



# COMMONWEALTH of VIRGINIA

Office of the Attorney General

Mark R. Herring  
Attorney General

August 22, 2014

900 East Main Street  
Richmond, Virginia 23219  
804-786-2071  
FAX 804-786-1991  
Virginia Relay Services  
800-828-1120  
7-1-1

Mr. Robert W. Duncan  
Executive Director  
Virginia Department of Game and Inland Fisheries  
4010 West Broad Street  
Post Office Box 11104  
Richmond, Virginia 23230-1104

Dear Mr. Duncan:

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

## Issues Presented

You inquire whether the word “landowner” in paragraph (A)(1)(iii) of Chapter 482 of the 2014 Virginia Acts of Assembly (“Chapter 482” or “the Act”), which amends and reenacts § 29.1-521 of the *Code of Virginia*, is limited to natural persons. If the word “landowner” is not limited to natural persons, you ask whether the exception created by paragraph (A)(1)(iii) to the general prohibition on Sunday hunting is limited to private lands.

## Response

It is my opinion that the word “landowner” in paragraph (A)(1)(iii) of the Act is not limited to landowners who are natural persons. The exception to the general prohibition on Sunday hunting created by paragraph (A)(1)(iii) is limited to private lands.

## Applicable Law and Discussion

In relevant part, Chapter 482 provides that it shall be unlawful “[t]o hunt or kill . . . on Sunday.”<sup>1</sup> The Act further provides:

The provision of this subdivision that prohibits the hunting or killing of any wild bird or wild animal, including nuisance species, on Sunday shall not apply to (i) raccoons, which may be hunted until 2:00 a.m. on Sunday mornings; (ii) any person who hunts or kills waterfowl, subject to geographical limitations established by the Director and except within 200 yards of a place of worship or any accessory structure thereof; or (iii) any landowner or member of his family or any person with written permission from the landowner who hunts or kills any wild bird or wild animal, including any nuisance

---

<sup>1</sup> 2014 Va. Acts ch. 482 at ¶ (A)(1).

species, on the landowner's property, except within 200 yards of a place of worship or any accessory structure thereof.<sup>2</sup>

The term "landowner" in paragraph (A)(1)(iii) is ambiguous.<sup>3</sup> Doctrines of statutory construction provide guidance for the interpretation of a statute; such doctrines are used to resolve ambiguity.<sup>4</sup>

The doctrine *in pari materia* teaches that "statutes are not to be considered as isolated fragments of law, but as a whole, or as parts of a great, connected, homogenous system, or a single and complete statutory arrangement."<sup>5</sup> Where there is ambiguity in statutory language, courts thus should interpret statutes *in pari materia*, "in such manner as to reconcile, if possible, any discordant feature which may exist, and make the body of the laws harmonious and just in their operation."<sup>6</sup> Reading § 29.1-521 in conjunction with other parts of Chapter 5 of Title 29.1 suggests that "landowner" must refer to all landowners, not only natural persons.<sup>7</sup>

The absurd results doctrine of statutory construction, furthermore, supports an interpretation of "landowner" that does not distinguish arbitrarily between natural persons and other entities owning land for purposes of (A)(1)(iii). The absurd results doctrine holds that if applying the plain language of a statute causes "illogical or unworkable conflict," the plain language is "insufficient to [determine] the statute's meaning."<sup>8</sup> Arguably, it would be an absurd result to treat lands owned by a limited liability corporation, for example, differently than lands owned by an individual for purposes of § 29.1-521(A)(1)(iii). The term "landowner" thus should be interpreted to encompass both natural and non-natural persons.

---

<sup>2</sup> *Id.*

<sup>3</sup> "Statutory language is ambiguous when it may be understood in more than one way." *Herndon v. St. Mary's Hosp., Inc.*, 266 Va. 472, 475, 587 S.E.2d 567, 569 (2003). "Landowner" standing alone may refer to natural persons, business entities, or governmental entities who own land. "Landowner" read together with "or member of his family," however, may give rise to an interpretation that "landowners" are natural persons only. *See Rowland v. Cal. Men's Colony*, 506 U.S. 194, 204-205 (1993) (finding that in the context of interpreting a statute, use of the term "he" suggests a natural person); *see also* VA. CODE ANN. § 32.1-102.3:2 (Supp. 2014); VA. CODE ANN. § 37.2-100 (Supp. 2014); VA. CODE ANN. § 51.1-500 (2013); and VA. CODE ANN. § 54.1-2410 (2013) (each defining the term "family member" in terms limited in application to natural persons). Because the term "landowner" may be understood in more than one way, it is ambiguous.

