

BARBER SHOPS) Under the provisions of House Bill
and) No. 32, cities may regulate the
BEAUTY SHOPS) hours of closing of barber shops
) alone or vice versa.

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Mr. J. H. Skaggs
Treasurer State Barber Board
405, 100 North Broadway Building
St. Louis, Missouri

Dear Sir:

This will acknowledge your letter of recent date requesting an opinion, which reads as follows:

"In the last session of the legislature there was a Bill passed known as House Bill No. 32, giving power and authority for incorporated Cities and towns in the State, to pass an ordinance setting closing hours for barber shops and beauty parlors.

Now as the two occupations are so closely connected, doing practically the same type of work, namely cutting and dressing the hair Etc, and in view of the fact that there are many barbers who carry both, a barbers license and a beauty operators license, and who operate both a barber shop and a beauty parlor in the same quarters, and could be a barber up until a certain time and a beauty operator after that time. In view of these facts and also in view of the fact that House Bill No. 32 is a twin bill, stating barber shops and beauty shops, I would appreciate an opinion as to whether or not an ordinance would be legal

if it only mentioned barber shops and left out beauty shops.

This question however arises in my mind, for instance a closing hour of seven o'clock is set for barber shops, and no mention is made of beauty shops, as prescribed in House Bill No. 32. Now the hour of seven o'clock arrives, a certain barber shop closes his door, then comes a lady and her children to this barber shop for a hair cut, the barber tells her that he is required by law to close his shop at seven o'clock and that he cannot serve her, then she goes across the street to a beauty shop and all get their hair cut by licensed beauty operators, while House Bill No. 32 states closing hours for barber shops and beauty shops.

Please give me an opinion on this at your very earliest possible convenience, as there is about to be a bill introduced in the Board of Aldermen of St. Louis leaving out beauty shops, and I fear that the legality of the ordinance will kick back at us, as the beauty operators took an active part in helping to get House Bill No. 32 through the legislature, and all the better class of beauty shops are as anxious for the provisions of this bill, as is the barbers.

Thanking you for a quick reply to this request."

Your attention is directed to Section 7289, R. S. Mo. 1929, relating to cities and towns under special charter, and said section reads as follows:

"Any municipal corporation in this state, whether under general or special charter, and having authority to pass ordinances regulating

subjects, matters and things upon which there is a general law of the State, unless otherwise prescribed or authorized by some special provision of its charter, shall confine and restrict its jurisdiction and the passage of its ordinances to and in conformity with the state law upon the same subject."

Under the provisions of the above section of the statute, it is too plain to admit of controversy that cities must pass laws in conformity with State laws.

House Bill No. 32 which was signed by Governor Park on April 16, 1935, and which is now the law of this state respecting the instant matter, reads as follows:

"Section 1. The legislative bodies of all incorporated cities, towns and villages are hereby empowered to pass, alter, amend and repeal ordinances to regulate the hours of closing of barber shops and beauty shops."

We direct your further attention to Section 23 of Article IX of the Constitution of Missouri respecting the charter of the City of St. Louis, Missouri, which provides as follows:

" 'Such charter and amendments shall always be in harmony with and subject to the Constitution and laws of Missouri,' etc., " subject to certain exceptions mentioned therein.

In the case of Ex parte Tarling 241 S. W. 1. c. 932, the Court had before it for consideration an ordinance of the City of St. Louis, Missouri, and in passing upon the particular ordinance in question had the following to say:

"This court, in construing the ordinances of St. Louis, and other cities in the state, has uniformly followed the constitutional and statutory mandates * * * * * we have uniformly held that municipal ordinances must be in harmony with the provisions of our Constitution and the Legislature enactments of our state. * * * * *"

CONCLUSION

It is the opinion of this department that if a city were to pass an ordinance respecting barber shops alone, it would not be in conflict with the State law. You will note that the City is empowered to pass such ordinances respecting barber and beauty shops but it is not obligatory that they do so.

Very truly yours,

RUSSELL C. STONE
Assistant Attorney General

APPROVED:

JOHN W. HOFFMAN, Jr.
(Acting) Attorney General

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