



COUNTY ADVISORY BULLETIN

CAB

Published by: County Commissioners Association of Ohio

37 West Broad Street, Suite 650 • Columbus, Ohio 43215-4195

Phone: 614-221-5627 • Fax: 614-221-6986 • www.ccao.org

BULLETIN 1999- 02

MARCH 1999

HB 219 OF 122ND GENERAL ASSEMBLY CHANGES DEADLINE FOR DOG REGISTRATIONS, EXEMPTS POLICE DOGS FROM FEES, ALLOWS INCREASED FEE FOR DUPLICATE TAGS AND RAISES PENALTY FOR DOG FIGHTING

Effective Date: June 1, 1998

Revised Code Sections Affected:

Amended: 955.01, 94.04, 955.05, 955.08, 955.09, 955.14, 955.35, 955.99. / **Enacted:** 9.62, 955.012

Lead Sponsor: Reid (R-Beavercreek)

House Co-Sponsors: Corbin (R-Dayton), Garcia (R-Toledo), Schuler (R-Cincinnati), Lucas (D-Mineral Ridge), Lewis (D-Dayton), Prentiss (D-Cleveland), Boyd (D-Cleveland)

Senate Co-Sponsors: Schafrath (R-Loudonville), Mumper (R-Marion), Gaeth (R-Defiance)

INTRODUCTION

As introduced, HB 219 would merely have exempted dogs used by law enforcement agencies in the detection of narcotics from the annual registration fee. As enacted, HB 219 includes several changes to the dog laws that affect the responsibilities of county commissioners, county auditors and dog wardens in the administration of the dog laws.

Substitute HB 219, which became effective on June 1, 1998, exempts all law enforcement dogs from the registration fee when timely filed and permits police officers who are assigned to police dogs and horses to purchase retired animals for a dollar. The new law also extends the dog registration deadlines and gives commissioners greater flexibility to establish registration fees and to subsidize the operation of the dog warden's office. The new law also increases the penalty for dog fighting from a fifth degree felony to a fourth degree felony.

The purpose of this CAB is to summarize the provisions of the new law with particular emphasis on the provisions that impact county officials.

HB 219 AT A GLANCE- SUMMARY OF MAJOR PROVISIONS

ORC SECTION	TOPIC	SUMMARY
Enact 9.62	Purchase of police dogs and horses by police officers	Permits any law enforcement officer to whom a police dog or horse has been assigned the right of first refusal to purchase for one dollar any police dog or horse upon the retirement or disability of the animal or the disbanding of the canine or equine unit.
Amend 955.01	Extension of the annual dog license registration deadline	<p>Changes to the annual dog registration deadline from January 20 to January 31.</p> <p>Permits a board of county commissioners to extend the registration deadline without declaring an emergency.</p> <p>Exempts animal shelters that qualify as tax exempt nonprofit organizations under 501(c)(3) of the "Internal Revenue Code" from dog license fees.</p>
Enact 955.012	Generally exempts police dogs from registration fees; retains registration requirement	<p>Requires police dogs used by law enforcement agencies for general law enforcement, tracking, and drug and explosive detection to be registered by a law enforcement agency with the county auditor of the county in which the central office of the law enforcement agency that keeps the dog is located.</p> <p>Waives the registration fee if the application for dog registration is timely filed.</p> <p>Requires payment of full fee and late registration penalty if application for police dog is late.</p>
Amend 955.08	Permits increased fee for duplicate tags	Permits a board of county commissioners to establish an alternate fee of up to \$1.50 for a duplicate dog tag.

Amend 955.14	Alters time period for increasing dog and kennel registration fees; permits county commissioners to subsidize dog and kennel fund operations from the general fund	Eliminates the \$4 and \$20 limit on dog and kennel license fees, eliminates the requirement that such an increase be set between October 1 and the 15 for the following year. Eliminates the requirement that funds advanced to the dog and kennel fund from the general fund be replaced by February 20 of the following year. Permits a board of county commissioners to increase dog and kennel registration fees between February 1 and August 30 of any year for the subsequent year.
Amend 959.99	Increases the penalty for dog fighting	Increases the penalty for dog fighting from a fifth degree felony to a fourth degree felony.