<sup>4</sup> *See United States v. Holland*, 48 F. Supp. 2d 571, 575 (E.D. Va. 1999) ("If the statute is ambiguous, the court must then construe the statute in accordance with the applicable canons of construction."), *aff'd*, 214 F.3d 523 (4th Cir. 2000); *Boynton v. Kilgore*, 271 Va. 220, 227, 623 S.E.2d 922, 926 (2006) ("[C]ourts apply the plain language of a statute unless the terms are ambiguous, or applying the plain language would lead to an absurd result.").

<sup>5</sup> *Lillard v. Fairfax Cnty. Airport Auth.*, 208 Va. 8, 13, 155 S.E.2d 338, 342 (1967).

<sup>6</sup> *Lucy v. Cnty. of Albemarle*, 258 Va. 118, 129-130, 516 S.E.2d 480, 485 (1999).

<sup>7</sup> Section 29.1-509(A) defines the term "landowner" as the "legal title holder . . . lessee, occupant or any other person in control of land or premises." Section 29.1-509(C) provides broad liability protections to "any landowner" who gives permission to another person to hunt upon that landowner's property. It does not distinguish between property held by corporate entities and that held by natural persons. Courts, furthermore, have allowed entities that are not natural persons to claim liability protection under § 29.1-509. *See, e.g., City of Va. Beach v. Flippen*, 251 Va. 358, 362, 467 S.E.2d 471, 474 (1996) (rejecting plaintiff's argument that § 29.1-509 should apply only to private landowners and holding that the City of Norfolk in its capacity as a landowner is entitled to the protections of the statute). Should § 29.1-521(A)(1)(iii) be interpreted to apply only to natural landowners, that interpretation would be inconsistent with § 29.1-509.

<sup>8</sup> *Boynton*, 271 Va. at 228 n.11, 623 S.E.2d at 926.

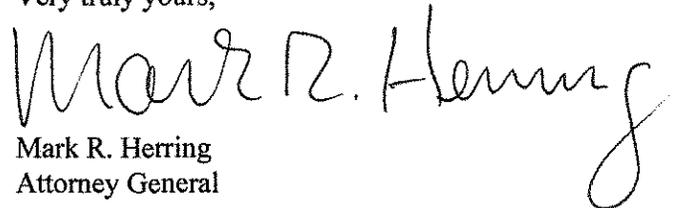
Turning to your question regarding whether the exception to the general prohibition on Sunday hunting created by the newly enacted § 29.1-521(A)(1)(iii) is limited to private lands, I conclude that it is so limited. The text of paragraph (A)(1)(iii) does not use the term “private lands” or otherwise distinguish between public and private lands. Nevertheless, Chapter 482 is entitled, with emphasis added, “An Act to amend and reenact § 29.1-521 of the Code of Virginia, relating to hunting wild animals and wild birds on *private property* and *state waters* on Sundays.” In construing Acts of Assembly, Virginia courts have held that the title may be indicative of legislative intent and guide judicial interpretation.<sup>9</sup> Here, the General Assembly in the title of Chapter 482 expressly distinguishes between and includes both private property and public (“state”) waters. There would be no reason to include the phrase “on private property and state waters” had the drafters intended the Act to apply to all property (private and public lands and waters).

### Conclusion

Accordingly, it is my opinion that the word “landowner” in paragraph (A)(1)(iii) of Chapter 482 of the 2014 Virginia Acts of Assembly is not limited to landowners who are natural persons. The exception to the general prohibition on Sunday hunting created by paragraph (A)(1)(iii) is limited to private lands.

With kindest regards, I am

Very truly yours,

  
Mark R. Herring  
Attorney General

---

<sup>9</sup> See *Hawkins v. Commonwealth / Southside Va. Training Ctr.*, 255 Va. 261, 269, 497 S.E.2d 839, 842 (1998) (“[I]n construing the act we shall look first to its title. A title may be read in an attempt to ascertain an act’s purpose, though it is no part of the act itself.”); *Commonwealth v. Dare To Be Great, Inc.*, 5 Va. Cir. 430, 434 (Richmond 1971) (stating that the purpose of the referenced act was made clear in the title of the act); *cf. White v. Commonwealth*, 203 Va. 816, 820, 127 S.E.2d 594, 597 (1962) (engaging in an analysis of an act’s title).