

COSMETOLOGY:

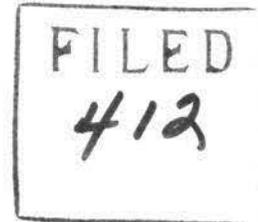
WIGS:

1. Department store sales personnel who receive compensation either from the store or from the customer for combing, brushing and arranging individuals' hair in the process of selling or servicing wigs are practicing the occupation of hair-dresser within the meaning of Section 329.020, RSMo 1969, and must obtain a certificate of registration from the State Board of Cosmetology. 2. The department store in which the occupation of hair-dresser is practiced must also obtain a certificate of registration from the State Board of Cosmetology.

OPINION NO. 412

September 16, 1970

Honorable Jack E. Gant  
State Senator  
Sixteenth District  
9517 East 29th Street  
Independence, Missouri 64052



Dear Senator Gant:

This official opinion is issued in response to your request concerning the following question:

"I have received several inquiries from constituents in regard to the practice of stores in the selling and servicing of wigs.

"I have been advised that numerous department stores are combing, brushing, and arranging individuals' hair in the process of selling this merchandise. I am further advised that this is done by sales people and not by licensed people under the State Board of Cosmetology.

"Thus, I would appreciate it if you would provide me with an opinion as to

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whether any sanitation statutes or regulations of the State Board of Cosmetology are being violated by this practice."

Section 329.020, RSMo 1969, provides in part as follows:

"Any person who engages for compensation in any one or any combination of the following practices, to wit: Arranging, dressing, curling, singeing, waving, permanent waving, cleansing, cutting, bleaching, tinting, coloring or similar work upon the hair of any person by any means shall be construed to be practicing the occupation of a hairdresser. . . ."

Section 329.030, RSMo 1969, prescribes that:

". . . It shall be unlawful for any person in this state to engage in the occupation of hairdresser. . . , or to conduct a hair-dressing. . . establishment. . . , unless such person shall have first obtained a certificate of registration as provided by this chapter."

Section 329.050, RSMo 1969, details the qualifications that an applicant must possess in order to obtain a certificate of registration as a hairdresser.

It is clear that department store sales personnel perform hairdressing services, as defined in Section 329.020, supra, by combing, brushing, and arranging individuals' hair in the process of selling and servicing wigs. Such persons must be certified as hairdressers if they perform their services for compensation.

Department store sales personnel who comb, brush and arrange individuals' hair in the process of selling or servicing wigs, obviously perform their services for compensation when they are paid a specified rate of remuneration directly by the customer for the hairdressing services alone, or when they are paid a single fee directly by the customer for the wig and the hairdressing services together. While the amount of the compensation paid for hairdressing services in the latter instance may be uncertain, it is clear that part of the compensation is consideration for such services. Section 329.020, supra, does not require that the amount of compensation be clearly ascertainable in every instance.

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Such sales personnel also engage in performing hairdressing services for compensation when remunerated by the department store for performing hairdressing services alone or for performing such services in conjunction with selling and servicing wigs. Section 329.020, supra, does not require that the compensation be paid directly by the customer to the person performing the hairdressing services.

Such department store sales personnel may also perform hairdressing services for compensation by accepting tips regularly given by customers. In Attorney General Opinion No. 20, dated February 3, 1953, to the Honorable Robert E. Crist, this office expressed the opinion that a person who performs hairdressing services in her home without charge but accepts tips regularly given by her customers is practicing as a hairdresser for compensation within the meaning of Section 329.020, RSMo 1969, and must obtain a certificate of registration. A copy of that opinion is enclosed.

Thus, if department store sales personnel receive compensation for combing, brushing and arranging customers' hair in the process of selling or servicing wigs they are practicing the occupation of hairdresser, as defined in Section 329.020, supra, and must obtain the necessary certificate of registration. In addition, the store itself in which the occupation of hairdresser is practiced is required to obtain a certificate of registration under Section 329.045, RSMo 1969.

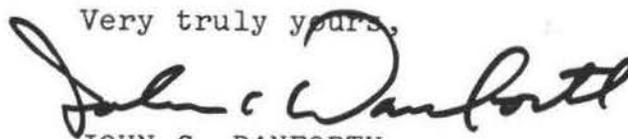
#### CONCLUSION

Therefore, it is the opinion of this office that:

1. Department store sales personnel who receive compensation either from the store or from the customer for combing, brushing and arranging individuals' hair in the process of selling or servicing wigs are practicing the occupation of hairdresser within the meaning of Section 329.020, RSMo 1969, and must obtain a certificate of registration from the State Board of Cosmetology.
2. The department store in which the occupation of hairdresser is practiced must also obtain a certificate of registration from the State Board of Cosmetology.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Harvey M. Tettlebaum.

Very truly yours,



JOHN C. DANFORTH  
Attorney General

Enclosure:

Op. No. 20  
2-3-53, Crist