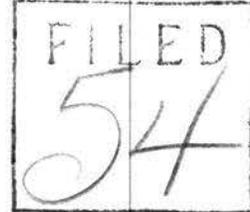


ANIMALS:
DOG TAX:
DOGS:

Person having more than ten dogs liable
only for ten dollars tax.

March 16, 1939

Mr. Edward V. Long
Prosecuting Attorney
Pike County
Bowling Green, Missouri



Dear Sir:

This department is in receipt of your request for
an official opinion which reads as follows:

"Please give me a ruling on that part
of Section 12873, Laws 1937, page 224,
paragraph 1, which reads as follows:

"Provided: That any person or persons
operating a licensed kennel of more
than ten dogs in which all dogs kept
by him or them are confined and not
allowed to roam, shall pay a tax of
\$10.00, which amount shall be the full
amount of tax on all dogs kept by said
person or persons as described above."

"Does the man who owns ten dogs or
more and keeps them confined with the
exception of the time he is hunting
them considered to be operating a
kennel?"

"Does a man who trades in dogs and has
ten or more dogs confined and does not
breed or raise dogs considered to be
operating a kennel?"

Section 12873, Laws of Missouri, 1937, page 225,
provides in full as follows:

"The tax on each male dog and each spayed female dog, of which the certificate of a veterinarian or the affidavit of the owner is produced, in this state shall be one dollar (\$1.00) per year, and the tax on all other dogs in this state shall be three dollars (\$3.00) per year, payable to the county clerk of the county in which the owner resides. Provided: That any person or persons operating a licensed kennel of more than ten dogs in which all dogs kept by him or them are confined and not allowed to roam, shall pay a tax of \$10.00, which amount shall be the full amount of tax on all dogs kept by said person or persons as described above."

The obvious intent of the legislature in enacting the proviso to the above statute was to excuse the person or persons who had quite a number of dogs from paying an exorbitant amount of tax on such dogs which would render the possession of them a luxury. The legislature, fully aware of Missouri's heritage as a "hound dog" state, did not wish to impose such a tax upon the owner of a pack so as to make the possession of them beyond the means of the ordinary person of Missouri.

In interpreting the section quoted in your request it must first be pointed out that the word "licensed" when used in reference to kennels, must be omitted from the statutes and treated as mere surplusage. A close search of the statutes of Missouri discloses no reference or statute dealing with the licensing of kennels. It is a rule of statutory construction that:

"* * * words to which no meaning at all can be attached, or words having no meaning in harmony with the legislative intent as collected from the entire act, will be treated as surplusage, and will be wholly disregarded

in the construction of the act in order to effectuate the legislative intent; * * * * " 59 C. J. 992

In State ex rel. Tadlock v. Mooneyham, 253 S. W. 1098, 212 Mo. App. 573, the court said:

"A word, phrase, or sentence may be read out of the statute, * * * * "

"Kennel" is defined in 35 Corpus Juris, 900, as:

"A house for a dog or for dogs, or for a pack of hounds; but the term is sometimes used in the sense of pack or collection of dogs usually kept or bred for hunting, or for sale."

Applying the above definitions to the questions asked in your request, it will be seen that a person who owns ten or more dogs and keeps them confined with the exception of the time that he is hunting with them is operating a kennel within the provisions of Section 12873, supra.

Further, a person who trades in dogs and has ten or more dogs confined also comes within the purview of Section 12873, supra.

CONCLUSION.

It is, therefore, the opinion of this department that a person who has more than ten dogs which are confined and not allowed to roam and which are kept or bred for hunting or for sale is operating a kennel within the meaning of Section 12873, Laws of Missouri, 1937, page 225, and is liable for a county dog tax of ten dollars (\$10.00).

Respectfully submitted

APPROVED:

ARTHUR O'KEEFE
Assistant Attorney General

J. E. TAYLOR
(Acting) Attorney General

AO'K:DA