

Opinion No. 108**Livestock Sanitary Board—Townships—Counties, Establishment of Livestock Disease Control Area.**

Held: 1. In determining when seventy-five per cent (75%) of the townships in a county have established Livestock Disease Control Areas under the provisions of Section 46-212, Revised Codes of Montana, 1947, those townships which are in primitive areas and in which no stockowners reside should not be counted in the total number of townships within a county. Legislation must be interpreted so as to give effect to the intent of the legislature and to accomplish the obvious legislative purpose or object.

May 16th, 1950.

Dr. H. F. Wilkins, Executive Officer
Livestock Sanitary Board
Helena, Montana

Dear Dr. Wilkins:

You have requested my opinion upon a question which has arisen out of the following situation. The laws of the State of Montana provide that when seventy-five per cent (75%) of the townships in any county in Montana are established as Livestock Disease Control Areas, it becomes mandatory on the part of the remaining livestock owners in the county to submit their livestock of one or more species for inspection, test, treatment, or vaccination, as directed by the Montana Livestock Sanitary Board. It is necessary that seventy-five per cent (75%) of the livestock owners in a township petition to the Montana Livestock Sanitary Board to have such township established as a Disease Control Area.

Lake County has fifty (50) townships within its boundaries. Seventeen (17) of these townships are primitive areas in which no stock owners reside. It is evident from these facts that seventeen (17) of the townships in Lake County cannot become Disease Control Areas by reason of the fact that no livestock owners reside there, and therefore it is not possible to establish seventy-five per cent (75%) of the townships in

Lake County as Disease Control Areas and thereby allow the Livestock Sanitary Board to declare the entire county a Disease Control Area.

You have asked whether it would be possible to disregard the unpopulated townships in the primitive area for the purposes of computing when seventy-five per cent (75%) of the townships in Lake County have established livestock Disease Control Areas and in that manner allow the Board to declare the county a Disease Control Area.

The act under consideration is Section 46-212, Revised Codes of Montana, 1947, which is as follows:

"Upon receipt of a petition signed by not less than seventy-five per cent (75%) of the livestock owners of the species of animals to be inspected, tested, treated, or vaccinated, and representing not less than fifty per cent (50%) of such species in any township, as determined by government survey, of any county in the State of Montana, petitioning for the area control, treatment, prevention, or eradication of any dangerous disease of livestock within such township, the Montana Livestock Sanitary Board is authorized and empowered to establish such township as a Disease Control Area and to enforce the inspection, test, treatment, or vaccination of all livestock of the species designated within such township in accordance with the rules and regulations promulgated by the Montana Livestock Sanitary Board for the inspection, eradication, treatment, or vaccination of such livestock and to reimburse the owners of livestock slaughtered by order of the Montana Livestock Sanitary Board or its authorized agent in accordance with the laws of Montana governing the payment of such animal or animals.

Provided, that in any circumscribed Disease Control Area as established under this act, by the Montana Livestock Sanitary Board, no other livestock of the species designated by the Montana Livestock Sanitary Board to be inspected, tested, treated, or vaccinated, shall enter the disease control area unless inspected, tested, treated, or vaccinated under the direction of the Montana Livestock Sanitary Board or are accompanied by a satisfactory health certificate or except under special permit and restrictions provided by the Montana Livestock Sanitary Board.

Provided further that when seventy-five per cent (75%) or more of the townships in any county in Montana are established under this act by the Montana Livestock Sanitary Board as Disease Control Area, it becomes mandatory on the part of the remaining livestock owners in such county to submit their livestock of one or more species for inspection, test, treatment, or vaccination, as directed by the Montana Livestock Sanitary Board."

It is evident that if a strict and literal interpretation is given to the last paragraph of the above quoted section, the provisions thereof can

never be given any effect in Lake County since thirty-four per cent (34%) of the townships in the county are in the primitive area and in which no stock owners reside.

The rules of statutory construction which apply to such a situation are well established. The United States Supreme Court case of *U. S. v. Ryan*, 52 S. Ct. 65, 284 U. S. 167, 76 L. Ed. 224, reversing *Ryan v. U. S.* 44 Fed. (2d) 951, arose in a United States District Court in the State of Montana and held as follows on the subject of statutory construction:

"All laws are to be given a sensible construction. A literal application of a statute which would lead to absurd consequences is to be avoided whenever reasonable application can be given consistent with legislative purpose."

The rule in Montana is that it is the duty of the court to so construe the Act as to effectuate the object of the legislature. *State ex rel. Evans v. Stewart*, 53 Mont. 18, 161 Pac. 309; *State ex rel. Special Road District No. 8 v. Millis*, 81 Mont. 86, 261 Pac. 885; *Barney v. Board of Railroad Commissioners*, 93 Mont. 115, 17 Pac. (2d) 82.

The manifest object of the portion of Section 46-212, *supra*, under consideration in this opinion is to allow the Livestock Sanitary Board to declare an entire county a Disease Control Area when seventy-five per cent (75%) of the livestock owners in such county are in favor of the establishment of a Disease Control Area. Owing to the peculiar factual situation which exists in Lake County the intention of the legislature could not be effectuated if in computing the townships in the county, those townships which are in the primitive area were to be included. The act can only be given effect if the populated townships alone, are used as a base upon which to figure when seventy-five per cent (75%) of the townships have established Disease Control Areas. The act would be meaningless unless this construction is applied to the terms thereof.

It is therefore, my opinion, that in determining when seventy-five per cent (75%) of the townships in a county have established Livestock Disease Control Areas under the provisions of Section 46-212, Revised Codes of Montana, 1947, those townships which are in primitive areas and which no stockowners reside should not be counted in the total number of townships within a county. Legislation must be interpreted so as to give effect to the intent of the legislature and to accomplish the obvious legislative purposes and object.

Very truly yours,
ARNOLD H. OLSEN,
Attorney General.