

COSMETOLOGY:

Section 329.070, RSMo 1959, requires a person to be at least seventeen years of age before that person can be an apprentice or student. The State Board of Cosmetology cannot waive this requirement.

OPINION NO. 332

September 1, 1967

Mrs. Jean Casey
Executive Secretary
Missouri State Board of
Cosmetology
1502 West Dunklin
Jefferson City, Missouri



Dear Mrs. Casey:

This is in answer to your request for an opinion of this office, which request reads as follows:

"I would like to request an official Attorney General opinion on Section 329.070. Registration of apprentices or students, fee, qualification.

The St. Louis Board of Education has asked the State Board of Cosmetology for a waiver of the age of 17 for students enrolling in the O'Fallon Technical School of Cosmetology.

My question is, 'Does the Board have the right to waiver this law.'"

Chapter 329, RSMo, provides for the licensing and regulation of persons practicing cosmetology. Section 329.030, RSMo 1959, makes it unlawful to engage in the practice of cosmetology without a certificate of registration as provided for in Section 329.040, RSMo 1959.

The qualifications for examination or registration are set out in Section 329.050, RSMo 1959. This section reads in part as follows:

"(2) They shall have served and completed as an apprentice under the supervision of a registered operator the time and studies required by the board which shall be not less than one year for hairdressers and cosmetologists and not less than three months for manicurists; or shall have

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had the required time in a registered school of at least one thousand hours' training over a period of six consecutive months for the classifications of hairdressers and cosmetologists and at least one hundred fifty hours for manicurists, except that operators having taken manicuring together with hairdressing or cosmetology shall not be required to serve the extra hours otherwise required to include manicuring; and"

An "apprentice" or "student" is defined in Section 329.010, RSMo 1959, as follows:

"(1) * * * is a person who is engaged in training within a hairdressing or cosmetologist's or manicurist's establishment or school, and while so training assists in any of the practices of the classified occupations within this chapter under the immediate direction and supervision of a registered operator or instructor;"

Section 329.070, RSMo 1959, provides for the registration of apprentices or students and reads as follows:

"Apprentices or students shall be registered with the state board of cosmetology and shall pay a registration fee of one dollar, and, while learning or acquiring any of the practices of the classified occupations shall be at least seventeen years of age, of good moral character and have an education equivalent to the eighth grade."

The primary rule in construing statutes is to ascertain and give effect to the legislative intent and words must be given their plain and ordinary meaning with a view to promoting the apparent objective of the legislature by their use. *St. Louis Southwestern Ry. Co. v. State Tax Commission of Missouri, Mo.*, 319 S.W.2d 559.

It is our opinion that legislative intent is plain that a person must be at least seventeen years of age before that person can be an apprentice or student.

The State Board of Cosmetology created and established by Section 329.180, RSMo 1959, has certain powers enumerated by Section 329.210, RSMo 1959. Neither this section nor any other section of Chapter 329, supra, authorizes the State Board of Cosmetology to waive the requirements of Section 329.070, supra. In *State ex rel. Springfield Warehouse and Transfer Co. v. Public Service Commission*, 240 Mo.App., 1147, 225 S.W.2d 792, it was held that the Public Service Commission of Missouri has no power except that granted by the legislature, and the Commission cannot adopt a rule, or follow a

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practice, which results in nullifying the expressed will of the legislature, and it cannot, under the theory of construction of a statute, proceed in a manner contrary to the plain terms of a statute.

Since the requirement of seventeen years of age is plainly established by statute the State Board of Cosmetology cannot waive the requirement.

CONCLUSION

It is the opinion of this office that Section 329.070, RSMo 1959, requires a person to be at least seventeen years of age before that person can be an apprentice or student. It is our further opinion that the State Board of Cosmetology cannot waive this requirement.

The foregoing opinion, which I hereby approve, was prepared by mr assistant, Walter W. Nowotny, Jr.

Yours very truly,


NORMAN H. ANDERSON
Attorney General