

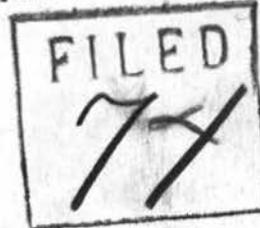
DOG LICENSE LAW:

Money derived from dog licenses and placed in "County Dog License Fund" may be used for payment of claims arising from damages sustained by livestock or poultry even though such claims accrued after the voters of the county voted to repeal the license tax on dogs.

August 12, 1949.

8/17/49

Senator Harry J. Revercomb
Seventeenth District
Missouri Senate
Jefferson City, Missouri



Dear Senator:

We are in receipt of your letter in which you request an opinion of this department. Your letter is as follows:

"Would appreciate your rendering an opinion as to the disposition of funds in the treasury of the various counties where the DOG LAW ACT no longer exists.

"There was a surplus of \$800.00 in the DOG FUND in one particular county when this law was voted out in 1944.

"Would like to know if current claims can be paid from this fund."

Article 13, of Chapter 103, R.S.A. No., 1939, which embodies sections 14546 to 14558a inclusive, sets up a local option dog tax law. Section 14558 provides for the effectiveness of the dog tax law in any one of the several counties upon adoption thereof by a vote of the people. Section 14558a provides for the repeal of said law insofar as its applicability in any one county is concerned, said repeal to be accomplished by a vote of the people of said county. Section 14547 provides for the amount to be paid for dog licenses. Section 14548 provides among other things for the disposition of the tax money accruing from such tax in any one county, and is in part as follows:

"* * * The treasurer of the county shall set any and all sums so received apart in a separate fund to be known as a "county dog license fund," and such fund shall

be used only for the purpose of compensating persons who have suffered loss or damage through injury or killing by dogs of any livestock or poultry owned by them and located in said county at the time of such injury or killing * * * * *."

We gather from your letter that the particular situation to which you refer is one in which by a vote of the people of a given county the dog tax law was adopted and made effective and in which after it became effective, money was placed in the "county dog license fund" and in which thereafter the people of the county voted to repeal the license tax on dogs and, in which, after the repeal of the license tax on dogs had been accomplished by a vote of the people, there remained money in the county dog license fund which was not needed for the payment of claims which accrued before the aforesaid repeal, and is at the present time unused.

We understand your question then to be whether this money now in said fund and which was produced by the dog license law before its repeal can be used for the payment of claims for damages to livestock or poultry which accrued after the repeal of the license tax on dogs.

We are unable to find any decision of the Supreme Court or the Court of Appeals of this State throwing any light upon this particular question, and we are, therefore, resorting to a consideration of the question on the basis of what we consider the most logical interpretation of the law as embodied in the statutes above cited.

We direct your attention to the fact that the only things that the statutes provided must be voted upon were the question as to whether or not a license tax on dogs should be created, and the question as to whether or not the license tax on dogs should be repealed. We believe that it is significant that the statute did not provide for a vote by the people on the question of the disposition of the money accruing from the sale of licenses.

We are of the opinion that when in Section 14548, above cited, the lawmakers provided that the money accruing from the sale of the license, with the exception of a 10¢ fee paid therefrom to the county clerk, should be placed in a fund within the county treasury to be known as the "County Dog License Fund," and when the lawmakers in said section also provided that the money in said fund was to be used for the payment of claims resulting from damage to livestock or poultry inflicted by dogs, it was the intent of the legislature that the money in said fund was to be used only for the purpose specified, and we are of the further opinion that since there was no provision for a vote of the people on the question of the disposition of the money, the mere fact that the legislature provided that they might by their votes repeal the license tax on dogs does not evidence any intent on the part of the legislature that by said repeal any change in the disposition of the monies of the county dog license fund should be accomplished, and we are of the opinion that said county dog license fund stands undisturbed by the repeal of the license tax on dogs, and also that the provision in said section 14548 that "such funds shall be used only for the purpose of compensating persons who have suffered loss or damage through injury or killing by dogs of any livestock or poultry owned by them and located in said county at the time of such injury or killing * * *," stands unaffected by the repeal of the license tax on dogs, and we are, therefore of the opinion that any claimant who has suffered a loss to his livestock or poultry which comes within the provisions of the act above quoted, is entitled to be compensated from whatever remains of the "county dog license fund", regardless of the fact that the people have repealed the license tax on dogs by their votes.

CONCLUSION.

We are accordingly of the opinion that current claims of the nature described by section 14548 above cited can be paid from the "County Dog License Fund" until such time as said fund shall be entirely exhausted.

Respectfully submitted,

APPROVED:

SAMUEL M. WATSON
Assistant Attorney General

J. E. TAYLOR

Attorney General