

Opinion No. 23.

**Livestock Sanitary Board—Livestock
Disease Control Area—Inspection
of Livestock—Counties—
Townships.**

HELD: 1. When seventy-five per cent (75%) of the livestock owners in any given township, representing at least fifty per cent (50%) of the species therein which are to be inspected, tested, treated, or vaccinated, have petitioned the Livestock Sanitary Board for such inspection, test, treatment, or vaccination, and the Board has established such township as a disease control area, then upon receipt of proper notice from the Board it becomes mandatory that all owners of that species of livestock submit their livestock situated within that township for such inspection.

2. When seventy-five per cent (75%) or more of the townships in any county are established as disease control areas, it becomes mandatory upon the remaining livestock owners having cattle of the species concerned, to submit their livestock of that species which are located within that county for inspection, test, treatment, or vaccination as directed by the Livestock Sanitary Board.

June 2, 1953.

Mr. Edwin C. Irvine
County Attorney
Granite County
Philipsburg, Montana

Dear Mr. Irvine:

You have requested my opinion relative to Section 46-212, R. C. M., 1947. Particularly, you have inquired as to when it becomes mandatory on the part of livestock owners to submit their livestock to the Montana Livestock Sanitary Board for inspection, test, treatment or vaccination.

Section 46-212, *supra*, provides in effect for a township disease control area and for a county disease control area. The first portion of the statute applies to townships, and states:

“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 . . . 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 on all livestock of the species designated within such township. . . .” (Emphasis supplied.)

The statute is clear and unambiguous and construes itself. *State v. State Highway Comm.* 82 Mont. 63, 265 Pac. 1. Upon the receipt of the petition signed by the requisite number of owners of livestock within a township, the Montana Livestock Sanitary Board is empowered to create a township disease control area and to require all owners of livestock within the area to submit for inspection all livestock of the species of animals to be inspected. That compliance with the order of the board is mandatory is evidenced by the criminal penalties which attach for failure to present livestock for inspection upon notice. Section 46-214, R. C. M., 1947.

The latter portion of Section 46-212, *supra*, provides:

“. . . 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.” (Emphasis supplied.)

This portion of Section 46-212, *supra*, provides for the county disease control area, and once such is formed, all the owners of such stock within the county must submit their stock of the species in question to the board for inspection.

It is therefore my opinion that when seventy-five per cent (75%) of the livestock owners in any given township, representing at least fifty per cent (50%) of the species therein which are to be inspected, tested, treated, or vaccinated, have petitioned the Livestock Sanitary Board for such inspection, test, treatment, or vaccination, and the Board has established such township as a disease control area, then upon receipt of proper notice from the Board, it becomes mandatory that all owners of that species of livestock submit their livestock situated within that township for such inspection.

It is further my opinion that when seventy-five per cent (75%) or more of the townships in any county are established as disease control areas, it becomes mandatory upon the remaining livestock owners having cattle of the species concerned to submit their livestock of that species which are located within that county for inspection, test, treatment, or vaccination as directed by the Livestock Sanitary Board.