

Date Issued: April 10, 1981 (AGO 81-38)

Requested by: Charlene H. Seifert, Director
State Laboratories and Consumer Affairs

- QUESTION PRESENTED -

Whether mobile home parks, trailer parks, and campgrounds constructed before July 1, 1977, are subject to the rules and regulations adopted by the North Dakota State Laboratories Commission prior to such date.

- ATTORNEY GENERAL'S OPINION -

It is my opinion that mobile home parks, trailer parks, and campgrounds constructed before July 1, 1977, are subject to the rules and regulations adopted by the North Dakota State Laboratories Commission which were in effect prior to July 1, 1977. Further, all such parks and campgrounds are immediately subject to the licensing requirements of chapter 23-10, N.D.C.C.

- ANALYSIS -

Section 23-10-01, N.D.C.C. provides as follows:

23-10-02. DEPARTMENT TO MAKE REGULATIONS - COMPLIANCE. The department shall have general supervision over the health, safety, sanitary condition, and legal compliance as outlined in this chapter of all mobile home parks, trailer parks, and campgrounds in this state and may promulgate and enforce appropriate rules and regulations in accordance with chapter 28-32. All mobile home parks, trailer parks, and campgrounds constructed after July 1, 1977, shall be constructed in accordance with the requirements of this chapter and the rules and regulations promulgated at the time of construction. All mobile home parks, trailer parks, and campgrounds constructed before July 1, 1977, shall meet the requirements of this chapter by July 1, 1985. All mobile home parks, trailer parks, and campgrounds shall meet rules and regulations duly promulgated after construction of the park or campground within eight years after the effective date of the rule or regulation. (Emphasis supplied).

A review of the legislative history of chapter 23-10, N.D.C.C., reveals that the State Laboratories Commission had statutory authority to enact administrative rules and regulations relative to motor and trailer courts prior to 1977. See section 23-10-02, N.D.C.C. (1970). The present section 23-10-02, N.D.C.C., amended and reenacted in 1977, is a mere expansion and clarification of that rulemaking authority. Further, the state licensure requirements of section 23-10-03, N.D.C.C., were in effect prior to 1977 and have remained relatively unchanged over the last two decades.

In light of these facts, it is apparent that the Legislative Assembly of North Dakota, by amending and reenacting section 23-10-02, N.D.C.C., in 1977, did not intend to grant all mobile home parks, trailer parks, and campgrounds in this state an eight eight-year grace period from state licensure requirements and all rules and regulations previously enacted by the State Laboratories Commission. The eight-year grace period referred to in section 23-10-02, N.D.C.C., is relevant only as to those administrative rules and regulations adopted by the State Laboratories Commission after July 1, 1977. Therefore, mobile home parks, trailer parks, and campgrounds are required to meet duly promulgated rules and regulations, after construction of the park or campground, within eight years after the effective date of the rule or regulation. To hold otherwise would render chapter 23-10, N.D.C.C., and all prior rules and regulations of the State Laboratories Commission, a nullity until July 1, 1985, a result obviously not intended by the Legislature.

- EFFECT -

This opinion is issued pursuant to section 54-12-01, N.D.C.C. It governs the actions of public officials until such time as the question presented is decided by the courts.

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