



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES M. CONDON
ATTORNEY GENERAL

May 30, 2000

Amelia R. Linder, Staff Attorney
Richland County Legal Department
2020 Hampton Street, Suite 4018
Columbia, South Carolina 29204

RE: Informal Opinion

Dear Ms. Linder:

On behalf of Richland County Council, you have asked whether "the provisions of S.C. Code Section 47-3-480(B) prohibit a political subdivision from adopting procedures requiring the mandatory sterilization of all dogs and cats in its custody prior to releasing such animal back to its owner." As discussed below, in my opinion subparagraph (B) does not prohibit the adoption of mandatory sterilization procedures, but rather provides an exception from such procedures for those privately owned animals whose owners either claim or establish ownership of the animal in question.

As you know, Section 47-3-480 provides in relevant part:

(A) *A public or private animal shelter*, animal control agency operated by a political subdivision of this State, humane society, or public or private animal refuge *shall make provisions for the sterilization of all dogs and cats acquired from the shelter, agency, society, or refuge by:*

(1) providing sterilization by a licensed veterinarian before relinquishing custody of the animal; or

(2) entering into a written agreement with the person acquiring the animal guaranteeing that sterilization will be performed by a licensed veterinarian within thirty days after acquisition of a sexually mature animal or

no later than six months of age except upon a written statement issued by a licensed veterinarian stating that such surgery would threaten the life of the animal.

(B) *This section does not apply to a privately owned animal* which the shelter, agency, society, or refuge may have in its possession for any reason *if the owner of the animal claims or presents evidence that the animal is his property.* (Emphasis added.)

The following rules of statutory construction are relevant here. "In interpreting any statute, the primary purpose is to ascertain the intent of the legislature." State v. Martin, 293 S.C. 46, 358 S.E.2d 697 (1987). The court must apply the clear and unambiguous terms of the statute according to their literal meaning. State v. Blackmon, 304 S.C. 270, 403 S.E.2d 660 (1991). If the intent of the legislature be clearly apparent from the language, the court may not embark upon a search for it outside the statute. Timmons v. South Carolina Tricentennial Commission, 254 S.C. 175 S.E.2d 805 (1975). The title or caption of an act may be properly considered to aid in the construction of a statute and to show the intent of the Legislature. Lindsay v. Southern Farm Bureau Cas. Ins. Co., 258 S.C. 272, 188 S.E.2d 374 (1972).

Giving the words in Section 47-3-480 their plain and ordinary meaning, I must advise that in my judgment the legislature did not intend to prohibit political subdivisions from adopting mandatory sterilization procedures. Instead, the legislature merely intended to except from mandatory sterilization a dog or cat whose owner either claims or proves that the animal in question is his property. This reading seems consistent with the statute's title, which provides in pertinent part as follows: "Provisions for sterilization: *exceptions*" (Emphasis added.) Therefore, consistent with the foregoing principles of statutory construction, it is my opinion that S.C. Code Ann. §47-3-480 does not prohibit a political subdivision from adopting procedures requiring the mandatory sterilization of all dogs and cats in its custody prior to releasing such animal back to its owner. Subparagraph (B), however, provides an exception from such procedures for those privately owned animals whose owners either claim or establish ownership of the animal in question.

This letter is an informal opinion. It has been written by the designated Deputy Attorney General and represents the opinion of the undersigned attorney as to the specific

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question asked. It has not, however, been personally reviewed by the Attorney General nor officially published in the manner of a formal opinion.

With kind regards, I am

Sincerely yours,

A handwritten signature in cursive script that reads "Zeb Williams".

Zeb C. Williams, III
Deputy Attorney General

ZCW/an