ALAN WILSON
ATTORNEY GENERAL

December 30, 2025

Thomas S. Mullikin, PhD, JD, Director
South Carolina Department of Natural Resources
PO Box 167
Columbia, SC 29202

Dear Director Mullikin:

You have requested an opinion from this office on whether a dog may be considered an extension or agent of a hunter such that the dog's unauthorized entry onto private lands constitutes a violation of South Carolina Code Section 50-1-90 by the hunter. You state the Department of Natural Resources (DNR) "regularly encounters situations in which hunting dogs, particularly deer dogs—are released on adjacent lands or public rights-of-way and subsequently enter private property without permission." Section 50-1-90 makes it unlawful for a person to hunt, fish, or trap on the lands of another without consent. You acknowledge the statute speaks in terms of what a person may not do and "does not explicitly address whether this prohibition extends to dogs used in hunting." However, you contend that a hunting dog serves as an extension or agent of the hunter from both a practical and legal perspective and maintain that treating the dog as such "is both reasonable and consistent with the current statutory framework and modern principles of liability." You have identified three opinions issued by this office in the 1960s that you believe hold a contrary view and thus serve as an obstacle to the interpretation you seek to enforce. You contend that while those opinions may well have fit their time, they "no longer reflect the current state of South Carolina Law." Therefore, you ask that we revisit those opinions and agree with your interpretation.

Although your request is not limited to the topic of deer hunting, our communications with DNR's General Counsel reveal your question is prompted by the challenges DNR faces when dogs are used to drive deer to awaiting hunters and, in the process, the dogs enter property on which the hunters have no right to hunt.

The use of dogs in deer hunting is rooted in tradition, but is not without controversy. A 2008 report from a working group on the topic of dog deer hunting explained:

> Opinions vary regarding the extent to which this type of hunting should be regulated, if at all. Increasingly, still hunters and landowners have complained about hunting dogs crossing into private property which can be a significant

> nuisance even if there is no property damage caused. Aggrieved property owners point to their right to enjoy private property without outside interference. At present, the South Carolina Department of Natural Resources (DNR) does not have regulatory authority to act on these complaints and concerns. If concerns continue to arise, and are not adequately addressed, there will likely be increasing pressure to restrict the tradition of hunting deer with dogs.

South Carolina Department of Natural Resources Dog Deer Hunting Stakeholders Working Group, FINAL PROGRAM REPORT (November 2008), p.1 located at https://www.dnr.sc.gov/wildlife/deer/pdf/dogreport11212008.pdf (last visited 12/22/2025). Unfortunately, the working group failed to reach a consensus. Id. Despite the efforts of the working group and several subsequent attempts at a legislative solution, DNR's General Counsel reports this is an ongoing issue in need of a solution.

Law/Analysis

> Section 50-1-90 of the South Carolina Code provides in relevant part:
>
> If any person, at any time whatsoever, shall hunt or range on any lands or shall enter thereon, for the purpose of hunting, fishing, or trapping, without the consent of the owner or manager thereof, such person shall be guilty of a misdemeanor . . . .

S.C. Code Ann. § 50-1-90 (Supp. 2025). No portion of the statute references dogs. In two of the opinions you ask us to revisit, this office concluded a hunter could not be criminally charged with trespass under previously codified versions of Sections 50-1-90 or 16-11-610[1] for sending a dog onto the premises of another without permission and in pursuit of game. Op. S.C. Att'y Gen., 1964 WL 8259 (February 20, 1964); Op. S.C. Att'y Gen., 1968 WL 8954 (January 9, 1968). Both opinions concluded such conduct would, however, constitute a civil trespass. Both opinions relied on the following quote from 24 American Jurisprudence, Game & Game Laws, Section 5:

> Trespass of a hunter in pursuit of game on another's premises may be made a crime, but it has been held that such offense is not committed by the sending of a dog on the premises in search or pursuit of game.

[1] S.C. Code § 16-11-610 (Rev. 2015). Section 16-11-610 provides it is a misdemeanor for a person to enter the lands of another without consent to hunt, fish, or trap, among other things. It was previously codified as Section 16-387 of the 1962 Code of Laws and Section 16-387 of the 1952 Code of Laws. Section 50-1-90 was previously codified as Section 28-8 of the 1962 Code of Laws as well as Section 28-8 of the 1952 Code of Laws. Although both code sections have been amended over time, the language of what constitutes a violation has remained the same.

Although the first clause of the quoted language appears in the current edition of American Jurisprudence,[2] we have not been able to locate any passage containing the second clause or its equivalent.

In the third opinion you reference, this office was responding to an Orangeburg game warden, who reported that a hunting club was releasing dogs on the edge of a game sanctuary for the purpose of having the dogs run through the sanctuary and chase deer into range of a line of hunters waiting on club property on the other side of the sanctuary. Op. S.C. Att'y Gen., 1962 WL 9035 (November 13, 1962). The owner of the sanctuary entrusted the Game Department with control of the sanctuary and wanted the practice to stop. Although the statutes cited in the opinions referenced above were in existence, the 1962 opinion reported no statutes covered the scenario the game warden described. Instead, the opinion suggested having the owner apply for an injunction against the club owners as the best and safest manner of addressing the problem. Alternatively, the opinion suggested an arrest warrant against the person who "turned the dogs loose on the sanctuary" for trespassing, reasoning that "a person trespasses on another's property if he shoots into it, throws things into it, or, as here, deliberately sends dogs into the property." Id. The only citation of authority in this opinion concerns a dog owner's civil liability for intentionally sending a dog onto another's property in pursuit of game. Therefore, we presume the arrest warrant suggestion proposed a prosecution for common law trespass. The opinion did not suggest a dog can be treated as an extension of a hunter.

