

1982 WL 189211 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 18, 1982

*1 Henry W. Stallworth
Director of Research
Agriculture and Natural Resources
House of Representatives
411 Blatt Building
Columbia, South Carolina 29211

Dear Mr. Stallworth:

You have requested the opinion of this Office concerning whether the use of nets to catch nongame fish in Williamsburg County is limited to extending to no more than one half the distance across the waters being fished. It is the opinion of this office that this restriction is still applicable.

[S. C. Code Ann. § 50-13-750 \(1976\)](#) contains provisions on the use of nets to catch nongame fish in Williamsburg County. Prior to 1981, this section specifically provided 'No net shall be extended more than one half the distance across the waters being fished'. This excerpt was deleted in Act No. 170 of 1981 and though this deletion might be interpreted as removing the restriction on the use of nets such is not the case here.

[Section 50-13-750](#) must be construed together with § 50-13-520 which is a general statute governing the use of nets, traps or other devices to catch nongame fish. Section 50-13-520 provides, in part, that gill nets used to catch nongame fish shall not extend more than halfway across the waters being fished. Where one statute deals with a subject in a general way (§ 50-13-520) and another deals with the same subject in a more particularized way ([§ 50-13-750](#)), the two statutes should be read together and harmonized if possible. [Criterion Insurance Co. v. Hoffman](#), 258 S.C. 282, 188 S.E. 2d 459 (1972); [Sutherland Statutory Construction](#) § 51.05. As stated by the Court in [Murray v. Sovereign Camp, W.O.W.](#), 192 S.C. 101, 5 S.E. 2d 560 (1939): 'Where there is one statute dealing with a subject in general and comprehensive terms, and another dealing with a part of the same subject in a more minute and definite way, the two should be read together and harmonized, if possible, with a view to giving effect to a consistent legislative policy.' Since §§ 50-13-520 and 750 are not in conflict, they should be construed together so as to give effect to each section and, thereby, promote consistent legislative policy. The result of reading these two statutes together is to make the provision, contained in § 50-13-520, restricting the use of nets to catch nongame fish applicable to [§ 50-13-750](#) which, though relating to the same subject matter, no longer contains such a provision.

Additional support for this conclusion is found in the intent of the legislature to retain the restriction on the use of nets in Williamsburg County. The cardinal rule of statutory construction is to effectuate the intent of the legislature. [Bankers Trust of S. C. v. Bruce](#), 275 S.C. 35, 267 S.E. 2d 424 (1980). Here this intent is shown by the fact that Act No. 170 of 1981 which deleted the sentence in [§ 50-13-750](#) restricting the use of nets, also established a comprehensive article covering the protection of nongame fish. Sections of this Act (codified at § 50-13-1170) provides: 'No gill net . . . shall extend more than half way across any stream or body of water'. By enacting this section at the same time or amending [§ 50-13-750](#) and providing that it shall take effect on the same date that [§ 50-13-750](#) is repealed, it seems clear that the legislature intended the restriction on the use of nets in Williamsburg County to continue. This, coupled with the fact that the legislature did not amend § 50-13-520 (which is also repealed by Act No. 170 of 1981 effective July 1, 1982), indicates that the legislature intended [§ 50-13-750](#) to continue the restriction that nets used to catch nongame fish shall not extend more than one half way across the waters being fished. On July 1, 1982, both §§ 50-13-520 and 750 will be repealed and the restriction will then be applicable through § 50-13-1170.

*2 In conclusion, it is the opinion of this Office that the use of nets to catch nongame fish in Williamsburg County continues to be subject to the restriction that no net shall extend more than half way across the waters being fished.

Sincerely,

Buford S. Mabry, Jr.
Assistant Attorney General

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