

VOLUME NO. 37

OPINION NO. 132

SCHOOLS - Quarantines, Department of Health and Environmental Sciences; HEALTH - Public schools, quarantines, Department of Health and Environmental Sciences; REVISED CODES OF MONTANA, 1947 - Section 69-4112.

HELD: The Department of Health and Environmental Sciences has the power under section 69-4112 to stem the outbreak of communicable disease by imposing a quarantine on a particular school.

14 April, 1978

Sandra R. Muckelston, Esq.
Legal Division
Department of Health &
Environmental Science
1400 Eleventh Avenue
Helena, Montana 59601

Dear Ms. Muckelston:

You have requested my opinion on the following question:

Does the Department of Health and Environmental Sciences have the power to limit attendance at a particular school to immunized persons in order to curtail the outbreak of a communicable disease?

Section 69-4112 provides:

Quarantine measures - adoption and enforcement. The department may adopt and enforce quarantine measures against a state, county, or municipality to prevent the spread of communicable disease. A person who does not comply with quarantine measures shall, on conviction, be fined not less than ten dollars (\$10) nor more than one hundred dollars (\$100). Receipts from fines shall be deposited in the state general fund.

This section clearly gives the department broad powers to adopt whatever reasonable quarantine measures are necessary to prevent the spread of communicable disease. The department's power clearly extends to the geographic area of the state, or a county or municipality. If restriction of the quarantine to a particular school, rather than an entire county or municipality, will accomplish that purpose, such a restriction is proper. Section 69-4112, R.C.M. 1947, cannot be read to require a quarantine against an entire county or municipality if a more restricted approach will accomplish the statutory purpose.

THEREFORE, IT IS MY OPINION:

The Department of Health and Environmental Sciences has the power under section 69-4112 to stem the outbreak of communicable disease by imposing a quarantine on a particular school.

Very truly yours,

MIKE GREELY
Attorney General