EXTENSION OF ANNUAL DOG LICENSE REGISTRATION DEADLINE

Prior to the enactment of HB 219, the annual registration period for dog and kennel licenses was December 1 to January 20. HB 219 changes the annual dog registration deadline from January 20 to January 31. In a provision unchanged by the new law, if an application for a dog registration is filed with the county auditor after the registration deadline, the penalty for late payment is a fee equal twice the amount of the registration fee. The new law permits the board of county commissioners to extend the registration period by resolution and without declaring the existence of an emergency.

The new law may require some counties to revise the dog license application forms as some counties may have January 20 listed on the form. It is hoped that a registration deadline at the end of January will be easier for the general public to remember and thus encourage greater compliance.

EXEMPTION OF CERTAIN NONPROFIT ANIMAL SHELTERS FROM REGISTRATION REQUIREMENTS

The new law exempts animal shelters that qualify as nonprofit organizations that are exempt from federal income taxation under 501(c)(3) of the "Internal Revenue Code of 1996" from dog and kennel registration fees. Animal shelters that might qualify as nonprofit organizations under this provision could include facilities operated by the local humane society. It is our understanding that dogs housed by humane societies were not generally required to pay registration fees prior to the enactment of HB 219, consequently there should be minimal financial impact from this change. County auditors and dog wardens may request animal shelters applying for the exemption to show evidence of the shelter's status as a 501(c)(3) tax exempt entity under the federal tax law.

EXEMPTION OF POLICE DOGS FROM REGISTRATION FEES

The new law exempts “law enforcement canines” or police dogs that are owned, kept or harbored by a law enforcement agency from registration fees, but does **not** exempt police dogs from the registration requirement. A police dog is defined as a dog used by a law enforcement agency for general law enforcement purposes, tracking, and narcotic and explosive detection. Law enforcement agencies are defined to include the state highway patrol, county sheriff, municipal or township police department, or a township or joint township police district.

A law enforcement agency that owns a police dog is required to file an application for an annual registration with the county auditor of the county in which the central office of the law enforcement agency is located. In the case of the state highway patrol, the application would be submitted to the county auditor of the county in which is located the state highway patrol post to which the police dog and the dog’s handler are primarily assigned. Registrations are due by the regular statutory deadline (January 31) set for all dogs, unless the county commissioners have approved a general extension applicable to all dogs. The information required to be included on the application form for a police dog is the same as that for dogs generally, and includes the dog’s age, sex, hair, color, hair length, breed, and name and address of owner. The application must be signed by the sheriff, police chief, officer in charge of the highway patrol post or other equivalent officer in charge of the office or agency.

No fee is required for registration of the police dog or for issuance of a duplicate certificate and tag. Failure to register a police dog by January 31 or any extended registration deadline set by the county commissioners, however, will subject the law enforcement agency to payment of both the registration fee and late registration penalty.

If a law enforcement agency acquires a police dog after January 31 of any year, or the extended registration deadline if a later registration date has been established by the county commissioners, then the law enforcement agency has 30 days from the date of possession to register the dog without paying the licence fee. Failure to register the dog within the 30 day registration period will subject the law enforcement agency to both the regular registration fee and late registration fee penalty.

DUPLICATE TAGS

In addition to a certificate of registration, the law requires the county auditor to issue each person registering a dog in the county a metal dog tag. Each dog tag includes a distinctive number which corresponds to the number listed on the certificate of registration. The county auditor keeps a permanent record of all registrations in a dog and kennel register. Continuing law requires the county auditor to issue a duplicate tag to any owner of a registered dog upon proof of loss and payment of a 25¢ fee, unless as provided by the new law, the county commissioners have established an alternate fee in an amount not to exceed \$1.50. Commissioners may wish to adopt an alternate fee in excess of the statutory

25¢ fee under the new authority the next time the commissioners make an adjustment in dog and kennel registration fees.

INCREASE IN DOG AND KENNEL REGISTRATION FEES

Prior law required the board of county commissioners between October 1 and October 15 of each year to determine:

- (1) the number and cost of animal claims allowed during the current year;
- (2) the total expense incurred in the administration of the dog law; and
- (3) the amount received in registration fees. If the cost of paying animal claims and administering the dog laws exceeded revenue from the registration fees, then the commissioners were required to do either or both of the following:
 - ▶ Raise registration fees for the next year so that the total cost of paying animal claims and administering the dog laws equals projected revenue;
 - ▶ Adopt a resolution paying all animal claims from the general fund. Any general fund money used to pay animal claims would have to be repaid from the dog and kennel fund to the general fund by February 20 of the next year.

