

It would not be possible in this opinion to designate all narcotic drugs or to specify their properties, since that is a matter for medical experts. However, I have been informed that there are certain narcotic drugs which can be used as local anesthetics. In answer to your question, therefore, it is my opinion that a registered podiatrist would be authorized to use only such narcotic drugs in his practice as could be used for a local anesthetic on the human foot.

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**BUREAU OF MOTOR VEHICLES:** Interpretation of Chapter 57 of the Acts of 1943 relating to school buses.

**DEPARTMENT OF PUBLIC INSTRUCTION:** Interpretation of Chapter 57 of the Acts of 1943 relating to school buses.

June 16, 1943.

Mr. R. Lowell McDaniel,  
 Director of Motor Vehicles,  
 State House,  
 Indianapolis, Indiana.

Dear Sir:

Your letter of June 9, 1943, received as follows:

"I am attaching herewith a copy of the enrolled Senate Act No. 96, which is Chapter 57 of the Acts of General Assembly 1943. I quote from Section 1 of the Act:

"That as used in this act unless a different meaning appears from the context: The term "School Bus" shall be construed to mean any bus, hack, conveyance, or motor vehicle used to transport school children to and from school, and from school athletic games or contests or other school functions, but that privately owned automobiles with a capacity of five passengers or less which are used for the purpose of transporting school children to and from school are hereby specifically excepted from the above definition'."

“Up to and including what age or through what school years would students or pupils be considered as ‘school children’?”

In the case of *State ex rel. City of Seattle v. Seattle Electric Co.*, — Wash. —, 128 Pac. 220, the court was required to define the words “school children” as contained in a franchise granted an Electric Railroad Company which provided that school children should ride for half fare. On pages 221 and 222 of the opinion the court said:

“Our Educational Code speaks of those attending the State University, the State College, and normal schools as ‘students’ (sections 4317, 4333, 4366, Rem. & Bal Code); but in Chapter 8, Sec. 4406 where our common schools are defined, the Legislature adopts the word ‘children’. In section 4714, under the title ‘Compulsory Education’, the law refers to ‘child’ or ‘children’, showing that there is a common acceptance of the word ‘school children’; and this being so we must conclude that the parties had it in mind when the contract was entered into. The few cases which have been called to our attention are in line with this reasoning. In *Northrop v. City of Richmond*, 105 Va. 335, 53 S. E. 962, the court was called upon to construe the meaning of the word ‘pupils’ in a franchise providing for the carrying of pupils at a reduced fare by a street car company. The ordinance as originally proposed provided that the company should place tickets on sale for the accommodation of ‘children going to and from school’. The city council insisted upon the substitution of the word ‘pupil’. The court held the word ‘pupil’ to have a broader meaning, and that it must have been intended to include others than mere school children. The court said that, if the ordinance had been adopted in the terms proposed, it would have been plain and unambiguous and would have excluded the class of persons who were insisting upon the benefits of the ordinance; they being students at the business college. The court continues: \* \* \* The phrase “children going to and from school” would,

without doubt, have referred to young people in attendance upon institutions of a subordinate character, and in common acceptation would have embraced only places of primary instruction and establishments for the instruction of children'. In *Selectmen of Clinton v. Worcester Consolidated St. Ry.*, 199 Mass. 279, 85 N. E. 507, where a similar contract was being considered by the court, the court differentiated between the meaning of the word 'school', as applied to institutions of higher learning, and when applied to schools of lesser degree, saying: 'But ordinarily, and without something to indicate that a wider meaning was intended to be given to this word, it will not be taken to include such higher institutions of learning, as colleges or universities, or institutions for the teaching of trades, professions, or business'. In addition to the authorities cited in the cases quoted, the following may be referred to: *Pike v. State Board of Land Com'rs*, 19 Idaho, 268, 113 Pac. 447, Ann. Cas. 1912B, 1344; *Granger v. Lorenzen* (S. D.), 133 N. W. 259; *State v. Kalaher*, 145 Wis. 243, 129 N. W. 1060."

