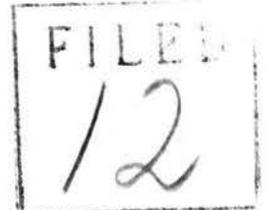


DOGS:  
NOTICE OF ELECTION  
CONCERNING DOGS:

1. Only one publication necessary for  
a notice of election. 2. Duties of  
assessors and county clerks.

March 7, 1939

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Hon. Herbert S. Brown  
Prosecuting Attorney  
Grundy County  
Trenton, Missouri

Dear Sir:

This is in reply to your letter of recent date  
requesting an opinion from this department on the follow-  
ing questions:

1st. As to the length of time,  
or, how many publications are  
necessary under Section 12881  
to notify the citizens of the  
adoption of the election con-  
cerning taxing of dogs.

2nd. As to the duties of the  
assessor and county clerk in  
the enforcement of the dog tax  
law.

3rd. Form of legal notice of  
publication.

As to the first question we find that the last  
sentence in Section 12881 applies to that inquiry. It is  
as follows:

"If the majority of the votes  
cast upon the subject be in favor  
of license tax on dogs, the county

court shall spread the result of such election upon its records and give notice thereof by publication in some newspaper printed and published in such county and such law shall become operative from the time such publication is made."

This section in plain language states that the law shall become effective from the time the publication is made. It does not provide for anymore than the publication.

#### CONCLUSION

As to this point, it is the opinion of this department that it is necessary to publish the result of the election to adopt the provision of the dog tax law only one time and that the law becomes operative from the date the publication is made.

The duties of the assessor and county clerk pertaining to the enforcement of the dog tax law are set out in Section 12881, which provides in part as follows:

"The assessors for taxation purposes in each county and city of this commonwealth shall annually, at the time of assessing property as required by law, make diligent inquiry as to the number of dogs owned, harbored or kept by any person so assessed. The assessor shall annually, on or before the thirty-first day of December, make a complete report, on a blank form furnished by the county clerk or license collector, setting forth the name of every owner of any

dog or dogs, how many of each sex are by him owned or harbored, and if a kennel is maintained by any person such fact shall also be stated. It shall be the duty of the assessor, at the time of making the assessment, to notify the owner of such dog or dogs that he must obtain a license for the same as provided for in this article; but the neglect or failure so to notify such owner shall not relieve the owner from his duty to obtain such license. \* \* \* "

This section prescribes certain duties of these officials in the enforcement of the act, yet, it will be seen by the last clause of the above quotation that if the assessor fails to notify the owner of the dog that it is his duty to obtain a license that does not excuse the owner from his criminal liability for failing to buy the license nor from his duty to buy the license for the dog.

The assessor begins his assessments as of June 1st of each year and it is his duty to have the assessment completed by the first of the year. In case the provisions of the dog tax law are not adopted until the assessment is about over then it would be impossible for the assessor to perform his duty, as prescribed in Section 12881, for that particular year and the county clerk, in such a case, would have to make an estimate of the number of dogs in the county for which he would want licenses and other supplies. The statute is silent as to such a contingency. By reading this entire section, since the lawmakers provided that if the owner of the dog is not notified by the assessor still it is his duty to pay the tax. Supplies are necessary if the taxes are to be paid. Therefore, the county clerk, under such circumstances, would be authorized to make an estimate of the amount of supplies that he would need for that year.

#### CONCLUSION

From the foregoing we are of the opinion that if the

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assessor has not listed the dogs for assessment, as provided by Section 12881, still it is the duty of the county clerk to make an estimate of the number of supplies that he will need to carry out the provisions of the dog tax law in his county. We are further of the opinion that the duties set out in Section 12881 pertaining to the assessor are just as much incumbent upon him as are the duties of assessing real and personal property.

On your last question, as to the form of notice, I find that this department on November 18, 1938, in an opinion to Mr. Edward V. Long, Prosecuting Attorney of Pike County, set out a form of notice for publication of the adoption of the dog tax act. We are enclosing a copy of this opinion for your attention.

Respectfully submitted

TYRE W. BURTON  
Assistant Attorney General

APPROVED:

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J. W. BUFFINGTON  
(Acting) Attorney General

TWB:JMW  
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