

July 6, 1935.

Mr. M.A. Robertson, Constable,
County of Greenlee,
Morenci, Arizona.

Dear Mr. Robertson:

Your letter of June 26th to Honorable James H. Kerby, Secretary of State, requesting a ruling from this office as to your duties under Chapter 58, Laws of 1935, relating to the license tax on dogs has been referred to me for reply.

First, I wish to call your attention to the fact that under the provisions of Section 1932, which was repealed by said Chapter 58, the duty of collecting this tax was solely upon the constable of each precinct, while under the provisions of Chapter 58, of the Laws of 1935, the duty to collect this tax is imposed upon both the constable or other peace officers of each precinct.

Section 4931 of the Revised Code of Arizona, 1929, defines Peace Officers as follows:

"Peace Officers are sheriffs of counties, and constables, marshals and policemen of cities and towns."

It is, therefore, our opinion that there is a mandatory duty upon you as constable, or upon any other deputy sheriff, marshal or police officer in your precinct to enforce the provisions of Chapter 58, and your failure to do so will subject you, as constable, or any other peace officers of your precinct, to the penalty provided by Sub-section (d) of said Act.

Regarding your inquiry as to whether or not you may receive additional compensation for the enforcement of this act, the last sentence in Sub-section (c) of said act provides:

"Provided, however, the board of supervisors of the respective counties shall allow the constables or peace officers the necessary expenses of the enforcement of this act."

It is our opinion that you may only receive the necessary expenses you incur in the enforcement of this act, which expenses the board of supervisors of your county shall allow.

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It will be noted that said Act does not provide that constables or peace officers shall receive any additional compensation other than the compensation allowed by law, in the performance of his duties as a peace officer or constable, but said Act specifically provides that fees collected in the enforcement of this act shall be paid to the County Treasurer not later than the first Monday of each month. Sub-section (e) provides:

"The constable or peace officer shall promptly, and not later than the second Monday of each month, pay all moneys collected for dog license taxes to the county treasurer of the county in which the tax is collected and said treasurer shall deposit the same to the credit of the county school fund."*

Under the provisions of Section 1, Chapter 10, Laws of 1933, (Section 2901 of the Revised Code Supplement) compensation for precinct officers, is provided for as follows:

"At the regular June meeting of the various boards of supervisors preceding a general election, said boards shall fix the salaries of all precinct officers for the two years commencing on the first day of the following January."

Inasmuch as Chapter 58 does not provide for any additional compensation for enforcement of said Act, other than necessary expenses incurred in the enforcement thereof, it therefore follows that the compensation you are to receive for the enforcement of this act is the compensation as fixed by the board of supervisors of your county, under the provisions of Section 1, Chapter 10, Session Laws of 1933, supra.

Very truly yours,

JOHN L. SULLIVAN
Attorney General

Elmer C. Coker,
Assistant Attorney General.