

Note 3 Leland



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER
ATTORNEY GENERAL

February 6, 2004

Mr. Don Arnold
Spartanburg County Environmental Enforcement
298 Broadcast Drive
Spartanburg, South Carolina 29303

Dear Mr. Arnold:

In a letter to this office you questioned whether the Spartanburg Humane Society may require that a microchip be implanted in redeemed dogs at the owner's expense. Reference was made to S.C. Code Ann. Section 47-3-55 (E) (Supp. 2003) which provides that "(t)he owner redeeming his dog or cat must elect to have a microchip implanted." Such provision is included in a statute which generally provides for the use of microchip technology in identifying pets.

In responding to your question, several principles of statutory construction are relevant. First is the fundamental rule of construction that requires that legislative intent must be ascertained and given effect. State v. Martin, 293 S.C. 46, 358 S.E.2d 697 (1987). Such legislative intent must prevail if it can reasonably be discovered from the language used. The legislative wording is construed in light of the General Assembly's intended purpose. State ex re. McLeod v. Montgomery, 244 S.C. 308, 136 S.E.2d 778 (1964). The statute 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).

Section 47-3-55(D) in stating that the owner redeeming his dog or cat "must elect to have a microchip implanted" is included in a statute which also states in subsection (C) that "(i)f a dog or cat is adopted or redeemed from an animal shelter, a licensed veterinarian or animal shelter employee...may implant a microchip in the dog or cat adopted or redeemed". Any ambiguity in resolving the apparent conflict between the two provisions in the same act may be resolved by the statutory rule that the last expression of legislative will is law where conflicting provisions are found in the same statute. Therefore, the last in point of time or order of arrangement, in this instance, Subsection (D) would prevail. Feldman v. S.C. Tax Commission, 203 S.C. 49, 26 S.E.2d 22 (1943).

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Section 47-3-55(D) is quite specific in providing that an owner redeeming a cat or dog "must elect to have a microchip implanted." Consistent with such, the Humane Society may require that a microchip be implanted in redeemed dogs at the owner's expense.

Sincerely,



Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Assistant Deputy Attorney General