report shall be in the form prescribed by the department of agriculture, which forms shall be furnished by the several county clerks.

Section 1627. 1. The license fees 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 thirty days after receipt of the same the county treasurer shall pay into the state treasury fifteen per cent of all license fees which shall have been received by the county treasurer.

2. Expenses necessarily incurred by the county in purchasing and providing books, forms and other supplies required in the administering of the dog license law shall be paid out of said dog license fund. The amount remaining thereafter in said fund 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 on account of damages done by dogs during the license year for which the fees were paid. Any surplus which may remain from the license fees of any license year shall \* \* \* on March first of the succeeding license year belong and be credited and paid by the county treasurer to the towns, villages and cities of his county for their use in the proportion in which said towns, villages and cities, \* \* \* shall have contributed and paid

to the fund out of which said surplus arises. \* \* \* In cities having police pension funds the money shall \* \* \* *belong* to such funds. *In all other cases it shall be used as the governing body of the town, village or city shall determine.*

Section 1628. 1. Any person may seize, impound or restrain any unlicensed dog which he may find running at large. The fact that a dog is without a license attached to a collar shall be presumptive evidence that the dog is unlicensed. No action shall be maintained for an injury to or the destruction of a dog without a tag, unless it shall appear affirmatively that the dog is duly licensed and that a tag had been properly attached to the collar of the dog and had been lost or removed without the knowledge or consent of the owner, *or that the dog is not required to be licensed.* The sheriff and his deputies, any marshal or constable or other police officer shall seize, impound or restrain any dog for the keeping of which no license has been issued and for which one is required and any such officer may enter the premises of the owner to seize such dog and if it is not delivered to him by the owner on request and he cannot with reasonable effort \* \* \* *catch* it, he may \* \* \* *kill* \* \* \* the dog. Any officer who shall seize, restrain, impound or kill any dog found in any place without a license as required under sections 1623 to 1630, inclusive, upon delivery of such dog or carcass and the proper disposal of the carcass and after making a report to the village, town or city \* \* \* *treasurer* of the village, town or city in which the dog was seized or killed, showing that the dog did not have a license, shall receive therefor a payment of \* \* \* *two dollars*, the same to be made from any funds in the village, town or city treasury not otherwise appropriated. Any dog unaccompanied by its owner or keeper which enters the field, pasture, meadow or farm inclosure of another shall constitute a private nuisance and the owner or tenant of such field, pasture, meadow or farm inclosure may seize, impound or restrain such dog while therein without liability or responsibility of any nature therefor. Any person may kill a dog, whether licensed or unlicensed, if found killing or worrying any domestic animal.

2. It shall be unlawful for any person to harbor or permit to remain about his premises any dog for which no license exists and for which one is required. Any person who shall kill a dog not his own or not in his keeping shall forthwith report such fact in writing to the town, village or city clerk of the town, village or

city in which the killing occurred. Such report shall state the name and address of the person who killed the dog, the time, place and circumstances of such killing, and the disposition made of the carcass. Any person who shall have seized or impounded a dog with or without license under section 1628 shall deliver such dog to the humane officer of the village, town or city, if such officer exists; or if there be no such officer to the constable, village marshal, or the town, village or city police officer. The officer to whom the dog is delivered shall notify the owner personally or through the United States mail, if such owner be known to the officer or can be ascertained with reasonable effort, but if such owner be unknown or cannot be ascertained, then the officer shall post written notice in three public places in his town, giving a description of the dog, stating where it is impounded and the conditions for its release within forty-eight hours, Sundays excepted, after such officer shall have taken such dog into his possession. If after five days the owner does not claim such dog such officer shall dispose of the dog in a proper and humane manner.

3. \* \* \* Any dog found or discovered off the premises of its owner between sunset and sunrise and unaccompanied by its owner or some person in control of it shall be considered an unlicensed dog and a private nuisance and may be seized, restrained, impounded and disposed of as provided by this section by any one during said time and before it returns to the control or premises of its owner.

4. Any person who shall violate any of the provisions of chapter 72 of the statutes shall be liable to a penalty of not less than five dollars nor more than fifty dollars for such violation.

Section 1629. 1. The owner of any domestic animals (including poultry) attacked, chased, worried, injured or killed by a dog or dogs may within ten days after the owner shall have knowledge or notice thereof, file a written claim for damages with the clerk of the town, village or city in which the damage occurred. The form of such claim may be prescribed by the department of agriculture. Upon presentation of such 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 said claim and may subpoena witnesses, administer oaths and take testimony relative thereto and shall with-

in thirty days after the filing of said claim make, certify and return to the county clerk said claim, a report of the investigation, the testimony taken and the amount of damages suffered by the owner of said animals.

2. The form of the report and certification may be prescribed by the department of agriculture, and shall be subscribed by the supervisors, board or committee making the same. The county clerk shall lay before the county board at its \* \* \* *first* meeting, *following the receipt of any such claim*, all claims so filed and reported \* \* \* and the same shall be acted upon and determined by the county board as other claims are determined and acted upon. 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 claim as in other cases and appeals from the action of the county board shall lie as in other cases. On appeal from the action of the county board, said trial shall be by the court without a jury.

3. Such claims shall be solely against the dog license fund and shall create no other liability on the part of the county. When said claims shall be finally determined, the claimant shall be paid eighty per cent thereof out of the dog license fund. \* \* \*

4. The amount allowed by the county board upon any such claim shall in no case exceed one hundred dollars for each horse, mule or bovine, or thirty dollars for each sheep, goat or swine, or three dollars for each fowl. Whenever the claimant shall furnish conclusive evidence as to the ownership of the dog or dogs doing the damage the claimant shall be paid the full amount of the claim submitted.

Section 1630. 1. The allowance by the county of any claim for damages done by dogs shall work 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. Before any claim shall be allowed by the county 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 him.

2. No claim shall be allowed by the county board 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 his claim.

3. The provisions of chapter 72 of the statutes shall not in any way limit the existing right or authority of any town, village or city to pass ordinances for the keeping and regulating of dogs, or repeal or annul any existing statute or ordinance or local regulation governing the keeping and regulating of dogs; but on and after July 1, 1920, no town, village or city shall pass any ordinance for the licensing of dogs, and all town, village or city ordinances and local regulations licensing dogs then in force shall be null and void.

4. No person except the owner or his authorized agent shall remove any license tag from a dog collar or remove any collar with a license attached thereto from any dog. No person shall keep or harbor a dog wearing a fictitious, altered or invalid license tag, or a license tag not issued in connection with the licensing or keeping of the dog wearing the same. No license or license tag issued for one dog shall be transferable to another dog. Every town, village or city \* \* \* *treasurer* shall notify the district attorney of his county of every refusal or failure of an owner to obtain a license for keeping his dog and it shall be the duty of the district attorney to institute proceedings against such owner and against every owner within his county who has violated any of the provisions of the dog license law.

5. Dogs brought into the state temporarily for a period not to exceed thirty days \* \* \* if kept confined or in leash shall be exempt from the provisions of chapter 72 of the statutes.

6. The provisions of this chapter of the statutes relating to the licensing of dogs and the provisions for the payment of claims out of the dog license fund for damages done by dogs are severable and the provisions relating to such payment of claims are not an inducement to the enactment of any other provisions of said chapter.

SECTION 3. This act shall take effect upon passage and publication.

Approved June 27, 1921.