In the case of *Long v. City of Shreveport*, 91 So. 825, the court was called upon to construe the words "school children" under a statute which required any street railway company to transport school children for three-fifths of the regular fare. New ordinances provided that students eighteen years of age or over attending business colleges or other colleges were not entitled to the reduced rate. On page 831 of the opinion the court in passing on the validity of the new ordinances said:

" \* \* \* It is true that these ordinances provide that students 18 years of age or over, attending business colleges, or attending other colleges when in their junior and senior classes, shall pay full fare, but such students cannot be considered school children. \* \* \*"

Chapter 96 of the Acts of 1933, Section 3, same being Section 28-1003, Burns' 1942 Supplement, which statute determines the amount to be paid by the State for the support of the public school system, in part reads as follows:

“\* \* \* Where a child is transferred from the school corporation in which such child resides, to another corporation, the school authorities of the school corporation to which such child is transferred may include the attendance of such child in the report to the state superintendent and shall deduct from the transfer tuition, which the corporation from which such child is transferred, is required to pay as provided by law, an amount equal to the per capita pupil allowance received from the state under this act for grades one (1) to eight (8) and/or grades nine (9) to twelve (12), and the amounts so remaining shall be paid as transfer tuition for each pupil so transferred.”

Under the above statute it is clear that the legislature has considered school children to be those attending school in grades one to twelve inclusive. Also see, Acts 1935, Chapter 279, Section 4, being Section 28-3720, Burns' 1942 Supplement, which refers to such pupils as “children”.

The Acts of 1929, Chapter 38, Section 5, being Section 28-5207, Burns' 1933, which statute specifically deals with state normal schools is as follows:

“Said board shall prescribe the conditions for admission of students to such colleges, provided that graduation from a commissioned high school or its equivalent shall be required.”

In the case of *Manners v. State*, 210 Ind. 648, the court was required to construe the word “child” as contained in Section 1, Chapter 358 of the Acts of 1913, same being Section 10-1401, Burns' 1933, and on pages 654 and 655 of the opinion the court said:

“\* \* \* The express limitation of the application of section 2 to children under 14 years of age, and the absence of such limitation in the first section, must be construed as indicating that there was no intention to limit the application of section 1 to children of any particular age, and therefore it must be construed as applying to all children under the age of 21 years.”

Where the legislature uses general words it is an accepted rule of construction that said words are used in the common and popular sense. It is clear from the foregoing that the legislature classifies school children as those attending school up to and including the twelfth grade; that minors attending state normal schools, business colleges, or other colleges or institutions of higher learning are referred to as students.

It is, therefore, my opinion that the words "school children" as used in said Act means any child under twenty-one years of age attending school up to and including the twelfth grade.

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**BUREAU OF MOTOR VEHICLES: Application of Chapter 81  
of the Acts of 1943 to farm tractors; fees chargeable.**

June 17, 1943.

Hon. R. Lowell McDaniel,  
Director, Bureau of Motor Vehicles,  
State House,  
Indianapolis, Indiana.

Dear Mr. McDaniel:

I am in receipt of your letter dated June 8th, 1943, requesting my opinion upon the following questions, to-wit:

1. "Does the term 'farm tractor used in transportation' as used in the attached Act" (Chapter 81, Acts 1943) "come under the definition of motor vehicle'?"
2. "Will it be necessary that a title to a 'farm tractor used in transportation' be issued before such 'farm tractor used in transportation' can be registered?"

Section 1 of Chapter 81, Acts 1943, provides:

"That the following fees prescribed in this section shall be paid to the secretary of state upon the registration and re-registration of each farm tractor used in transportation and of each unit of farm machinery for use upon the highways for each calendar year;

"For each special farm tractor, *including the trailer, wagon or vehicle pulled*, used in transportation, the fee shall be three dollars.