



HENRY McMASTER
ATTORNEY GENERAL

October 17, 2008

The Honorable J. David Weeks
Member, House of Representatives
2 Marlborough Court
Sumter, South Carolina 29154

Dear Representative Weeks:

In a letter to this office you requested an opinion regarding S.C. Code Ann. § 47-1-40 which states:

(A) Whoever knowingly or intentionally overloads, overdrives, overworks, ill-treats any animal, deprives any animal of necessary sustenance or shelter, inflicts unnecessary pain or suffering upon any animal, or by omission or commission knowingly or intentionally causes these things to be done, for every offense is guilty of a misdemeanor and, upon conviction, must be punished by imprisonment not exceeding sixty days or by a fine of not less than one hundred dollars nor more than five hundred dollars, or both, for a first offense; by imprisonment not exceeding ninety days or by a fine not exceeding eight hundred dollars, or both, for a second offense; or by imprisonment not exceeding two years or by a fine not exceeding two thousand dollars, or both, for a third or subsequent offense. Notwithstanding any other provision of law, a first offense under this subsection shall be tried in magistrate's or municipal court.

(B) Whoever tortures, torments, needlessly mutilates, cruelly kills, or inflicts excessive or repeated unnecessary pain or suffering upon any animal or by omission or commission causes the acts to be done for any of the offenses is guilty of a felony and, upon conviction, must be punished by imprisonment of not less than one hundred eighty days and not to exceed five years and by a fine of five thousand dollars.

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(C) This section does not apply to fowl, accepted animal husbandry practices of farm operations and the training of animals, the practice of veterinary medicine, agricultural practices, forestry and silvacultural practices, wildlife management practices, or activity authorized by Title 50, including an activity authorized by the South Carolina Department of Natural Resources or an exercise designed for training dogs for hunting, if repeated contact with a dog or dogs and another animal does not occur during this training exercise.

Subsection (C) was last amended by Act No. 259 of 2008.

You have stated that according to your reading of subsection (C), each exception set forth in such provision "...has independent integrity, stands alone, neither influenced or contradicted by any of the other exceptions found in subsection (C)." You asserted that "...the General Assembly has not provided language which would dictate any other reasoning or conclusion."

Generally, when interpreting the meaning of a statute, certain basic principles must be observed. The cardinal rule of statutory interpretation is to ascertain and give effect to legislative intent. State v. Martin, 293 S.C. 46, 358 S.E.2d 697 (1987). Typically, legislative intent is determined by applying the words used by the General Assembly in their usual and ordinary significance. Martin v. Nationwide Mutual Insurance Company, 256 S.C. 577, 183 S.E.2d 451 (1971). Resort to subtle or forced construction for the purpose of limiting or expanding the operation of a statute should not be undertaken. Walton v. Walton, 282 S.C. 165, 318 S.E.2d 14 (1984). Courts must apply the clear and unambiguous terms of a statute according to their literal meaning and statutes should be given a reasonable and practical construction which is consistent with the policy and purpose expressed therein. State v. Blackmon, 304 S.C. 270, 403 S.E.2d 660 (1991); Jones v. South Carolina State Highway Department, 247 S.C. 132, 146 S.E.2d 166 (1966). A prior opinion of this office dated September 11, 1980 similarly recognized that based on a literal reading of the statute addressed in the opinion, each exception in that particular statute could be construed as "standing alone", consistent with legislative intent.

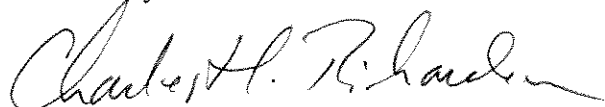
Based upon my reading of subsection (C), I am in agreement with your conclusion that each provision in that subsection "stands alone" or as stated by you, "has independent integrity" and is "neither influenced or contradicted by any of the other exceptions found in...(such provision). Therefore, in the opinion of this office, each exception for "...fowl, accepted animal husbandry practices of farm operations and the training of animals, the practice of veterinary medicine, agricultural practices, forestry and silvacultural practices, wildlife management practices, or activity authorized by Title 50, including an activity authorized by the South Carolina Department of Natural Resources or an exercise designed for training dogs for hunting, if repeated contact with a dog or dogs and another animal does not occur during this training exercise" would stand alone, unmodified by any other exception.

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With kind regards, I am,


Very truly yours,

Henry McMaster
Attorney General



By: Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Deputy Attorney General