

1977 WL 37242 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 9, 1977

*1 Diane Halverson
Administrative Assistant
P. O. Box 3650
Washington, DC 20007

Dear Mr. Halverson:

The following responses are in answer to the questions of your letter dated January 21, 1977:

(1) 'Necessary sustenance' as it appears in Section 6-4 of the Code of Laws of South Carolina has not been legally defined in this state. Webster's Third New International Dictionary defines 'necessary' as 'whatever is essential for some purpose' and 'sustenance' as a 'means of support, maintenance, or subsistence' or 'nourishment.' It appears that food and water would be considered essential for nourishment or subsistence and therefore included in the Section 6-4 language as 'necessary sustenance.'

(2) Section 16-567 of the Code of Laws of South Carolina declares it a misdemeanor for any person to 'engage in or be present at cockfighting in this State.' There is no law prohibiting dogfighting, bullfighting, or coon-on-a-log contests.

(3) South Carolina does not specifically prohibit the poisoning of domestic animals. However a 1974 Opinion of the Attorney General concerning the shooting of dogs by police officers states:

Unless done under the terms of a specific statute [state law or municipal ordinance], the shooting of dogs by police officers or anyone else is not countenanced by law unless such action is necessary to protect a person from injury or death or to property from an immediate danger or material damage, or destruction.

(Opinion #3892, 1974 Att'y Gen p. 324)

When this opinion is coupled with the language of Section 6-4 which reads in part: 'whoever . . . needlessly mutilates, cruelly kills . . . or inflicts unnecessary pain or suffering upon any animal or causes the same to be done . . . shall, for every such offense, be guilty of a misdemeanor' the rationale behind the shooting of dogs may be extended to the poisoning of animals. Although it is not specifically prohibited, the poisoning of domestic animals would not be sanctioned except under circumstances similar to those surrounding the shooting of such animals.

(4) Section 6-15 of the Code of Laws of South Carolina requires that, prior to investigation of any building or place where it is believed that the laws in relation to cruelty to animals are being violated, a search warrant authorizing 'any sheriff, deputy sheriff, deputy state constable, constable or police officer to search such building or place' must be issued by an authorized magistrate. South Carolina does not allow any person to enter into or upon a place in order to care for a neglected animal. A private individual suspecting that an animal is being abused may request that a search be made under Section 6-15. This restriction, of course, would not apply to persons who otherwise have the right to enter onto the premises.

We hope that these responses will assist you in the completion of your survey. If we may be of further assistance, please let us know.

Sincerely,

*2 Martha McElveen
Law Clerk

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