(127th General Assembly)
(Amended House Bill Number 281)

AN ACT

To amend sections 955.12, 955.14, 955.27, 955.29, 955.32, 955.34, 955.35, 955.37, and 955.38; to amend, for the purpose of adopting a new section number as indicated in parentheses, section 955.34 (955.351); and to repeal sections 955.31 and 955.33 of the Revised Code to provide for the uniform determination of the fair market value of certain animals killed by a dog.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 955.12, 955.14, 955.27, 955.29, 955.32, 955.34, 955.35, 955.37, and 955.38 be amended and section 955.34 (955.351) of the Revised Code be amended for the purpose of adopting a new section number as indicated in parentheses to read as follows:

Sec. 955.12. The board of county commissioners shall appoint or employ a county dog warden and deputies in such number, for such periods of time, and at such compensation as the board considers necessary to enforce sections 955.01 to 955.27, 955.29 to 955.38, and 955.50 of the Revised Code.

The warden and deputies shall give bond in a sum not less than five hundred dollars and not more than two thousand dollars, as set by the board, conditioned for the faithful performance of their duties. The bond or bonds may, in the discretion of the board, be individual or blanket bonds. The bonds shall be filed with the county auditor of their respective counties. ~~The~~

The warden and deputies shall make a record of all dogs owned, kept, and harbored in their respective counties. They shall patrol their respective counties and seize and impound on sight all dogs found running at large and all dogs more than three months of age found not wearing a valid registration tag, except any dog that wears a valid registration tag and is: on the premises of its owner, keeper, or harborer, under the reasonable control of its owner or some other person, hunting with its owner or its handler at a field trial, kept constantly confined in a registered dog kennel, or acquired by, and confined on the premises of, an institution or organization of the

type described in section 955.16 of the Revised Code. A dog that wears a valid registration tag may be seized on the premises of its owner, keeper, or harborer and impounded only in the event of a natural disaster. ~~If~~

If a dog warden has reason to believe that a dog is being treated inhumanely on the premises of its owner, keeper, or harborer, the warden shall apply to the court of common pleas for the county in which the premises are located for an order to enter the premises, and if necessary, seize the dog. If the court finds probable cause to believe that the dog is being treated inhumanely, it shall issue such an order. ~~The~~

The warden and deputies shall also investigate all claims for damages to animals~~, fowl, or poultry~~ reported to them under section 955.29 of the Revised Code and assist claimants to fill out the claim form therefor. They shall make weekly reports, in writing, to the board in their respective counties of all dogs seized, impounded, redeemed, and destroyed and of all claims for damage to animals~~, fowl, or poultry~~ inflicted by dogs. ~~The~~

The wardens and deputies shall have the same police powers as are conferred upon sheriffs and police officers in the performance of their duties as prescribed by sections 955.01 to 955.27, 955.29 to 955.38, and 955.50 of the Revised Code. They shall also have power to summon the assistance of bystanders in performing their duties and may serve writs and other legal processes issued by any court in their respective counties with reference to enforcing ~~such~~ those sections. County auditors may deputize the wardens or deputies to issue dog licenses as provided in sections 955.01 and 955.14 of the Revised Code. ~~Whenever~~

Whenever any person files an affidavit in a court of competent jurisdiction that there is a dog running at large that is not kept constantly confined either in a registered dog kennel or on the premises of an institution or organization of the type described in section 955.16 of the Revised Code or that a dog is kept or harbored in ~~his~~ the warden's jurisdiction without being registered as required by law, the court shall immediately order the warden to seize and impound the ~~animal~~ dog. Thereupon the warden shall immediately seize and impound the dog complained of. The warden shall give immediate notice by certified mail to the owner, keeper, or harborer of the dog seized and impounded by ~~him~~ the warden, if the owner, keeper, or harborer can be determined from the current year's registration list maintained by the warden and the county auditor of the county where the dog is registered, that the dog has been impounded and that, unless the dog is redeemed within fourteen days of the date of the notice, it may thereafter be sold or destroyed according to law. If the owner, keeper, or harborer cannot be determined from the current year's registration

list maintained by the warden and the county auditor of the county where the dog is registered, the officer shall post a notice in the pound or animal shelter both describing the dog and place where seized and advising the unknown owner that, unless the dog is redeemed within three days, it may thereafter be sold or destroyed according to law.

As used in this section, "animal" has the same meaning as in section 955.51 of the Revised Code.

