



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

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August 6, 1953

Hon. James A. Bethea, M. D.
Executive Director
Board for Texas State Hospitals
and Special Schools
Austin, Texas

Letter Opinion MS-78

Re: Applicability of
Chapter 429, Acts
53rd Leg., 1953,
regulating feed-
ing of garbage to
swine, to institu-
tions operated by
the Board for Texas
State Hospitals and
Special Schools.

Dear Mr. Bethea:

In your recent letter you ask substantially the following question:

Is the Board for Texas State Hospitals and Special Schools subject to the provisions of Section 22b of Article 1525b, Vernon's Penal Code, enacted by Chapter 429, Acts of the 53rd Legislature, 1953, by reason of the fact that it feeds raw garbage from its own institutions to hogs raised on its own farms? In this connection you explain that your institutions consume all the pork produced and that you burn all garbage from the tuberculosis wards.

Subsection (1) of Section 22b of this Act reads in part as follows:

"It shall be unlawful for any person to feed garbage to swine unless . . ."

Subsection (3) of Section 22b defines person as follows:

"'Person' includes any individual, any corporation, public or private, any firm, any association, any partnership, or any other entity."

Certainly the definition is an all-inclusive definition, and would seem to include every organization of any kind. Clearly the legislative intent was to include every type of entity, public or private, which might be feeding garbage to hogs. A department, agency, or institution of the State is not only an "entity" but is usually a "legal entity" capable of holding property, of contracting, of

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suing, and of being sued. Each of the institutions under the Board for State Hospitals and Special Schools is an "entity", and the Board is a "legal entity." See State v. Odd Fellows Hall Association, 243 N.W. 616 (Neb. Sup. 1932), and Department of Banking v. Hedges, 286 N.W. 277 (Neb. Sup. 1939), for discussions of State agencies as "entities."

The intent of the Legislature becomes more clear and more evident when the purpose of this regulatory measure is considered. There is as great a need for regulating the feeding of hogs which are owned by public agencies as there is for regulating the feeding of hogs owned by private agencies or private individuals. The danger of spreading an infectious disease by hogs is not lessened simply because a hog is owned by a State agency.

In subsection (6) of Section 22b, an exemption is accorded to individuals who feed their own swine the garbage from their own households, farms, or ranches only. By the definition given in the statute, the term "individual" could not be enlarged to include other kinds of entities. This exemption does not apply to State agencies.

Therefore, it is the opinion of this office that the Board for Texas State Hospitals and Special Schools and its institutions must comply with the provisions of Chapter 429, Acts 53rd Legislature, 1953.

Yours very truly,

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Attorney General

By

Bradley Bourland
Assistant

BB:lm:mjs