



COMMONWEALTH of VIRGINIA

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The Honorable Stephen H. Martin
Member, Senate of Virginia
Post Office Box 700
Chesterfield, Virginia 23832

Dear Senator Martin:

I am responding to your request for an official advisory opinion in accordance with § 2.2-505 of the *Code of Virginia*.

Issue Presented

You inquire whether the local license tax on kennels authorized by § 3.2-6528 is limited to \$50.00 as a total cap that may be charged by a locality for any kennel license, or whether the Code allows localities to charge more than \$50.00 for successive numbers of dogs.

Response

It is my opinion that § 3.2-6528 authorizes a locality to charge a kennel establishment more than \$50.00 in local license taxes in circumstances where the establishment maintains multiple blocks of kennels, however, the locality may not charge more than \$50.00 for any one individual kennel block.

Applicable Law and Discussion

Section 3.2-6528 provides, in relevant part:

The governing body of each county or city shall impose by ordinance a license tax on the ownership of dogs within its jurisdiction. The governing body of any locality that has adopted an ordinance pursuant to subsection B of § 3.2-6524 shall impose by ordinance a license tax on the ownership of cats within its jurisdiction The tax for each dog or cat shall not be less than \$1 and not more than \$10 for each year Any ordinance may provide for a license tax for kennels of 10, 20, 30, 40, or 50 dogs or cats not to exceed \$50 *for any one such block of kennels.*¹

“A primary rule of statutory construction is that courts must look first to the language of the statute. If a statute is clear and unambiguous, a court will give the statute its plain meaning.”² Furthermore, courts must assume that the “legislature chose, with care, the words it used when it enacted the relevant statute, and [courts] are bound by those words as [they] interpret the statute.”³ In addition, “[a] statute is not to be

¹ VA. CODE ANN. § 3.2-6528 (2008) (emphasis added).

² Loudoun Cnty. Dep’t of Soc. Servs. v. Etzold, 245 Va. 80, 85, 425 S.E.2d 800, 802 (1993). See City of Va. Beach v. Bd. of Supvrs. of Mecklenburg Cnty., 246 Va. 233, 236, 435 S.E.2d 382, 384 (1993).

³ City of Va. Beach v. ESG Enters., Inc., 243 Va. 149, 153, 413 S.E.2d 642, 644 (1992).

construed by singling out a particular phrase; every part is presumed to have some effect and is not to be disregarded unless absolutely necessary.”⁴

The language of § 3.2-6528 reads, “[a]ny ordinance may provide for a license tax for kennels of 10, 20, 30, 40, or 50 dogs or cats not to exceed \$50 for any one such block of kennels.” The qualifier “not to exceed \$50” seems to suggest the answer that \$50 is a cap for an individual kennel. The qualifying language “for any one such block of kennels” suggests, however, that there is not an absolute cap. Further, the language “kennels of 10, 20, 30, 40, or 50 dogs or cats” suggests that the statute seeks to qualify the word “kennels.”

For Chapter 65 of Title 3.2, “unless the context requires a different meaning,” § 3.2-6500 provides a statutory definition of kennel as “any establishment in which five or more canines, felines, or hybrids of either are kept for the purpose of breeding, hunting, training, renting, buying, boarding, selling, or showing.”⁵ It appears, however, that the word “kennel” in § 3.2-6528 is intended in its more limited sense, as “a house for a dog.”⁶ The statute’s qualifying word “block” generally is defined to mean “a continuous row of buildings ... any number of persons or things regarded as a unit.”⁷ Thus, in order to give effect to each word used in § 3.2-6528, the phrase a “block of kennels” more properly is interpreted to mean a continuous row of cat or dog houses or shelters containing 10, 20, 30, 40 or 50 dogs or cats. A kennel establishment might have one block of kennels or multiple blocks of kennels. Given this definition, the qualifying language “for any one such block of kennels” suggests that a locality can charge for each successive block of kennels.⁸ The statutory cap of \$50.00 thus applies to one individual kennel block and is not intended as a cap on the license taxes a locality may charge to a kennel establishment.

Conclusion

Accordingly, it is my opinion that § 3.2-6528 authorizes a locality to charge a kennel establishment more than \$50.00 in local license taxes in circumstances where the establishment maintains multiple blocks of kennels, however, the locality may not charge more than \$50.00 for any one individual kennel block.

With kindest regards, I am

Very truly yours,



Kenneth T. Cuccinelli, II
Attorney General

⁴ *Jeneary v. Commonwealth*, 262 Va. 418, 430, 551 S.E.2d 321, 327 (2001) (quoting *Commonwealth v. Zamani*, 256 Va. 391, 395, 507 S.E.2d 608, 609 (1998)).

⁵ Additionally, commercial dog breeders are governed by VA. CODE ANN. §§ 3.2-6500 (Supp. 2013) and 3.2-6507.2 (2008).

⁶ See WEBSTER’S NEW TWENTIETH CENTURY DICTIONARY OF THE ENGLISH LANGUAGE UNABRIDGED 998 (2d ed. 1961).

⁷ *Id.* at 196. In contrast, the plain meaning of the word “establishment” connotes something broader, e.g., “[t]he place where a person is settled for residence or for transacting business.” *Id.* at 625.

⁸ The prior opinions of the Attorney General dealing with kennel licenses are not controlling. See, e.g., 1979-80 Va. Op. Att’y Gen. 151 (determining whether a kennel license could be required in addition to individual dog licenses); 1969-70 Op. Va. Att’y Gen. 109 (construing earlier state law that mandated specific fees for kennels by size). Sections 3.2-6500 and 3.2-6528 were adopted in 1984 after these Opinions were issued and changed the law regarding the tax on kennels with the specific, controlling language discussed herein.