Sec. 955.14. (A) Notwithstanding section 955.01 of the Revised Code, a board of county commissioners by resolution may increase dog and kennel registration fees in the county. The amount of the fees shall not exceed an amount that the board, in its discretion, estimates is needed to pay all expenses for the administration of this chapter and to pay claims allowed for animals~~, fowl, or poultry~~ injured or destroyed by dogs. Such a resolution shall be adopted not earlier than the first day of February and not later than the thirty-first day of August of any year and shall apply to the registration period commencing on the first day of December of the current year and ending on the thirty-first day of January of the following year, unless the period is extended under section 955.01 of the Revised Code. Any increase in fees adopted under this division shall be in the ratio of two dollars for a dog registration fee and ten dollars for a kennel registration fee.

(B) Not later than the fifteenth day of October of each year, the board of county commissioners shall determine if there is sufficient money in the dog and kennel fund, after paying the expenses of administration incurred or estimated to be incurred for the remainder of the year, to pay the claims allowed for animals~~, fowl, or poultry~~ injured or destroyed by dogs. If the board determines there is not sufficient money in the dog and kennel fund to pay the claims allowed, the board shall provide by resolution that all claims remaining unpaid shall be paid from the general fund of the county. All money paid out of the general fund for those purposes may be replaced by the board from the dog and kennel fund at any time during the following year notwithstanding section 5705.14 of the Revised Code.

(C) Notwithstanding section 955.20 of the Revised Code, if dog and kennel registration fees in any county are increased above two and ten dollars, respectively, under authority of division (A) of this section, then on or before the first day of March following each year in which the increased fees are in effect, the county auditor shall draw on the dog and kennel fund a warrant payable to the college of veterinary medicine of the Ohio state university in an amount equal to ten cents for each dog and kennel registration fee received during the preceding year. The money received by the college of veterinary medicine of the Ohio state university under this

division shall be applied for research and study of the diseases of dogs, particularly those transmittable to humans, and for research of other diseases of dogs that by their nature will provide results applicable to the prevention and treatment of both human and canine illness.

(D) The Ohio state university college of veterinary medicine shall be responsible to report annually to the general assembly the progress of the research and study authorized and funded by division (C) of this section. The report shall briefly describe the research projects undertaken and assess the value of each. The report shall account for funds received pursuant to division (C) of this section and for the funds expended attributable to each research project and for other necessary expenses in conjunction with the research authorized by division (C) of this section. The report shall be filed with the general assembly by the first day of May of each year.

(E) The county auditor may authorize agents to receive applications for registration of dogs and kennels and to issue certificates of registration and tags. If authorized agents are employed in a county, each applicant for a dog or kennel registration shall pay to the agent an administrative fee of seventy-five cents in addition to the registration fee. The administrative fee shall be the compensation of the agent. The county auditor shall establish rules for reporting and accounting by the agents. No administrative or similar fee shall be charged in any county except as authorized by this division or division (F) of this section.

(F) For any county that accepts the payment of dog and kennel registration fees by financial transaction devices in accordance with section 955.013 of the Revised Code, in addition to those registration fees, the county auditor shall collect for each registration paid by a financial transaction device one of the following:

(1) An administrative fee of seventy-five cents or another amount necessary to cover actual costs designated by the county auditor;

(2) If the board of county commissioners adopts a surcharge or convenience fee for making payments by a financial transaction device under division (E) of section 301.28 of the Revised Code, that surcharge or convenience fee;

(3) If the county auditor contracts with a third party to provide services to enable registration via the internet as provided ~~insection~~ in section 955.013 of the Revised Code, a surcharge ~~of~~ or convenience fee as agreed to between that third party and the county for those internet registration services. Any additional expenses incurred by the county auditor that result from a contract with a third party as provided in this section and section 955.013 of the Revised Code and that are not covered by a surcharge or

convenience fee shall be paid out of the allowance provided to the county auditor under section 955.20 of the Revised Code.

(G) The county auditor shall post conspicuously the amount of the administrative fee, surcharge, or convenience fee that is permissible under this section on the web page where the auditor accepts payments for registrations made under division (B)(1) of section 955.013 of the Revised Code~~, if~~. If any person chooses to pay by financial transaction device, the administrative fee, surcharge, or convenience fee shall be considered voluntary and is not refundable.

(H) As used in this section, "animal" has the same meaning as in section 955.51 of the Revised Code.