Prior law limited dog and kennel fees to \$4 for dog registration and \$20 for kennel registration unless there was a deficit in the dog and kennel fund due to the payment of animal claims. In such cases, the board of county commissioners could increase dog and kennel fees above the \$4 and \$20 limits. This statutory limitation had become meaningless. As of 1996, 84 counties had dog and kennel registration fees in excess of the \$4 and \$20 limitation with the majority of counties at \$8 and \$40 or more. Consequently, the new law removes archaic language requiring the commissioners to perform these calculations and also removes the \$4 and \$20 registration fee limitation.

The new law permits a board of county commissioners, by resolution, at any time between February 1 and August 30 to raise dog and kennel fees for the registration period commencing December 1, if the commissioners determine that a fee increase is necessary to pay animal claims and to cover the cost of administration. The new law repeals the limit of \$4 for a dog registration and \$20 for kennel registration, but retains the requirement that any increase in dog and kennel fees must be in the ratio of \$2 for a dog registration and \$10 for a kennel registration.

The new law retains the requirement that each board of county commissioners, no later than October 15 of each year, determine if there is sufficient money in the dog and kennel fund to pay all animal claims after paying all costs estimated to be incurred in the administration of the dog laws for the remainder of the year. If there is insufficient money to pay all animal claims that have been allowed, then the commissioners must pay the animal claims from the general fund. The board of county commissioners **may** replace any

money paid out of the general fund to pay animal claims at any time during the following year, but such repayment is no longer required.

HB 219 effectively permits a board of county commissioners to partially subsidize the operation of the dog warden's office from the general fund. The act removes the requirement that animal claims paid from the general fund must be reimbursed to the general fund from the dog and kennel fund by February 20 of the following year. The law allows the board of county commissioners to continue to provide for reimbursement from the dog and kennel fund, but does not require it. If the county commissioners pay claims from the general fund, the resolution authorizing payment should state whether the monies will be reimbursed from the dog and kennel fund. This statutory change may reduce the pressure on county commissioners to raise dog and kennel fees whenever the dog and kennel fund is projected to be operating at a deficit.

In 1938, the Ohio Attorney General (OAG) ruled that county commissioners had a mandatory duty to increase dog and kennel fees in any year in which a deficit in the dog and kennel fund existed (OAG3483-1938). Other attorney general opinions, however, have authorized the use of county general fund money to pay for certain expenses associated with the operation of the dog warden's office. For example, Ohio Attorney General's Opinion #1823 (1938) ruled that general fund money could be used to purchase an automobile for use by the dog warden in carrying out his official duties while another opinion ruled that only the general fund could be used to finance the construction of a dog pound (OAG2671-1938). As a practical matter, in recent years several counties have opted to subsidize the operation of the dog warden's office with general fund money rather than raise registration fees.

PENALTY FOR DOG FIGHTING

Existing law prohibits a person from knowingly doing any of the following:

- ▶ Promoting, engaging in, or being employed at dogfighting;
- ▶ Receiving money for the admission of another person to a place kept for dogfighting;
- ▶ Selling, purchasing, possessing, or training a dog for fighting;
- ▶ Using, training, or possessing a dog for seizing, detaining, or maltreating a domestic animal;
- ▶ Purchasing a ticket of admission or being present at a dogfight;
- ▶ Witnessing a dogfight if it is presented as a public spectacle.

Under prior law, a person who violated any of these provisions was guilty of a fifth degree felony. The bill increases the penalty for violation of any of these provisions from a fifth degree felony to a fourth degree felony.

PURCHASE OF POLICE DOGS AND HORSES

HB 219 gives the police officer to whom a police dog or horse has been assigned the first chance to purchase such an animal for one dollar upon that animal's retirement from service due to old age, disability, injury or disbanding of the police canine or equine unit. A police officer who leaves a police canine or equine unit prior to the retirement of the animal assigned to that police officer forfeits the right to purchase the animal on these terms. Any police dog or horse not purchased by the police officer to whom the animal was assigned would, upon retirement from service, be disposed of as otherwise provided by law.