

bath-room. On the contrary the intention of the Legislature as expressed in the Act as a whole clearly shows the necessity of including a bath-room in this type of construction and in view of the purpose declared by the Act it is certainly an essential living facility leading to healthful and sanitary dwellings.

I can not impute to the Legislature that they failed to consider the necessity for construction and installation of bath-rooms in the type of dwellings being considered when they enacted this law. Such installations are not only essential to healthful living in congested areas, but also in the city of Indianapolis, as well as other large urban centers, the building and health codes mandate the installation of inside toilet facilities in new structures wherever water and sewerage connections are available. The construction cost of a bath-room is much greater in proportion to the total construction cost than for any other room of a dwelling. As the legislature must have considered this matter, it is important to note that "bath-rooms" were not specifically excluded in the language of subsection (b), which could easily have been done if it had been the intention so to do.

Therefore, it is my opinion, that to effectuate the intention of the Legislature and the declared purpose of the Housing Authorities Act, that a bath-room is included in the language of Section 48-8108, sub-section (b) and is a "room" for the purpose of figuring and arriving at the construction cost of a Housing Project.

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OFFICIAL OPINION NO. 12

February 15, 1950.

Dr. R. W. Elrod,  
Indiana State Veterinarian,  
209 State House,  
Indianapolis, Indiana.

Dear Dr. Elrod:

I have your letter requesting my opinion which reads as follows:

"I will appreciate very much if you can give this office an official opinion relative to whether Chapter

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313, page 1263, Acts of 1947 applies *only* to Sales and Auction Barns." (Our emphasis).

Chapter 313 of the Acts of 1947, (Burns 1947 Supplement 16-420) to which you refer is an amendatory Act amending Section 4 of Chapter 246 of the Acts of 1943. This Chapter in rather general terms makes it unlawful for any person, firm or corporation to sell, barter or give away, except for immediate slaughter, any breeding or dairy cattle over five months of age which have positively reacted to the agglutination test for Bangs Disease. Section 4 of the 1933 Act generally read the same but provided in substance that such sales or disposals could be made if the owner or his agent made clear the fact that the animal was a reactor. This latter language was deleted in the 1947 amendment.

As stated previously this Section is in general terms and is clear and unambiguous in itself. The rule of statutory interpretation is that when a statute is clear and unambiguous it should be given a literal interpretation and there is no room for construction.

Taelman v. Board of Finance of School City of South Bend (1936), 212 Ind. 26.

It is also an established rule of statutory interpretation that words used in a statute must be given their plain and ordinary meaning unless a contrary purpose is clearly manifest in the Act.

Porter v. State *ex rel.* Hays (1935), 208 Ind. 410;  
Ellwanger v. State (1931), 203 Ind. 307.

Due to the fact that the Act to which your query is directed amends only one Section of a former Act, I feel that I must consider the Act as a whole with all of its amendments and endeavor to find the evil that was intended to be remedied and whether or not there are any provisions in the whole Act that would compel a different result than that indicated by the clear import of the language of this particular Section.

Section 1 of this Act states in substance that anyone operating an auction sale barn or any community sale shall file the location of the same with the Secretary of the State Livestock Sanitary Board and furnish a prescribed bond and maintain certain records of sales.

Section 2 of the Act was amended by Chapter 213 of the Acts of 1949. This Section in its present form requires that any breeding or dairy bovine animals sold at any auction sale must be tested for Bang's disease and the results of such tests be stated publicly at such sale.

Section 3 of the original Act pertains solely to auction sales but the same has been largely emasculated by the amendments to the proceeding and succeeding sections.

Section 4 of the Act is, of course, Chapter 313 above referred to and reads as follows:

"It shall be unlawful for any person, firm or corporation to sell, barter, give away or otherwise dispose of, except for immediate slaughter, any breeding and/or dairy cattle over five months of age, or any cattle intended for breeding and/or dairy purposes, which have positively reacted to the agglutination test for Bang's disease, or infectious abortion. However, animals which have been vaccinated at the age of nine months or older and were negative at the time of vaccination are eligible to be sold and added to herds of similar status with the written permission of the state veterinarian."

Section 5 of the Act is another general section and patently prohibits the importation of dairy and breeding cattle by anyone unless such cattle have passed a negative test for Bang's disease.

Section 6 defines certain terms and Section 7 provides for penalties.

The obvious purpose of this Act was to prohibit a traffic and movement of diseased breeding and dairy animals in order that the public could be protected against certain human diseases that are contracted from the products of dairy animals infected with Bang's disease. The first three sections of the Act are quite definitely concerned solely with auction and community sales of such animals. The fifth section is general and would apply to anyone importing this type of animal.

I find no language in considering the Act as a whole to indicate that there is any limitation or restriction to be placed on the application of Section 4 (Chapter 313 Acts of 1947).

As sections 4 and 5 are general in their application, while the rest of the Act deals with auction and community sales,

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the question of the sufficiency of the title arises. The title of Chapter 246 of the Acts of 1933, (Burns 16-417 et seq.) reads as follows:

*“An Act concerning the prevention of the spread and control of infectious diseases among cattle, prescribing a method for the regulation of the sale of cattle at auction sales barns or community sales, the keeping of records thereof, prescribing the conditions on which cattle may be imported and disposed of and prescribing penalties for the violation thereof.”* (Our emphasis).

The individual sections of the Act have been summarized above. However, I point out that the subject of the Act is the prevention of the spread and control of disease among cattle and the various sections detail the methods by which this purpose is intended to be accomplished. Thus, Section 4 is germane to the subject matter and is clearly within the title.

DeHaven v. Municipal City of South Bend (1937),  
212 Ind. 194.

It is my opinion that Chapter 313 of the Acts of 1947 cannot be restricted solely to auction or community sales but must by its clear language apply to any sale by any person of animals within the scope of the Section that are positive reactors.