

No. 336

INDUSTRIAL HYGIENE, division of—REPORTS—RECORDS—DATA—BOARD OF HEALTH—OCCUPATIONAL DISEASES

Held: The reports required by Section 7, Chapter 127, Laws of 1939, and the records and data of the Division of Industrial Hygiene are not public records nor are they open to public inspection. Such reports are confidential.

January 5, 1942.

Dr. W. F. Cogswell, Secretary
State Board of Health
Helena, Montana

Dear Doctor Cogswell:

You have asked my opinion on the following:

“Chapter 127 of the Session Laws of 1939 created an industrial hygiene division of the State Board of Health and prescribed certain duties, one of which is to investigate the sanitary conditions under which men and women work. These conditions are being investigated in various parts of the State and reports are made to the State Board of Health. I am requesting your opinion as to whether the State Board of Health is justified in furnishing these reports to any person requesting them. My understanding is that under the law these reports are confidential and can be used only to remedy unsanitary conditions which may be found to exist. I should like your opinion as to whether this stand is in complete accord with the law.”

Chapter 127, Laws of 1939, in Section 1 thereof, provides for the creation and establishment of a division of industrial hygiene within the State Board of Health of the State of Montana. Section 2 thereof sets forth the powers of the said division of industrial hygiene. Sections 3, 4, and 5 thereof set forth further duties of the secretary of the division. Section 6 thereof defines occupational diseases. Section 7 of the Act is as follows:

“From and after the passage and approval of this act, every physician, hospital or clinic superintendent, and the state coal and quartz mine inspectors, having knowledge of a case of occupational disease shall, upon request of the secretary of the division of industrial hygiene of the State of Montana, and within ten (10) days after such request, report the same to the division of industrial hygiene of the State of Montana on a form provided by said division, giving the name and address of the patient, the name and business address of the employer or employers, the business of the employer, the place of the patient's employment, the length of time of his employment in the place where he took ill, the nature of the disease, and any other information required by the division of industrial hygiene. All such reports and all records and data of the division of industrial hygiene of the State of Montana pertaining to such diseases are hereby declared not to be public records or open to public inspection, and shall not be admissible as evidence in any action at law or in any hearing under the workmen's compensation of the State of Montana.” (Emphasis mine.)

It will be noted the above emphasized portion of Section 7 of the act reflects clearly the intention of the legislature to make the reports, required to be made by the person or persons designated therein, confidential information of the division of industrial hygiene only.

The last paragraph of Section 7 of Chapter 127, Laws of 1939, emphatically declares all such reports and all records and data of the division

of industrial hygiene of the State of Montana pertaining to such diseases are thereby declared not to be public records. Nor shall such reports or records be open to public inspection. They shall not be admissible as evidence in any action at law nor in any hearing under the Workmen's Compensation Act of the State of Montana.

It would be difficult for the legislature to use any stronger or more plain language to express its intent in regard to such reports and records.

Evidently the legislature believed that, in order for such reports and records to be of the most value and to reflect the true conditions which such legislation sought to alleviate and correct, such reports and records should be held in strict confidence, and not be open to inspection by the public.

"In construing a statute, legislative intention controls, and such intention is determined from language employed."

McNair v. School District, 87 Mont. 423, 288 Pac. 188.

"It is the duty of the court to construe the law as it finds it."

Great Northern Utilities Co. v. Public Service Comm., 88 Mont. 180, 293 P. 294.

It is therefore my opinion the legislature has restricted the use of all reports, records, and data of the division of industrial hygiene of the State of Montana, pertaining to occupational diseases, to the use of such division only and such reports, records and data are not public records nor are they open to public inspection. They are, therefore, confidential in character.

Sincerely yours,

JOHN W. BONNER
Attorney General