

Opinion No. 107

**Health—Boards of—Sanitation—Regulations of Tourist Camps—
Dude Ranches.**

HELD: The County and State Boards of Health have jurisdiction over and supervision of dude ranches and tourist camps in the regulation of sanitary and health conditions therein.

May 20, 1937.

Mr. Jacob W. Forbes, Director
Division of Food and Drugs
State Board of Health
Capitol Building
Helena, Montana

Dear Sir:

You request an opinion as to whether or not so-called dude ranches, or guest ranches catering to the traveling public and advertising or having cabins or other tourist accommodations for rent to the traveling public or tourists or dudes, would be considered as subject to regulation, inspection and license by the State Board of Health under the Tourist Camp Ground Law.

Section 2454.1 defines tourist camp ground as follows:

“The term, tourist camp ground, as used in this act, shall include and mean any tract or parcel of land owned, maintained or used for public camping, primarily by automobile tourists whether the same shall be

owned, used or maintained by any person, persons, co-partnership, firm or corporation upon which tract of land persons may camp or secure cabins or tents, either free of charge or by the payment of a fee, and whenever the words, tourist camp ground, are used in this act they shall be construed to mean a tourist camp ground as herein described and defined.”

There appears to be no statutory definition for dude or guest camps or ranches. So-called dude ranches are of a comparatively recent origin, at least in the State of Montana. It seems to us that a dude ranch, as commonly operated and known generally, has a distinction from that of a tourist camp as defined by Section 2454.1. A dude ranch is usually situated in a comparatively isolated community, not usually situated on the main thoroughfare as are tourist camps. Dude ranches cater to people seeking different recreations. Dude ranch guests are not usually designated as transients, but remain for a longer period of time than do guests who frequent tourist camps. Travelers frequenting tourist camps primarily travel in automobiles, and the words “primarily by automobiles” are expressly used in defining tourist camps, and tourist camps are used by these automobile travelers more or less in lieu of hotel accommodation.

However, the operator or owner of a so-called dude ranch cannot arbitrarily remove his business from the provisions of the statute governing a tourist camp by arbitrarily designating it as a dude ranch, if, as a matter of fact, it is actually a tourist camp. The mere naming of the business would not be used as a subterfuge to circumvent regulation and license required of a tourist camp. The facts in each particular case as to whether or not the so-called dude ranch is actually a tourist camp must determine the status. However, there is a distinction between a tourist camp and a dude ranch, and the distinction depends upon the particular facts and the manner in which it is operated in each particular case. The ordinary dude ranch cannot be brought within the terms of the statute, making it a tourist camp, and it follows that the State Board of Health could not regulate a dude ranch as a tourist camp.

You state that the reason you desire to bring the dude ranches within the statutory classification of a tourist camp is to control their sanitary condition. The fact that dude ranches do not come within the classification of a tourist camp does not preclude your Board from regulating their sanitary condition.

Section 2448, R. C. M. 1935, provides that the State Board of Health shall have general supervision of the interest and health and life of the citizens of the state. "They shall have general supervision of the work of local and county Boards of Health, hereinafter defined, and they shall, at each session of the legislature, submit through the governor a full report of their investigations, and such suggestions and recommendations as they may deem proper."

Section 2475 authorizes the county boards of health to "establish such sanitary rules and regulations for their county for the prevention of the spread of disease as they may deem necessary."

It would appear, irrespective of the fact that dude ranches as commonly operated are not within the definition of a tourist camp, that there is ample provision for the control, regulation, and supervision of their sanitary condition, and for the protection of the health of the public and the people who avail themselves of these dude ranches.