

MAINE STATE LEGISLATURE

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STATE OF MAINE

7 M.R.S.A. 3453
7 M.R.S.A. 3463

Inter-Departmental Memorandum Date September 9, 1977

To Joseph N. Williams, Commissioner Dept. Agriculture

From Phillip M. Kilmister, Assistant Dept. Attorney General

Subject Dog License Administration

In your memorandum addressed to this Office under date of August 5, 1977, you inquire about the legal effect of P. L. 1977, C. 579, § C on Title 7, § 3403?

The language of 7 M.R.S.A. § 3452 currently reads in pertinent part as follows:

"The clerks of cities and towns shall issue said licenses, receive the money therefor and pay the same to the Commissioner of Agriculture, who shall credit the same to the General Fund."

The language of 7 M.R.S.A. § 3453 reads in precisely the same manner relating to the receipt and disposition of dog license fees but refers to the functions of dog recorders in unorganized territories

As correctly noted in your memo, the above statutory language mandating the disposition of dog license fees to the General Fund has been expressly repealed by the enactment of P. L. 1977, C. 579 (section C). Both section 3452 and 3453 of Title 7 have been further amended by the addition of the following statutory language.

"Such moneys received shall be paid into a separate account to be established by the Treasurer of State to be used for salaries and other expenses incurred in the administration of this chapter. The account shall not lapse, but shall continue from year to year." (emphasis supplied)

The above-quoted statutory language conflicts directly with the express provisions of 7 M.R.S.A. § 3403 in regard to the disposition of license fees collectible under the provisions of Chapter 703 of Title 7.

The terms of 7 M.R.S.A. § 3403 entitled "Expenditure of surplus money" read as follows:

"After the end of the fiscal year, any money in excess of receipts received by the State under section 3452 over the actual expenditures under this chapter and chapters 703, 711 and 713 and

sections 3603 and 3605 shall, if the Governor deems it expedient, be paid to the several municipalities in proportion to the amount each has paid into the State Treasury under said chapters and sections."

The permanent placement of fees into a non lapsing fund and the optional return of monies at the expiration of each fiscal year as provided for by the terms of sections 3452, 3453 and 3403, respectively, represent an irreconcilable conflict of statutory language. The language of the most recently enacted statutory provisions must therefore be accorded priority.

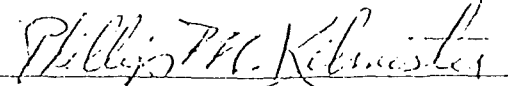
The Legislature is presumed to intend to enact a consistent body of law, but it cannot be credited with knowledge of detail contained in every statute in existence. Although there is a presumption against the repeal of legislation by implication, the doctrine of implied repeal may be resorted to, in order to provide for a reasonable construction of legislative intent in instances of direct conflict of statutory provisions.

The rule is well summarized as follows:

"When a subsequent enactment covering a field of operation coterminous with a prior statute cannot by any reasonable construction be given effect while the prior law remains in operative existence because of irreconcilable conflict between the two acts, the latest legislative expression prevails, and the prior law yields to the extent of the conflict.

"Conversely, if the inconsistency between a later act and an earlier one is not fatal to the operation of either, the two may stand together and no repeal will be effected." Sutherland, Statutory Construction Vol. 1A, sec. 23.09, pp. 223-224.

Using this rule of construction, it is my opinion that the above quoted language in § 3403 has been repealed by implication.


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