In 2010, long after our opinions on this topic, the General Assembly passed the Renegade Hunter Act, which added Section 50-11-770 to the South Carolina Code. That statute provides in relevant part:

> [I]t shall be unlawful for any person to hunt from any road, right of way, property line, boundary, or property upon which he does not have hunting rights with the aid or use of a dog when the dog has entered upon the land of another without written permission or over which the person does not have hunting rights. The provisions of this section apply whether the person in control of the dog intentionally or unintentionally releases, allows, or otherwise causes the dog to enter upon the land of another without permission of the landowner.

S.C. Code Ann. § 50-11-770(B) (Supp. 2025). In a 2014 opinion addressing whether DNR was correctly interpreting this portion of the statute, we stated:

> It is our understanding that DNR has interpreted this statute to mean that when a dog deer hunter is hunting from any road, right of way, property line, boundary, or other property where he does not have hunting rights, the hunter must stop his hunt once a hunting dog gets on property that the hunter does not have rights to hunt. In

[2] 35A Am. Jur. 2d Fish, Game, & Wildlife Conservation § 20.

> other words, '[t]he dog going on lands where permission is not obtained does not constitute a violation,' but the law would be violated where a hunting dog ventures onto another's land where the hunter has no hunting rights and rather than stopping the hunt, he continues to hunt.

Op. S.C. Att'y Gen., 2014 WL 1398595 *4 (January 2, 2014). We concluded DNR's interpretation was consistent with the plain meaning of the statute. Id.

In addition to establishing the circumstances when a hunter is required to stop a hunt, Section 50-11-770 also makes it illegal for someone to kill, maim or otherwise harm a dog simply because it has entered the property. § 50-11-770(D).

Together, Subsections (B) and (D) of Section 50-11-770 reflect an effort by our General Assembly to balance the rights and interests of both hunters and adjoining landowners. However, while the protection for hunting dogs appears to apply any time a dog impermissibly enters the land of another, the situations where a hunter is required to stop a hunt because a hunting dog has crossed onto property are more narrowly tailored. Your General Counsel reports that Section 50-11-770 does not apply to the exact factual scenarios DNR is being asked to address and that hunters are essentially attempting to hunt where they are not permitted to do so by sending dogs where the hunters are not allowed to go.

This brings us back to Section 50-1-90, which prohibits a person from hunting on the lands of another without permission. You maintain it is appropriate to treat a dog as an extension or agent of a hunter for the purpose of determining whether the hunter has violated Section 50-1-90. Historically, dogs have been viewed as personal property. State v. Langford, 55 S.C. 322, 33 S.E. 370 (1899). Although many jurisdictions have enacted laws that hold a dog owner liable for a dog's conduct, we have been unable to locate any statute that treats a dog as an extension or agent of its owner, with respect to hunting or any other activity. Our 1960s opinions on this topic may well be outdated, particularly when you consider the level of tracking and control today's hunter can exercise over a hunting dog. In fact, the General Assembly has provided that leash laws do not apply to any dog while it is both actively hunting game and under supervision. See S.C. Code Ann. § 50-11-780 (Rev. 2008). Because the exemption only applies when the dog is actively hunting and supervised, the argument that a hunter should not be able to escape prosecution under Section 50-1-90 by sending the dog where the hunter is not allowed to go is compelling. In a 2002 opinion interpreting a regulation similar to Section 50-1-90, the Arkansas Attorney General determined a court would likely conclude a person who intentionally releases a dog to hunt would be deemed hunting on any private property on which the dog encroached. Op. AR Att'y Gen., 2002 WL 2005935 (August 2, 2002). As the entity charged with enforcing hunting laws in South Carolina, we remind you that our opinions are simply advisory and you should not feel compelled to follow them, especially when they are outdated. Because Section 50-1-90 does not mention the use of dogs at all, we will not go so far as to say a dog is an extension or agent of a hunter for criminal liability under the statute. Our decision is partly driven by the fact that the General

Assembly has restricted hunting with dogs in Section 50-11-770 but has not addressed the longstanding issue you are facing. The General Assembly could have done so any number of ways and may well choose to do so in the future. At present, however, if your agency wishes to apply Section 50-1-90 to the conduct you have described, we suggest that you charge and prosecute a test case under the statute. In selecting a case for prosecution, you may wish to keep in mind that Section 50-1-20 defines hunters and hunting for the purposes of all state game laws that provide punishment to exclude persons who "without guns, assist others with dogs." S.C. Code Ann. § 50-1-20 (Rev. 2008).

Conclusion

You seek an opinion that a dog may serve as an extension or agent of a hunter for purposes of charging individuals with violating Section 50-1-90. We agree with you that our opinions from the 1960s that reach a contrary conclusion are likely dated. However, rather than agree with your specific interpretation, which would require we read language into the statute, we suggest you charge and prosecute a test case.

Sincerely,

Sabrina C. Todd
Assistant Attorney General

REVIEWED AND APPROVED BY:

Robert D. Cook
Solicitor General Emeritus