Sec. 955.27. After paying all necessary expenses of administering the sections of the Revised Code relating to the registration, seizing, impounding, and destroying of dogs, including the purchase, construction, and repair of vehicles and facilities necessary for the proper administration of such sections, making compensation for injuries to livestock inflicted by dogs, and after paying all ~~horse, sheep, cattle, swine, mule and goat~~ animal claims, the board of county commissioners, at the December session, if there remains more than two thousand dollars in the dog and kennel fund for ~~such~~ that year in a county in which there is a society for the prevention of cruelty to children and animals, incorporated and organized by law, and having one or more agents appointed pursuant to law, or any other society organized under Chapter 1717. of the Revised Code, that owns or controls a suitable dog kennel or a place for the keeping and destroying of dogs ~~which~~ that has one or more agents appointed and employed pursuant to law, may pay to the treasurer of ~~such~~ the society, upon warrant of the county auditor, all such excess as the board deems necessary for the uses and purposes of ~~such~~ the society.

As used in this section, "animal" has the same meaning as in section 955.51 of the Revised Code.

Sec. 955.29. Any owner of ~~horses, sheep, cattle, swine, mules, goats, domestic rabbits, or domestic fowl or poultry~~ an animal that ~~have an aggregate~~ the owner believes has a fair market value of ten dollars or more and that ~~have~~ has been injured or killed by a dog not belonging to the owner or harbored on ~~his~~ the owner's premises, in order to be eligible to receive compensation from the dog and kennel fund, shall notify a member of the board of county commissioners or dog warden within three days after the loss or injury has been discovered. A commissioner who is notified shall immediately notify the dog warden of the loss or injury. The warden shall investigate or have the loss or injury investigated promptly, and the person

making the investigation shall provide the owner with duplicate copies of the claim form authorized by section 955.36 of the Revised Code and assist ~~him~~ the owner in filling it out. ~~The~~

The owner shall set forth the kind, grade, quality, and fair market value of the ~~animals, fowl, or poultry,~~ animal, as estimated by the owner, the nature and amount of the loss or injury, the place where the loss or injury occurred, and all other facts in the possession of the claimant that will enable the warden to fix responsibility for the loss or injury. ~~If the animals, fowl, or poultry die as a result of their injuries, their fair market value shall be the market value of uninjured animals, fowl, or poultry on the date of the death of the injured animals, fowl, or poultry. If the animals, fowl, or poultry do not die as a result of their injuries, their fair market value shall be their market value on the date on which they received their injuries. Any fetus that is aborted by an animal because of stress inflicted by a dog and that does not, on that account, survive shall be considered to have been killed by the dog, regardless of the stage of pregnancy at which the abortion occurs. In the case of any such alleged cause of death, the warden may, as part of his investigation, request the chief of the division of animal industry to have a state veterinarian certify the cause of death. The chief shall promptly comply, and the veterinarian shall send the certification to the warden.~~ The owner shall also sign a statement that the information set forth is a true account of the loss or injury and that, on the date the loss or injury occurred, the claimant did not own or harbor an unregistered dog required to be registered under section 955.01 of the Revised Code. No claimant who owned or harbored an unregistered dog on that date may recover from the dog and kennel fund.

If the warden finds all the statements that the owner made on the form to be correct and agrees with the owner as to the fair market value of the ~~animals, fowl, or poultry, he~~ animal, the warden shall promptly so certify and send both copies of the form, together with whatever other documents, testimony, or information ~~he~~ the warden has received relating to the loss or injury, to the board of county commissioners.

If the warden does not find all the statements to be correct or does not agree with the owner as to the fair market value, the owner may appeal to the board of ~~township trustees~~ county commissioners for a determination as provided in section ~~955.30 to 955.34~~ 955.35 of the Revised Code. In that case the owner shall secure statements as to the nature and amount of the loss or injury from at least two witnesses who viewed the results of the killing or injury and who can testify thereto and submit both copies of the form to the board of ~~township trustees~~ county commissioners or a member

thereof not later than ~~twenty~~ ten days after the ~~loss or injury was discovered~~ warden finds that not all of the owner's statements are correct or disagrees with the owner's estimated fair market value, whichever is applicable. The warden shall submit to the board of ~~township trustees~~ county commissioners whatever documents, testimony, or other information ~~he~~ the warden has received relating to the loss or injury.

As used in this section and sections 955.32 to 955.38 of the Revised Code:

(A) "Animal" and "grade animal" have the same meanings as in section 955.51 of the Revised Code.

(B) "Fair market value" means the average price that is paid for a healthy grade animal at a livestock auction licensed under Chapter 943. of the Revised Code and selected by the applicable board of county commissioners.

Sec. 955.32. If the ~~animals, fowl, or poultry~~ animal that has been killed or injured as described in section 955.29 of the Revised Code ~~are~~ is registered in any accepted association of registry, the owner, or ~~his~~ the owner's employee or tenant, shall submit with the claim form the registration papers showing the animal's lines of breeding, age, and other matters. If the ~~animals are~~ animal is the offspring of registered stock and is eligible for registration, the registration papers showing the breeding of the offspring shall be submitted.

