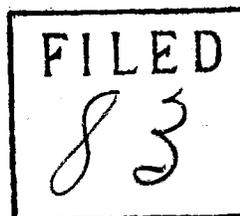


STATE BARBER BOARD: -Not authorized to examine applicant unless applicant has had training under licensed instructor.

March 21, 1945



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Honorable Harry G. Sloan, President
State Board of Barber Examiners
4617 Troost Avenue
Kansas City, Missouri

Dear Mr. Sloan:

Under date of March 9, 1945, you wrote this office requesting an opinion as follows:

"The State Board of Barber Examiners desires an opinion from your office upon a question involving the interpretation of Sections 10133 and 10134, R. S. Mo. 1939.

"The question is whether or not, under the provisions of the above mentioned sections, a person desiring to secure a license to practice the trade of barbering is authorized to take an examination under the State Board by serving an apprenticeship under a licensed barber who has not been licensed as an instructor in barbering by the State Board of Barber Examiners."

Your request calls for our interpretation and construction of the two statutes mentioned, Sections 10133 and 10134, and in connection with our reply we quote a few of the fundamental rules of statutory construction. These rules are taken from the cases of Artophone Corporation v. Coale, 345 Mo. 344, l. c. 353!

"* * * Of course 'The primary rule of construction of statutes is to ascertain the lawmakers' intent, from the words of the statute if possible; and to put upon the language of the Legislature, honestly and faithfully, its plain and rational meaning and to promote its object, and "the manifest purpose of the statute, considered historically," is properly given consideration.'"

And Cummins v. Kansas City Public Service Company, 334 Mo. 672, l. c. 701:

"In arriving at the meaning of a statute, the language thereof is to receive a common-sense construction, words being taken in their usual and ordinary sense. If the import of the act, so read, is not clear certain extrinsic aids to construction may be resorted to, such as a consideration of the prior state of the law and the legislative policy evidenced by related statutes. * * *"

For a better understanding of the problem it is deemed advisable to give a brief history of the legislation relating to practicing the trade of barbering. The first act was passed in 1899, Senate Bill 59, Laws of 1899, page 44. This law has been amended from time to time, the dates of all of the amendments are omitted because they are not pertinent to your inquiry. However, the last amendment in 1939 does contain a clause which is vital to the solution of your question. It is found in the amendment of 1939, House Bill 189, Laws of 1939, page 249, and relates to the licensing of persons who teach barbering, and is here quoted from Section 10133:

"* * Any person desiring to teach barbering in this state in a barber school, college or barber shop must first make application to appear before said board for an examination as a teacher or instructor in said occupation and shall pay to the treasurer of said board an examination fee of \$25.00, whereupon said board shall

proceed to examine such applicant and after finding that he is duly qualified to teach said occupation, said board shall issue to him a certificate of registration entitling him to teach barbering in this state, subject to all the provisions of this chapter."

Interpretation and construction of this statute with the first clause of Section 10134 has given rise to your question. The first clause of Section 10134 is as follows:

"Nothing in this chapter shall prohibit any person from serving as an apprentice in said trade under license issued by the board under a barber authorized to practice in the same, under this chapter, nor from serving as a student in any school or college for teaching said trade under the instruction of a qualified barber; * * *"

This clause was in the first law enacted in 1899 and has remained the same ever since.

Section 10133 prescribes the qualifications for persons desiring to take an examination for the purpose of procuring a barber's license. The qualifications required by the original act of 1899 and carried down to 1939 are as follows:

"Any person not following the occupation of barbering at the time this chapter goes into operation, desiring to obtain a qualified certificate of said occupation in this state, shall make application to said board therefor and shall pay to the treasurer of said board an examination fee of ten dollars, and shall present himself at the next regular meeting of the board, for examination of applicants, whereupon said board shall proceed to examine such person, and, being satisfied that he is above the age of nineteen years, of good moral character, free from contagious or infectious diseases, has either

studied the trade for two years as a registered apprentice, under a qualified and practicing barber, or studied the trade for at least 1000 hours over a period of not less than six months in a properly appointed and conducted barber school under the direct supervision of an instructor, who is licensed as such by the State Barber Board of Missouri; and an additional eighteen months as a registered apprentice under a qualified and practicing barber, or practiced the trade in another state for at least two years and is possessed of requisite skill in said trade to properly perform all the duties thereof, including his ability in the preparation of the tools, shaving, hair-cutting and all the duties and services incident thereto, and is possessed of sufficient knowledge concerning the common diseases of the face and skin to avoid the aggravation and spreading thereof in the practice of said trade, shall enter his name in the register hereinafter provided for, and shall issue to him a certificate of registration, authorizing him to practice said trade in this state: * * *

From the enactment of the first law regulating the practice of the trade of barbering, until 1939, there was no attempt made to license persons teaching the trade other than that they were required to be licensed barbers as shown by the above quoted portion of Section 10133. Under this situation the law did not attempt to prohibit any person from studying to become a barber either as an apprentice or as a student in a school or college. It merely prohibited persons from taking an examination and procuring a license until they had acquired the qualifications required for a person desiring to be examined. For example, the license could not be granted until the person had attained the age of eighteen, but a person seventeen years of age might become trained as an apprentice or a student.

It is apparent that the first clause of what is now Section 10134 was not intended to make an exception to the provision of Section 10133 setting up the qualifications required for procuring a license to practice the trade.

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By the terms of the 1939 amendment heretofore referred to, persons who teach or instruct are required to procure a license before engaging in the instruction of persons who desire to qualify. Hence, under the law as it exists at the present time, the qualifications required of an applicant for a license as a barber have been increased so that the applicant must have had the required instruction, either as an apprentice or as a student in a school or college, from some person who is licensed as a barber and further licensed as an instructor.

Conclusion

Therefore, the conclusion is reached that, under the law as it exists today, the State Board of Barber Examiners is not authorized to examine an applicant for a license unless said applicant has had the required instruction, either as an apprentice or student, from a person licensed as an instructor.

Respectfully submitted,

W. O. JACKSON
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

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