

COSMETOLOGY:  
UNITED STATES:

The Missouri law relating to the registration of shops in which the occupation of hairdressers, cosmetologists and manicurists is practiced is not applicable to shops located at Camp Crowder nor at Fort Leonard Wood in Missouri.

November 13, 1953



Miss Jakaline McBrayer  
Executive Secretary  
Missouri State Board of Cosmetology  
Ott Building  
Jefferson City, Missouri

Dear Miss McBrayer:

You have requested an official opinion from this office whether a beauty shop at Camp Crowder, a military reservation owned by the United States, is subject to the shop licensing provisions of Chapter 329, RSMo 1949, Mo. R. S., Cum. Supp. 1951. You have since supplied us the information that the building in which the shop in question is located is owned by the United States, and that the operator of the shop owns all equipment therein and pays his own utilities. It is operated by a private individual under a contract agreement with the Army and Air Force Exchange Service.

It is the opinion of this office that such a shop is not subject to the shop licensing provisions of Chapter 329, RSMo 1949, Mo. R. S., Cum. Supp. 1951.

Missouri has ceded to the United States exclusive jurisdiction over land acquired by the United States as "sites for custom houses, courthouses, post offices, arsenals, forts, and other needful buildings required for military purposes," which were acquired by the United States prior to July 30, 1943. Among these areas are Fort Leonard Wood and Camp Crowder. Indeed, those two reservations were specifically named in the act by which such exclusive jurisdiction was ceded to the United States. (Laws of Missouri, 1943, page 627, Section 3.)

The statute by which such cession was effected is Section 12.040, RSMo 1949, which reads as follows:

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"12.040. Exclusive jurisdiction ceded to the United States--reserving the right of taxation and the right to serve processes.--Exclusive jurisdiction in and over any land so acquired, prior to the effective date of sections 12.030 and 12.040, by the United States shall be, and the same is hereby, ceded to the United States for all purposes, saving and reserving, however, to the state of Missouri the right of taxation to the same extent and in the same manner as if this cession had not been made; and further saving and reserving to the state of Missouri the right to serve thereon any civil or criminal process issued under the authority of the state, in any action on account of rights acquired, obligations incurred, or crimes committed in said state; but outside the boundaries of such land, but the jurisdiction so ceded to the United States shall continue no longer than the said United States shall own such lands and use the same for the purposes for which they were acquired."

The acceptance by the United States of this cession is presumed in the absence of evidence to the contrary. (54 Am. Jur., United States, Section 87.)

The effect of a similar statute of the State of California was before the Supreme Court of the United States in *Collins v. Yosemite Park and C. Company*, 304 U.S. 518, 82 L. Ed. 1502, 58 Sup. Ct. 1009. California by its cession statute had reserved the right of taxation. It was held that the California Liquor Law, requiring the licensing of sellers of intoxicating liquors, was a regulatory measure and not a revenue measure; hence, it was not within the reserved jurisdiction, and did not apply to sellers of liquor within the Yosemite National Park. Said the Court, at 58 Sup. Ct., l.c. 1016:

"Except as to this reserved jurisdiction, California 'put that area beyond the field of operation of her laws.'"

The effect of Section 12.040, RSMo 1949, is to remove from state jurisdiction the power to license beauty shops at Camp Crowder and at Fort Leonard Wood.

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You will notice that the State of Missouri in Section 12.040, supra, has reserved the right of taxation. However, the licensing of beauty shops, although the shop or the operator thereof is required to pay a license fee is not a taxing measure. It is instead regulatory in character. That the law relating to the licensing of beauty shops and operators are regulatory and not revenue measures is apparent from the reading of the Act as contained in Chapter 329, RSMo 1949, and Chapter 329, Mo. R. S., Cum. Supp. 1951. License fees received are placed to the credit of the State Board of Cosmetology, and the expenses of administration are paid therefrom; expenses of administration may not exceed the amount collected. Section 329.230, RSMo 1949. The fees do not go for the general support of the government. The dominance of the regulatory aspects of the law are further pointed up by Section 329.140, Mo. R. S., Cum. Supp. 1951, and Section 329.210, RSMo 1949. See Collins v. Yosemite Park and C. Company, supra.

#### CONCLUSION

It is the opinion of this office that the Missouri law relating to the registration of shops in which the occupation of hairdressers, cosmetologists or manicurists is practiced is not applicable to shops located at Camp Crowder nor at Fort Leonard Wood Missouri.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. W. Don Kennedy.

Very truly yours,

JOHN M. DALTON  
Attorney General

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