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DOG—REGISTRATION SUBSEQUENT TO LOSS OR INJURY—  
SECTION 955.29, R. C.—REIMBURSEMENT FROM DOG AND  
KENNEL FUND—SUCH REGISTRATION NOT RETROACTIVE  
—SECTION 955.01, R. C.

SYLLABUS:

The registration of a dog subsequent to the sustaining of a loss or injury under Section 955.29, Revised Code, does not have a retroactive effect to the first day of the registration period, provided by Section 955.01, Revised Code, for the purposes of permitting a person to be reimbursed from the dog and kennel fund.

Columbus, Ohio, July 13, 1956

Hon. Ralph E. Carhart, Prosecuting Attorney  
Marion County, Marion, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“After January 1st, the owner of a dog which had not been registered, had a sheep loss caused, not by his dog, but by some other dog. After the loss was reported to the dog warden and before the 20th of January, the owner of the sheep bought a dog tag for his own dog and had it registered. The owner of these sheep then presented a claim to the County Commissioners for the loss of said sheep to be paid out of the dog and kennel fund and the same has been denied by them under the provisions of Revised Code Section 955.29, which as amended, went into effect on October 6th, 1955.

“Attention is specifically called to the last sentence of the second paragraph of such Section reading as follows:

“‘No person who owns or harbors such an unlicensed dog on such date shall be permitted to recover from the dog and kennel fund.’”

Under Section 955.29, Revised Code, through Section 955.38, Revised Code, if an owner of horses, sheep, cattle, swine, mules, goats, domestic rabbits and domestic fowls or poultry has sustained a loss or injury to his animals by a dog not belonging to such owner or which is not harbored on his premises, he is entitled under certain statutory conditions to reimbursement from the dog and kennel fund. This fund is created from fees paid for the registration of dogs and dog kennels provided by Chapter 955. of the Revised Code. The creation of the fund is specifically provided for by Section 955.19 and Section 955.20, Revised Code.

As one of the statutory conditions for a valid claim, Section 955.29, Revised Code, obligates the owner within sixty days to present to the board of township trustees of the county in which the loss or injury occurred, a detailed statement of such loss or injury. It is further provided that a duplicate of such statement is to be filed with the board of county commissioners of the county where the loss or injury occurred. The stat-

ute requires that the statement be supported by affidavit to the effect that it is a true account of the loss or injury.

Section 955.29, Revised Code, was amended by Amended House Bill No. 632, passed June 20, 1955. 126 Laws of Ohio 940. The amendment adds the following provision which was not contained in former Section 955.29, Revised Code:

“Such affidavit (referring to the affidavit in support of the statement of loss or injury) shall include a statement that, on the date of the loss, the claimant was not the owner or harbinger of an unlicensed dog required to be licensed under Section 955.01 of the Revised Code. No person who owns or harbors such an unlicensed dog on such date shall be permitted to recover from the dog and kennel fund.” (Parenthetical expression added.)

Section 955.01, Revised Code, provides that application for the registration of dogs shall be filed *before* the *first* day of January of each year for the following registration year. If such application is not filed and the fee paid on or before the twentieth day of January of each year there is to be assessed a penalty of one dollar, which must be paid with the registration fee.

It is to be noted, that in Opinion No. 3639, Opinions of the Attorney General for 1954, p. 123, it was ruled that the annual registration of dogs is effective only to the end of the calendar year for which such registration is accomplished. It was further held that the provision in Section 955.01, Revised Code, concerning the period of grace until January twentieth in each year within which registration for the current year may be effected without payment of penalty does not have the effect of extending the period of valid registration theretofore effected for the calendar year immediately preceding.

Accordingly, if the period of grace thus provided does not so operate as to extend the period of valid registration for the past year the only question remaining in the instant case is whether the filing of an application within the grace period works retroactively to the first day of January.

The recent amendment quoted, *supra*, resolves any doubt that may have existed under the former Section 955.01, Revised Code, with respect to the recovery for loss or injury to animals by an owner or harbinger of an unlicensed dog. The statute clearly provides that no person who owns or harbors an unlicensed dog “on such date,” referring to the date of loss

or injury, shall be permitted to recover from the dog and kennel fund; and this view was first expressed by this office in my Informal Opinion No. 486, Informal Opinions of the Attorney General for 1955.

It is not permissible to make an interpretation contrary to the plain and express words of the statute, 37 Ohio Jurisprudence, 518, Section 279. In the case at hand the legislature has clearly provided that no person is to receive reimbursement from the dog and kennel fund if on the date of the loss he owns or harbors an unlicensed dog, and in the complete absence of ambiguity no interpretation otherwise than in accordance with the plain meaning of the language of the statute is authorized. See *Slingluff v. Weaver*, 66 Ohio St., 621.

Therefore, it is my opinion that the registration of a dog subsequent to the sustaining of a loss or injury under Section 955.29, Revised Code, does not have a retroactive effect to the first day of the registration period, provided by Section 955.01, Revised Code, for the purposes of permitting a person to be reimbursed from the dog and kennel fund.

Respectfully,

C. WILLIAM O'NEILL

Attorney General