

The State of South Carolina



Office of the Attorney General

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September 9, 1991

The Honorable James L. M. Cromer, Jr.
Member, House of Representatives
#13 Woodward Court
Columbia, South Carolina 29209

Dear Representative Cromer:

As you are aware, your letter of August 14, 1991 to Attorney General Medlock was referred to me for response. In that letter, you made reference to 1976 S. C. Code, Ann., Section 47-13-1360 which, in pertinent part, provides that:

(A) When a reactor horse is identified on a premises, the state veterinarian shall quarantine all horses on that premises. All exposed quarantined horses tested must be properly identified by a mane or tail tag or other type of identification authorized by the state veterinarian. The reactor may be isolated not less than two hundred yards from other unaffected equines with the knowledge of the testing accredited veterinarian and state veterinarian and only may be moved with the permission of the state veterinarian. A sign must be displayed prominently at the location of the quarantined and isolated premises of the exposed and reactor horses indicating that the premises are quarantined for exposed horses or isolated for reactor horses at the expense of the horse owner.

The terms "quarantine" and "isolate", in the context of Section 47-13-1360, are defined in Section 47-13-1310 as follows:

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(8) Quarantine means confinement of an exposed horse to an area not less than two hundred yards from another unaffected horse, with no horses being admitted or leaving the premises.

(9) Isolation means confinement of a reactor horse to an area not less than two hundred yards from another unaffected horse until a blood sample submitted from the reactor horse provides a negative Coggins test from a laboratory approved within the State or death.

Having referenced those provisions of law, you ask the following question:

"Is the two hundred yard measurement mentioned to be measured by all property between the infected horse and the non-infected horse, or just the property of the owner of the infected horse?"

In order to bring this issue into sharper focus, your inquiry might be posed in this manner: Does the two hundred yard distance mentioned in Section 47-13-1360 mean two hundred yards between the location of an exposed or reactor horse and the area where an unaffected horse is actually located, or, does it mean two hundred yards between the location of an exposed or reactor horse and the area where an unaffected horse could be located, e.g., a public road or neighboring pasture.

The resolution of this question requires an exercise of statutory interpretation. The preeminent rule of statutory interpretation is that one must ascertain and give effect to the intent of the legislature. Burns v. State Farm Mutual Auto Ins. Co., 297 S.C. 520, 377 S.E.2d 569, (1989). In addition, the language used in a statute must be construed in light of the intended purposes of the statute. Bohlen v. Allen, 228 S.C. 135, 89 S.E.2d 99, (1955).

It seems evident that the purpose and intent of quarantine provisions such as those found in Chapter 13 are to protect against the spread of contagious diseases among animals. (See: 4 Am.Jur.2d, Animals, Section 33). Thus, the question becomes whether it is reasonable to assume that the legislature, in its effort to protect against the spread of contagious diseases among animals, intended to permit the possibility that animals travelling on a public road, or within the confines of a neighboring pasture, could come within two hundred yards of an exposed or reactor horse.

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The "two hundred yards" requirement seems to reflect a legislative judgement that, in order to protect against the spread of disease, no animal should be allowed to come within two hundred yards of an exposed or reactor horse. Therefore, a construction of the quarantine provisions in light of their intended purpose would appear to compel one to respond in the negative to the question posed in the preceding paragraph.

The mischief which could be created by a literal interpretation of the quarantine provisions can easily be contemplated. For example, an exposed or reactor horse could be brought right up to a gate separating his pasture from an adjacent public road or neighboring pasture so long as, at the moment the measurement is taken, there is no unaffected horse on the road or in the neighboring pasture. In addition, an unaffected horse in a neighboring pasture would almost certainly have to be confined in order that he could be prevented from ever wandering within the two hundred yard zone. Failing that, the exposed or reactor horse would have to be moved, continually, in order to maintain the two hundred yard distance between that horse and any unaffected horse wandering free in a neighboring pasture. The same scenario could also ensue if, on the day the measurement is taken, the neighboring pasture contains no unaffected horses; however, on the very next day, unaffected horses are placed in that pasture.

The possibility that these situations could occur with a literal reading of the quarantine provisions calls to mind another important principle of statutory construction, i.e., however plain ordinary meaning of words used in a statute may be, one must reject that meaning when to accept it would lead to a result so plainly absurd that it could not possibly have been intended, or which would defeat the plain intention of the legislature. State ex rel McLeod v. Montgomery, 244 S.C. 308, 136 S.E.2d 778, (1964). We do not believe that the legislature intended its handiwork to be construed so as to defeat the clear purpose of the legislation. Accordingly, we conclude that an exposed or reactor horse must be confined to an area not less than two hundred yards from an area where an unaffected horse could be located. In other words, and to answer the question as you posed it, a property owner must ensure that there is at least two hundred yards of his own property between the area where he keeps an exposed or reactor horse and any area where an unaffected horse could be located.

You also asked for this Office's opinion on the size of the sign required by Section 47-13-1360(A). The statute gives no direction as to the dimensions of the sign other than the requirement that the sign must be "displayed prominently at the location of the quarantined and isolated premises of the exposed and reactor horses."

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The apparent intent of the provision is to place the public on notice of the existence of the quarantine. The use of the term "prominent" indicates that the sign, and the wording thereof, should be conspicuous or noticeable. Consequently, we would opine that the sign, and its lettering, should be of a size that its content is clearly legible to a person coming up to the premises from any public road or private area adjacent to the quarantined and isolated premises. It should not be of consequence that a person has to come up to the premises to read the sign since, in our opinion, the legislature has made the judgement that there is no danger so long as the exposed or reactor horse is kept in an area at least two hundred yards away from any public road or adjacent private area.

I trust that you will find the foregoing information to be responsive to your concerns. Please contact me if I can be of further assistance.

Very truly yours,


Wilbur E. Johnson
Assistant Attorney General

WEJ/fc

REVIEWED AND APPROVED:


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