Sec. 955.35. The board of county commissioners, at the next regular meeting after claims in accordance with ~~sections~~ section 955.29 ~~to 955.34~~ of the Revised Code have been submitted, shall examine the same and may hear additional testimony or receive additional affidavits in regard thereto and may allow the amount previously certified by the dog warden ~~or allowed by the board of township trustees~~, or a part thereof, or any amount in addition thereto, as it may find to be just, but in no event shall the amount allowed exceed the lesser of five hundred dollars per animal or the uninsured amount of the loss or injury. The board shall make the final determination of the fair market value of an animal that is the subject of a claim.

If the animal that is the subject of a claim dies as a result of the injuries that it received from a dog, the amount of indemnity is the fair market value of the animal on the date of its death subject to the limit established in this section. If the animal that is the subject of a claim does not die as a result of the injuries that it received from a dog, the amount of indemnity is the fair market value of the animal on the date on which it received its injuries subject to the limit established in this section. If the animal that is the

subject of a claim is registered or eligible for registration as described in section 955.32 of the Revised Code, the amount of indemnity is one hundred twenty-five per cent of the fair market value of the animal on the date on which the animal was killed or injured subject to the limit established in this section. If the date of death or injury of an animal cannot be determined, the amount of indemnity shall be based on the fair market value of the animal on the date on which the death or injury was discovered by its owner. A fetus that is aborted by an animal because of stress inflicted by a dog and that does not, on that account, survive shall be considered to have been killed by the dog regardless of the stage of pregnancy at which the abortion occurs. In the case of any such alleged cause of death, the warden, as part of the warden's investigation, may request the chief of the division of animal industry in the department of agriculture to have a state veterinarian certify the cause of death. The chief shall promptly comply, and the veterinarian shall send the certification to the board of county commissioners.

The claims shall be paid out of the dog and kennel fund or out of the general fund of the county, as provided in section 955.14 of the Revised Code. Such claims as are allowed in whole or in part shall be paid by voucher issued by the county auditor five days after the approval of the board of county commissioners has been entered. If the claim is to be paid out of the dog and kennel fund and the funds therein are insufficient to pay the claims, they shall be paid in the order allowed at the close of the next calendar month in which sufficient funds are available in the fund.

Sec. ~~955.34~~ 955.351. Witnesses not exceeding four in number, who give testimony ~~in the hearing provided for in~~ under section ~~955.33~~ 955.35 of the Revised Code at a meeting of the board of county commissioners, shall be allowed six dollars each and mileage at the rate of ten cents per mile, going and returning, in each case. The board ~~of township trustees~~ shall administer an oath or affirmation to each claimant or witness.

If the ~~animals, fowl, or poultry~~ animal that ~~have~~ has been killed or injured ~~are~~ is in the care of an employee or tenant of the owner thereof, the affidavit provided for in section 955.29 of the Revised Code may be made by ~~such~~ that employee or tenant, whose testimony may be received in regard to all relative matters to which ~~said~~ the owner would be competent to testify.

Sec. 955.37. An owner of ~~animals, fowl, or poultry~~ an animal that has been killed or injured by a dog may, if the fair market value is ten dollars or more, appeal from a final allowance made by the board of county commissioners, within thirty days after the allowance. The appeal shall be made to the probate court by filing, as party plaintiff, a petition with the court setting out the facts in the case as contended by the owner.

Proceedings shall be as provided by law in civil cases, and the board shall be made party defendant.

Sec. 955.38. The probate court shall hear the appeals provided for in section 955.37 of the Revised Code as in equity and shall determine the fair market value of the ~~animals, fowl, or poultry~~ animal that has been killed or injured. Not more than three witnesses shall be called by each party. The amount found by the court shall not exceed the lesser of five hundred dollars per animal or the uninsured amount of the loss or injury. The amount found shall be final, and the judge shall certify it to the board of county commissioners. Like proceedings shall be had as to payment thereof, as if the amount had been found by the board in the first instance.

If an increased allowance is made by the court, the costs shall be paid equally by the parties; if no increase is made, the plaintiff shall pay all the costs.

SECTION 2. That existing sections 955.12, 955.14, 955.27, 955.29, 955.32, 955.34, 955.35, 955.37, and 955.38 and sections 955.31 and 955.33 of the Revised Code are hereby repealed.

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Speaker _____ of the House of Representatives.

_____

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

_____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

_____

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20____.

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Secretary of State.

File No. _____ Effective Date _____