

Records, rabies vaccination information

Number: INFORMAL

Date: December 31, 1998

The Honorable Debbie Wasserman Schultz
Representative, District 97
2500 Weston Road, Suite 101
Weston, Florida 33331

Dear Representative Wasserman Schultz:

You ask whether the Pet Owners Alliance is authorized to receive information contained in rabies vaccination certificates.

According to your letter, the Pet Owners Alliance (Alliance) is a nonprofit animal rescue organization. Members operate a large computer database showing ownership of tattooed and microchipped animals in Florida and all known tattoo prefixes of other agencies in the United States and Canada; serve as legally appointed animal cruelty investigators; rescue and rehabilitate abandoned, abused or lost pets; train "problem" dogs, and operate a computerized lost and found service for dogs and cats in Palm Beach, Broward and Dade counties. You state that this lost and found service, which has been operating for nine years, is utilized by many law enforcement agencies.

You express your concern that the Alliance has been unable to obtain computer data listing license tag information from the Dade and Broward county animal control authorities. According to your letter, the Alliance has received this information in the past but is now unable to do so due to the passage of section 828.30(5), Florida Statutes (1998 Supplement). This subsection, which was passed by the 1998 Legislature,[1] provides:

"Any information contained in the rabies vaccination certificate provided to the animal control authority which identifies the owner of the animal vaccinated is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. However, the physician of, or, any person who has been bitten, scratched, or otherwise exposed to a zoonotic disease and a veterinarian who is treating an animal that has been bitten, scratched, or otherwise exposed to a zoonotic disease or the owner of an animal that has been bitten, scratched, or otherwise exposed to a zoonotic disease, shall be provided with any information contained in a rabies vaccination certificate but only with respect to the particular animal biting, scratching, or otherwise causing exposure. *Any person with an animal tag number may receive vaccination certificate information with regard to that animal.* Federal, state, and local law enforcement and prosecutorial agencies; other animal control authorities; and emergency and medical response, disease control, or other governmental health agencies shall be provided information contained in the rabies vaccination certificate for the purpose of controlling the transmission of rabies; however, they must not release such information to the public. *Any person, pursuant to a written request, may view or copy any individual rabies vaccination certificate, one record at a time.* A copy of any existing database may be obtained provided that the owner's name, street address, and phone number,

and the animal tag number, are not made available." (e.s.)

This exemption is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 2, 2003, unless reviewed and saved from repeal through reenactment by the Legislature."

Violation of this section is a civil infraction, punishable as provided in section 828.27(2), Florida Statutes.[2]

Thus, section 828.30(5), Florida Statutes (1998 Supplement), now makes confidential any information in the rabies vaccination certificates that identifies the owner of the animal vaccinated. While the statute permits copies of the database to be released, the owner's name, street address, phone number and animal tag number may not be made available.

The statute, however, recognizes several exceptions. Section 828.30(5) permits a person with an animal tag number to receive vaccination certificate information with regard to that animal. Thus, if the Alliance receives a lost dog with a tag, the Alliance may obtain information regarding the identity of the owners contained in that animal's vaccination certificate. Section 828.30(5), Florida Statutes (1998 Supplement), also permits any person to make a written request to view or copy an individual rabies vaccination certificate, one record at a time. This exemption would allow the Alliance access to owner information, but only to one record at a time, and then only after making a written request.

The statute allows "other animal control authorities" to be provided with information contained in the rabies vaccination certificate for the purpose of controlling rabies. Chapter 828, Florida Statutes, does not define the term "other animal control authorities," although section 828.27(1)(b), Florida Statutes, defines the phrase "Animal control officer" to mean

"any person employed or appointed by a county or municipality who is authorized to investigate, on public or private property, civil infractions relating to animal control or cruelty and to issue citations as provided in this section. . . ."[3]

Section 828.03(1), Florida Statutes, however, provides that any county or any society or association for the prevention of cruelty to children or animals, organized under the laws of this state, may appoint agents for the purpose of investigating violations of any of the provisions of Chapter 828, Florida Statutes, or any other law of the state for the purpose of protecting children and animals. Subsection (2) of the statute requires that all appointments of such agents by such societies or corporations must have the approval of the mayor of the city in which the society or association exists, and if the society or association exists or works outside of any city, the appointment must be approved by a county court judge or a judge of the circuit court for the county, and the mayor or judge shall keep a record of such appointment.

Section 828.073(2), Florida Statutes, authorizes such animal control agents to take custody of neglected or cruelly treated animals, and to petition the county judge for a hearing to determine the owner's fitness to have custody of such animals and ability to provide adequately for the animals. Section 828.073(3), Florida Statutes, requires an agent taking custody of an animal as provided in subsection (2) to have written notice served on the owner in conformance with

Chapter 48, Florida Statutes.[4]

Such responsibilities may be sufficient to encompass such a society or association whose agents have been approved as provided in section 828.03(2), Florida Statutes, as an "animal control authority." The statute, however, provides that access to such information must be for the purpose of controlling the transmission of rabies. It is not readily apparent that the release of such information in order to return lost pets is necessary for the control of the transmission of rabies.

In light of the above, it appears advisable that the Legislature clarify this issue by amendatory legislation. I trust, however, that the above informal comments may be of assistance.

Sincerely,

Robert A. Butterworth
Attorney General

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[1] House Bill 1139, passed as Ch. 98-213, Laws of Florida.

[2] Section 828.30(6), Fla. Stat. (1998 Supp.).

[3] *Cf.* s. 767.11(5), Fla. Stat., defining "Animal control authority" for purpose of Chapter 767, Florida Statutes, relating to damage by dogs, as

"an entity acting alone or in concert with other local governmental units and authorized by them to enforce the animal control laws of the city, county, or state. In those areas not served by an animal control authority, the sheriff shall carry out the duties of the animal control authority under this act."

[4] Chapter 48, Fla. Stat., relates to the service of civil process, and requires service by the sheriff or a special process server appointed by the sheriff. See s. 48.021, Fla. Stat.