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The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER  
ATTORNEY GENERAL

February 24, 2004

The Honorable Glenn F. McConnell  
President *Pro Tempore*  
The Senate  
P. O. Box 142  
Columbia, South Carolina 29202

Dear Senator McConnell:

In a letter to this office you referenced provisions of the State law dealing with animals implanted with a microchip. S.C. Code Ann. Section 47-3-55 (Supp. 2003) states in part that:

(A) If an animal shelter accepts or comes into possession of a dog or cat, the shelter immediately and thoroughly must scan the dog or cat for a tattoo, any implanted microchip, or similar device, which provides evidence of ownership and, upon finding it, immediately must make a good faith effort to contact the identified owner as required by Section 47-3-540.<sup>1</sup>

S.C. Code Ann. Section 47-3-540 (1987) provides that

Animal control officers must not destroy any positively identifiable dog until they have notified the owner at his last known address by registered mail that they have the dog in their possession. The owner must notify the animal control officer within two weeks that he will pick up his dog. If the owner does not pick up his dog within two weeks of notification to the animal control officer, the dog may be destroyed....

S.C. Code Ann. Section 47-3-530 (1987) provides that

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<sup>1</sup>Subsection (B) of Section 47-3-55 provides that

If an animal shelter or its officers, directors, or staff have made a good faith effort to comply with the provisions of subsection (A), they must be held harmless, as well as the manufacturer, against any action at law or otherwise, civil or criminal, for failure to detect a microchip or similar device and undertake the action specified in subsection (A).

Any person killing any dog when the owner may be identified by means of a collar bearing sufficient information or some other form of positive identification is guilty of a misdemeanor....

You have asked who is the owner entitled to notification under the referenced statutes. You indicated that you have been informed that in some instances, an animal shelter is listed as the "owner" on the microchip, with the adopted owner as secondary owner. You have asked whether the information contained on the microchip is controlling as regards the ownership of the animal. You also asked whether Section 47-3-530 provides any penalty for a person or entity that does not notify the owner of an animal prior to its destruction.

In construing the referenced statutes with regard to the questions posed by you, several principles of statutory construction are relevant. It is a fundamental rule of statutory construction that legislative intent must be ascertained and given effect. State v. Martin, 293 S.C. 46, 358 S.E.2d 697 (1987). Legislative intent must prevail if it can be reasonably discovered from the language used. State ex rel. McLeod v. Montgomery, 244 S.C. 308, 136 S.E.2d 778 (1964). Statutes as a whole must receive a reasonable, practical and fair interpretation consistent with the purpose, design, and policy of the lawmakers. Caughman v. Columbia Y.M.C.A., 212 S.C. 337, 47 S.E.2d 788 (1948). The words of a statute must be given their plain and ordinary meaning without resort to forced or subtle construction which would work to expand or limit the operation of the statute. State v. Blackmon, 304 S.C. 270, 403 S.E.2d 660 (1991): The plain meaning of statutes cannot be contravened. State v. Leopard, 349 S.C. 467, 563 S.E.2d. 342 (2002). Courts must apply the clear and unambiguous terms of a statute according to their literal meaning. Blackmon, supra.

You first asked who is the owner entitled to notification pursuant to the referenced statutes. Additionally, you asked is the owner of an animal the one listed on the microchip or is the animal shelter that comes into possession of an animal entitled to an independent determination of ownership as to who to notify or whether to notify.

In my opinion, where a dog is brought into an animal shelter and a scan is made with the results that the animal shelter is listed as the "owner" and information is presented identifying the adopted owner, based upon such identification, both the shelter and the adopted owner should be notified. It would appear absurd to construe Section 47-3-55 as limiting notification to the "first" owner, not notifying the adopted owner if information is obtained as to the adopted owner's status. As stated in Section 47-3-55, where an animal shelter obtains a dog, the dog must be scanned for a tattoo for evidence of ownership and "upon finding it,...(the shelter)...must immediately make a good faith effort to contact the identified owner." The adopted owner, where information is obtained as to that party, along with the shelter identified in the scan, would be the proper parties for notification. As noted, Section 47-3-540 provides that animal control officers may not destroy a positively identified dog until the owner has been notified.

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As to your question as to whether Section 47-3-530 provides any penalty for an individual or entity that does not notify the owner of an animal prior to its destruction, as set forth, Section 47-3-530 provides that any person killing a dog when the owner can be identified by some means of positive identification is guilty of a misdemeanor.

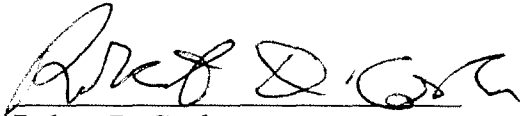
With kind regards, I am,

Very truly yours,



Charles H. Richardson  
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook  
Assistant Deputy Attorney General