

Opinion No. 141.**State Board of Health, regulations of
—Regulation of Cold Storage Food
Lockers**

Held: The State Board of Health and county boards of health have the power and authority to make reasonable regulations applicable to the operators of cold storage food lockers which are leased to the public in the interest of the public health.

October 8, 1945.

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

Dear Dr. Cogswell:

You have submitted for my opinion the following question:

“Is it within the jurisdiction of the State Board of Health to pass regulations controlling locker plants, and is it within the jurisdiction of the State Board of Health to enforce these regulations for the benefit of the general public?”

Section 2248, Revised Codes of Montana, 1935, provides in part:

“The state board of health shall have general supervision of the interests and health and life of the citizens of the state.”

Section 2450, Revised Codes of Montana, 1935, provides in part:

“The state board of health shall have power to promulgate and to enforce such rules and regulations for the better preservation of the public health in contagious and epidemic diseases as it shall deem necessary, and also regarding the causes and prevention of diseases, and their development and spread.”

It is apparent from the above quoted that the State Board of Health has broad power in making such regulations as are necessary to protect the health of the citizens. While there are no expressed statutes granting power to the State Board of Health to regulate places of business which lease cold storage lockers, yet it is apparent that such places might be operated in a negligent and unsanitary manner so that the public health would be endangered.

In 25 Am. Jur. 291, the text states:

“The general rule is that statutes delegating to subordinate governmental agencies and authorities the power to enact and enforce health regulations are to be liberally construed in order to effectuate the purpose of their enactment.”

The application of this rule would permit reasonable regulations to be made by the State Board of Health.

It is also to be noted that Section 2475, Revised Codes of Montana, 1935, 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,” and in accordance with the rules and regulations of the State Board of Health.

It is therefore my opinion that the State Board of Health and county boards of health have the power and authority to make reasonable regulations applicable to the operators of cold storage food lockers, which are leased to the public, in the interest of the public health.

Sincerely yours,
R. V. BOTTOMLY,
Attorney General