

January 9, 1981

OPINION LETTER NO. 61  
(Answer to Letter-Klaffenbach)

The Honorable John A. Birch  
Representative, 17th District  
10106 N.W. 72nd Street  
Kansas City, Missouri 64152



Dear Mr. Birch:

This letter is in response to your questions asking:

1. Does Section 322.125, RSMo 1978, apply to Platte County?
2. If so, may the county adopt provisions for the licensing, quarantine, isolation, and destruction of dogs in areas within the county outside of incorporated municipalities?
3. Section 322.120, RSMo 1978, would apparently exclude Platte County as Jackson and Platte Counties are not contiguous. Would this affect the answer to Question Number 2?

Section 322.125, RSMo, was first enacted in 1971.

In 1969, § 322.120 provided as follows:

The provisions of sections 322.090 to 322.130 shall be applicable to all counties of class one and counties of class two which adjoin a county of the first class having a charter form of government.

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In 1971, § 322.120 was amended to provide, as it now provides:

Except as otherwise provided by law, the provisions of sections 322.090 to 322.130 shall be applicable to all counties of class one and counties of class two which adjoin a county of the first class having a charter form of government.

At the same time that § 322.120 was last amended, § 322.125 was enacted in its present form:

1. The county court of any county of the second class containing all or part of a city having a population of four hundred fifty thousand or more, and the county court of any such county which becomes a county of the first class without a charter form of government after September 28, 1971, may, in order to promote public health and safety, adopt by order rules and regulations for the licensing, catching, impounding, confinement, redemption, quarantine, isolation and destruction of dogs in areas within the county outside of incorporated municipalities. Such rules and regulations shall be administered by the county board of health center trustees and the county board of health center trustees is specifically empowered to carry out the provisions of sections 322.120 and 322.125.

2. The court shall adopt a schedule of fees and a method of collecting them if licensing is required. The county board of health center trustees may maintain and operate a dog pound and may provide for the employment of necessary personnel and the purchase of necessary equipment to operate the pound. The court may provide that owners of dogs impounded by the county board of health center trustees shall be responsible for the costs of keeping those animals. (Emphasis added)

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It seems clear that, with this legislative history in mind, the provisions of § 322.120 do not mean that the second class county referred to in § 322.125 must adjoin a county of the first class having a charter form of government. The second class county referred to in § 322.125 is the exception which is otherwise provided for by law under § 322.120. Thus, § 322.125 applies to the county court of any county of the second class containing all or a part of a city having a population of 450,000 or more and the county court of any such county which becomes a county of the first class without a charter form of government after September 28, 1971.

Therefore, § 322.125 applies to Platte County.

Such a county may, in the language of the statute, ". . . in order to promote public health and safety, adopt by order rules and regulations for the licensing, catching, impounding, confinement, redemption, quarantine, isolation and destruction of dogs in areas within the county outside of incorporated municipalities."

Very truly yours,

JOHN ASHCROFT  
Attorney General