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SPRINGFIELD

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FILE NO. S-1463

COUNTIES:

Duties of the Animal Control  
Administrator With Respect to  
Dogs Running at Large

Honorable Michael M. Mihm  
State's Attorney of Peoria County  
Court House  
Peoria, Illinois 61602

Dear Mr. Mihm:

I have your letter wherein you request my opinion on the duties of the Animal Control Administrator (Administrator) under the Animal Control Act (Ill. Rev. Stat. 1977, ch. 8, par. 351 et seq.) with regard to dogs running at large in incorporated and unincorporated areas of a non-home rule county. You also ask whether or not the Administrator's duties are altered by the fact that the dog is or is not wearing a rabies tag. For the reasons hereinafter stated, it is my opinion that the Administrator is responsible for the enforcement of the Animal Control Act in all areas of

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a non-home-rule county without regard to whether or not the dog is wearing a tag.

The Animal Control Act relates generally to the prevention of rabies through vaccination and registration, the control of dangerous dogs, and the creation of a system for reimbursement of owners of livestock which is damaged by dogs. Each county is required to hire an Administrator to supervise the program (Ill. Rev. Stat. 1977, ch. 8, par. 353). The Administrator's duty with regard to dogs running at large is set out in section 9 (Ill. Rev. Stat. 1977, ch. 8, par. 359):

"Any dog found running at large contrary to provisions of this Act shall be apprehended and impounded. For this purpose, the Administrator shall utilize any existing or available public pound."

The Administrator is required by the statute to apprehend those dogs which are running at large and also (1) which show evidence of rabies, or (2) which the Administrator has reason to believe are not inoculated, or (3) which have been declared dangerous or have attacked persons or livestock. The Animal Control Act does not require the apprehension of every dog which is merely running at large.

Having established the extent of the Administrator's duty under the Act, it is necessary to consider

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where the authority which has been granted may be exercised. The Animal Control Act clearly represents an attempt to implement a State-wide, uniform system of animal control. The Department of Agriculture is given the power to supervise the enforcement of the Act (Ill. Rev. Stat. 1977, ch. 8, par. 372). However, the Administrator is a county officer, subject to the control of the county board:

"The County Board shall appoint, as Administrator, a veterinarian licensed by the State of Illinois. Such appointments shall be made as necessary to keep this position filled at all times. \* \* \* The compensation for the Administrator \* \* \* shall be fixed by the Board for services other than for the rabies inoculation of dogs or other animals. The Administrator, Deputy Administrators, and Animal Control Wardens may be removed from office by the Board for cause.

\* \* \*

"

(Ill. Rev. Stat. 1977, ch. 8, par. 353.)

The Administrator is the only local official authorized by the Act to enforce the animal control program. Section 24 (Ill. Rev. Stat. 1977, ch. 8, par. 374) provides:

"Nothing in this Act shall be held to limit in any manner the power of any municipality or other political subdivision to prohibit animals from running at large, nor shall anything in this Act be construed to, in any manner, limit the power of any municipality or other political subdivision to further control and regulate dogs, cats or other animals in such municipality or other political subdivision including a requirement of inoculation against rabies."

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This section does not grant municipalities any power to enforce the Animal Control Act, but merely makes clear that the Act is not a limit on their lawful authority. In view of the intent to create a minimum uniform system and the designation of the Administrator as the sole local official responsible for enforcement, the authority of the Administrator must have been intended to extend to all parts of the county. Further, section 26 of the Act (Ill. Rev. Stat. 1977, ch. 8, par. 376) provides:

"Any person violating or aiding in or abetting the violation of any provision of this Act, \* \* \* or resisting, obstructing, or impeding the Administrator or any authorized officer in enforcing this Act \* \* \* is guilty of a petty offense for a first or second offense and shall be fined not less than \$25 nor more than \$200, and for a third and subsequent offense, is guilty of a Class C misdemeanor.

Each day a person fails to comply constitutes a separate offense. Each State's Attorney to whom the Administrator reports any violation of this Act shall cause appropriate proceedings to be instituted in the proper courts without delay and to be prosecuted in the manner provided by law."

Section 2 of the Act defines "person" to include municipalities and other political subdivisions. Thus, there is implicit recognition of the Administrator's county-wide authority.

It should be noted that the power of the Administrator county-wide is limited to enforcement of the Animal Control

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Act. As previously mentioned, the Animal Control Act does not limit the power of municipalities to enact stricter animal control ordinances. However, section 24 does not expand the Animal Control Act. Since municipal ordinances are not part of the Act, the Administrator is not responsible for their enforcement.

Since the Administrator is hired by the county board and is under its control, he may be authorized to enforce county ordinances. However, the Administrator's authority to enforce county ordinances is derived from the county's authority pursuant to section 25.17a of "AN ACT to revise the law in relation to counties" (Ill. Rev. Stat. 1977, ch. 34, par. 427a) to regulate dogs and not through the authority granted under the Animal Control Act. Section 25.17a provides in part:

"The county board of each county may regulate and prohibit the running at large of dogs in unincorporated areas of the county which have been subdivided for residence purposes. \* \* \*"

You have also asked me to consider whether the duties of the Administrator are altered by the fact that a dog is or is not wearing a rabies tag. It is my understanding that the Department of Agriculture has issued "RULES AND REGULATIONS Relating to THE ANIMAL CONTROL ACT Effective

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January 1, 1977 [enacted] Pursuant to Chapter 8, Paragraph 351, etc.", Regulation VI of which requires the rabies vaccination tag to be attached to the dog's collar. Prior to the adoption of the present Animal Control Act, rabies control was governed by the Rabies Control Act (Ill. Rev. Stat. 1971, ch. 8, par. 23e et seq.). Section 6 of that Act provided in part:

"The Rabies Inspector, deputy inspectors, or any licensed veterinarian who inoculates dogs against rabies shall procure from the county in which the dog owner resides serially numbered tags, one to be issued with each inoculation certificate. Such tag shall at all times be attached to a collar or harness worn by the dog for which the certificate and tag have been issued. \* \* \*"

The equivalent provision in the Animal Control Act provides:

" \* \* \* Evidence of such rabies inoculation shall be entered on a certificate the form of which shall be approved by the Board and which shall be signed by the licensed veterinarian administering the vaccine. The Board shall cause a rabies inoculation tag to be issued, at a fee established by the Board for each dog inoculated against rabies.

\* \* \*  
(Ill. Rev. Stat. 1977, ch. 8, par. 358.)

In Goedde v. Community Unit School Dist. No. 7 (1959),  
21 Ill. App. 2d 79, 84, the court stated:

" \* \* \*

Where by amendment or revision, words are stricken from a statute it must be concluded

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that the Legislature deliberately intended to change the law. It will not be presumed that the difference between two statutes was due to oversight or inadvertence, but the presumption is that every amendment or revision is made to effect some purpose. \* \* \*

\* \* \*

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While a regulation which requires vaccination tags to be worn certainly helps to distinguish which dogs may be running at large contrary to the provisions of the Animal Control Act, its adoption seems to be questionable where, as in this instance, there is a presumption that the legislature considered and rejected such a requirement. It is my opinion that the Department of Agriculture may not, through its rule-making authority, require a rabies vaccination tag to be attached to the dog's collar. Therefore, the Administrator's duties under the Animal Control Act are not altered by the presence or absence of a rabies vaccination tag.

Very truly yours,

A T T O R N E Y G E N E R A L