

OFFICIAL OPINION NO. 73

December 5, 1947.

Hon. Ben H. Watt,
Superintendent of Public Instruction,
227 State House,
Indianapolis, Indiana.

Dear Sir:

Your letter of November 17, 1947, has been received and reads as follows:

"The Committee appointed, as directed by the General Education Commission, to prepare a course of study for the alcoholic beverages, tobacco, and narcotics law, passed by the 1947 General Assembly, has asked the General Education Commission for a directive. This directive will be based on an interpretation of the law which was passed. Therefore, the Commission directs that I request an interpretation of the points in question, so the directive to the Committee can be made.

"The points in question are—

- "1. Will this course of study, as specified in the law, be optional, or required? If required, on what grade level, or required of what pupils?
- "2. If required, is it to be a separate course, or may it be included with the related subjects—namely, health, safety, etc.?
- "3. If the course is to be an optional one, and one semester in length, are the schools authorized to provide immediate teaching personnel for instruction of the same."

The answer to your questions are controlled by Chapter 213, Acts 1947. Section 1 of said Act is as follows:

"The nature of alcoholic drinks, tobacco, sedatives and narcotics and their effects upon the human system shall be included in the subjects taught in each of the grades four through eight of the public schools of

this state. Any textbook in physiology and hygiene for any of said grades, hereafter adopted by the commission on textbook adoption shall contain a chapter or section of not less than twenty pages, or an appendix of twenty or more pages attached thereto, or in pamphlet form, devoted to the nature of alcoholic drinks, tobacco, sedatives and narcotics and their effects upon the human system."

Section 2 of said Act is as follows:

"The Indiana state board of education shall provide a separate course of study for high school students covering the subject of the effects of alcoholic drinks, tobacco, sedatives and narcotics upon the human system and said board shall further authorize high school credit, of one semester, to be given to those pupils completing such course."

Section 3 of said Act is as follows:

"It shall be the duty of the board of school trustees, the board of school commissioners, school boards and trustees of the various school corporations of the state and the county superintendent of schools in each county to cooperate with the Indiana state board of education in carrying out the provisions of this act. This act shall apply to any elementary or high schools of this state supported wholly or in part by public funds."

Section 4 of said Act requires the dismissal of any superintendent or assistant superintendent, supervisor or principal of any school, coming within the provisions of this Act, who refuses or neglects the instructions therein set out.

Section 5 of said Act repeals all laws and parts of laws in conflict therewith. It did not contain an emergency clause and became effective when distribution of said laws had been made as proclaimed by the Governor on August 20, 1947.

The foregoing statute is subject to the following rules of statutory construction:

When the word "shall" is used in a statute, it is presumed to have been used in its imperative sense.

Board of Finance of School City of Aurora v.
Peoples National Bank (1909), 44 Ind. App.
573, 89 N. E. 904.

Words in a statute must be construed in their plain, ordinary and usual meaning, unless a contrary purpose clearly appears.

Sec. 1-201 Burns' R. S. 1933;
Garvin v. Chadwick Realty Co. (1937), 212 Ind.
499, 506;
Dreves v. Oslo School Twp. (1940), 217 Ind.
388, 397;

Rules of construction are designed to aid in determining the legislative intent.

State, *ex rel.* Milligan v. Ritter's Estate (1942),
221 Ind. 456, 471.

I am, therefore, of the opinion your questions should be answered as follows:

1. The course of study is required in those elementary schools supported wholly or in part by public funds, in each of the grades—four through eight; in all high schools supported wholly or in part by public funds, said course must be available and offered but would be an optional course for those students electing to take it.

2. In answer to your second question, the teaching of such subjects in the elementary schools of such grades, four through eight, are not required to be taught as a separate course, however, hereafter any textbook adopted by the State Textbook Commission in physiology and hygiene for those grades must contain a chapter or section of not less than twenty pages or an appendix of twenty or more pages, attached thereto or in pamphlet form devoted to the nature of alcoholic drinks, tobacco, sedatives and narcotics and their effects upon the human system.

Section 2 of the act provides for the course of study in high schools. That section is not entirely free of ambiguity.

However as a matter of construction it is apparent that the legislature intended the following things:

(a) That the course of study be a separate course. Thus it must be taught separately and not combined with related subjects such as health, etc.

(b) That it be an elective course. This is apparent from the language which "authorizes" high school credit to those pupils "completing such course."

(c) That some credit for the course be given. The difficulty is in determining how long the course should last, the number of hours devoted to it, and the number of high school credits. It is my understanding that credit in Indiana high schools is given on the basis of "credits" and "units." There is no such thing as a credit of one semester. However in the use of the term semester there is at least some indication that the legislature intended the course to run over a semester period. Since the duty of providing such course is placed upon the Indiana State Board of Education, it seems to me that if the State Board of Education carried out the legislative intent as shown in Section 2, the discretion of determining the exact number of hours to be devoted and credit to be given is with the State Board of Education.

3. Since that act became effective on August 20, 1947, requirement for the establishment of course is now in full force and effect and the schools would, therefore, be authorized to provide immediately the necessary teaching personnel for instruction in the course.

OFFICIAL OPINION NO. 74

December 5, 1947.

Hon. C. F. Cornish, Director,
Aeronautics Commission of Indiana,
306 Board of Trade Building,
Indianapolis 4, Indiana.

Dear Sir:

I am in receipt of your letter requesting my official opinion as follows: