

1279.

DOGS—TRANSFER OF OWNERSHIP—REGISTRATION—LICENSE FEE—
SECTIONS 5652, 5652-2, 5652-7b, 5652-7c, GENERAL CODE, CONSTRUED.

SYLLABUS:

Construing Sections 5652, 5652-2, 5652-7b and 5652-7c of the General Code.

COLUMBUS, OHIO, November 18, 1927.

HON. FRANK F. COPE, *Prosecuting Attorney, Carrollton, Ohio.*

DEAR SIR:—This will acknowledge receipt of your letter dated November 10, 1927, which reads as follows:

“May we have an opinion on the following?

A. living in one county sells and gives transfer of ownership of dog to B. who lives in another county. Does B. have to register and pay full registration fee, or can the transfer from other county be recorded and only pay the twenty-five cent fee for recording?

A. owns a registered dog kennel, and sells B. a dog from said kennel, and gives a transfer of ownership. Is B. required to pay license fee on dog purchased from kennel or will the recording of transfer, accompanied by fee of twenty-five cents, be sufficient?

A. becomes the harbinger of a stray dog after July 1st. What license fee should he pay?”

I. In answer to your first inquiry your attention is directed to three recent opinions of this department, being Opinions Nos. 967, 1225 and 1265, Opinions, Attorney General for 1927, and dated September 8, 1927, October 31, 1927, and November 16, 1927, respectively. The first paragraph of the syllabus of Opinion No. 967, *supra*, reads as follows:

“1. The tag worn by a dog duly registered in accordance with the provision of Section 5652, General Code, as amended in House Bill No. 164, passed by the 87th General Assembly, is valid for the entire year for which it is issued; and, if such dog be sold during such year, upon the giving and recording of a transfer of ownership certificate as prescribed in Section 5652-7c, General Code, and the payment of the fee therefor, the sale does not terminate the registration and the license tag may still be worn by said dog for the balance of the year.”

The syllabus of Opinion No. 1225, *supra*, reads:

“A transfer of ownership certificate as provided for in House Bill No. 164, passed by the 87th General Assembly (112 O. L. 347) should be recorded with the auditor of the county in which such dog is duly registered, even though the buyer thereof may reside in a different county.”

The syllabus of Opinion No. 1265, *supra*, reads:

“A dog registration tag issued under the provisions of House Bill No. 164 (112 O. L. 347) is valid in any county of the state.”

Answering your first question specifically, it is my opinion that, as provided by Section 5652-7c, General Code, A., upon the transfer of ownership of the dog in question, shall give B. a transfer of ownership certificate. B. then records such transfer of ownership certificate with the auditor of the county in which such dog is duly registered. For recording such transfer of ownership certificate the county auditor is authorized to charge a fee of twenty-five cents.

2. In answer to your second question, your attention is directed to the second paragraph of the syllabus of Opinion No. 967, *supra*, which reads as follows:

"2. The dog kennel license provided for in Section 5652-1 of the General Code, does not amount to a registration of any of the dogs bred or kept for sale in such kennel."

In this opinion the following language appears:

"Coming to your second inquiry relative to the kennel fees, Section 5652-1, *supra*, provides that any person owning a kennel of dogs bred or kept for sale shall pay 'a registration fee of \$10.00 for such kennel.' In such case the kennel is registered and not the dogs bred or kept therein. The section provides, however, that the owner of the kennel so registered shall be provided with five tags to bear consecutive numbers, which the owner may place on any dog owned in good faith by such licensee, and when so worn such tag shall have the same effect as though it were such a tag as is provided for in Section 5652-4, General Code. It will be noted in connection with the kennel license that neither the dogs in the kennel nor the dogs upon which the kennel tags are placed are registered and the five tags issued in connection with the kennel registration can only be worn by dogs 'owned in good faith by such licensee.'

In answer to your second question, it is my opinion that the tags issued in connection with the kennel registration may only be worn by dogs owned in good faith by the owner of such kennel and that such tags are not transferable."

The third paragraph of the syllabus of Opinion No. 967, *supra*, reads:

"3. Section 5652-7c of the General Code, as enacted in House Bill No. 164, passed by the 87th General Assembly, applies only to the transfer of ownership of a dog duly registered or required to be registered and has no application in case of the transfer of ownership of a dog bought from another state, or of a dog not over three months of age, or of a dog bred or kept for sale in a duly registered kennel."

In this opinion the following language appears:

" * * * when Section 5652-7c, *supra*, is read in connection with Sections 5652, 5652-1 and 5652-7b of the General Code, it would seem that it was intended that the provisions of Section 5652-7c were to be applicable only to dogs which were duly registered or required to be registered. It will be noted that this section requires the transfer of ownership certificate to 'contain the licensed number of such dog.' Obviously if the dog has not been registered it would be impossible for the transfer of ownership certificate to contain the dog's licensed number. Dogs not over three months of age are not required to be registered; neither are dogs bred or kept for sale in a duly registered kennel, nor dogs owned in another state. A dog in any of these

three classes would not be registered and would have no 'licensed number,' and on the transfer of ownership of such a dog it would be impossible for the seller to give to the buyer a transfer of ownership certificate, signed by the owner, containing 'the licensed number of such dog.' * * *

The proviso of Section 5652, to the effect that 'no person shall be charged a penalty where the dog is bought from outside of the State of Ohio or becomes three months of age after January twentieth of any year, * * * provided said license shall be applied for within thirty days after said dog is bought or becomes three months of age' and Section 5652-7b, supra, do not include dogs from duly registered kennels. It would seem, therefore, that, since as above pointed out, the five tags given to the owner of a duly registered kennel are incident to the kennel and not registration tags for any particular dogs, the purchaser of a dog from a kennel would be required immediately to register the same."

Specifically answering your second question, it is my opinion that, inasmuch as dogs bred or kept for sale in a duly registered kennel are not required to be licensed, on the transfer of ownership of such a dog it would be impossible for the seller to give to the buyer a transfer of ownership certificate. B. would have to register such dog and pay the registration fee as provided by Sections 5652 and 5652-2, General Code.

3. In answer to your third question, your attention is directed to Section 5652-2, General Code, which provides:

"Every person immediately upon becoming the owner, keeper or harborer of any dog more than three months of age, or becoming the owner of a dog kennel, during any year, shall file like application, with fees, as required by Sections 5652 and 5652-1 for registration for the year beginning January first prior to the date of becoming the owner, keeper or harborer of such dog or owner of such dog kennel." (Italics the writer's.)

and to Section 5652-7b, General Code, which provides:

"The license fee for any dog, becoming three months of age, after July 1st of any year and the license fee of any dog purchased from outside of the State of Ohio after July 1st of any year, shall be one-half of the original fee."

As provided by Section 5652-2, supra, every person immediately upon becoming the harborer of any dog more than three months of age, during any year, shall file like applications, with fees, as required by Section 5652, General Code. The provisions of Section 5652-7b, supra, apply only to dogs becoming three months of age after July 1st of any year or to dogs purchased from outside the State of Ohio after July 1st of any year.

Answering your third question specifically, it is my opinion that A. would be required to pay the full registration fee as provided by Section 5652, General Code, unless the dog in question became three months of age after July 1st.

I am enclosing herewith copies of the several opinions of this department above referred to.

Respectfully,
EDWARD C. TURNER,
Attorney General.