

Relating:--To fee for registration of hairdressing cosmetologists's
or manicurists Establishment or school.

2-17

February 16, 1934.



Hon. Roscoe Claycomb
Representative Third District
Jasper County
2021 Wall St.
Joplin, Missouri

Dear Sir:

We acknowledge receipt of your letter of February 8,
1934, in which you state and inquire as follows:

"I would like to have your opinion as to the interpretation of Section 9092 of the R. S. of 1929 in regard to the fee for a school under this section. The statute states that there is to be an annual registration determined annually by the Board of Health, but in no case to exceed \$100.00.

If a school opens for business on April 1st or July 1st or October 1st, what fee should the school be forced to pay that opens on April 1st, or the school that opens on July 1st what fee, and the school that opens October 1st what fee?

In other words this statute states that the fee shall not exceed \$100.00 annually, does that mean that regardless of the time of the year the school opens for business, even though in the month of December that the school has to pay \$100.00 for its license for the balance of the year, or does the statute mean that the time is divisible and that the school should only pay that part of a \$100.00 according to the proportionate time of the year left at the time the school opens.

I think this should be divisible and I am interested in what your opinion is so that I can act accordingly."

Section 9089 R. S. Mo. 1929, provides as follows:

"It shall be unlawful for any person in this state to engage in the occupation of hairdresser or cosmetologist or manicurist, or to conduct a hairdressing or cosmetologist's or manicurist's establishment or school, unless such person shall have first obtained a certificate of registration as provided by this article."

Section 9092 R. S. Mo. 1929, provides in part as follows:

"It shall be competent for any person, firm or corporation to apply to the state board of health for a certificate of registration of a school for any one or more of the classified occupations within this article upon the payment of a reasonable annual registration fee as determined annually by the said board but in no case to exceed the sum of one hundred dollars.* * * * *"

It will be observed that the statutory provision as appears in Section 9092 supra, empowers the State Board of Health to determine the registration fee which may be charged annually to any person, firm or corporation for certificate of registration, to engage in the occupation of hairdressing, cosmetologist's or manicurist's to conduct an establishment or school within this state. Said fee not to exceed the sum of \$100.00 annually. 3 C. J. p. 197, defines the word "annually" thus; "year by year, by the year, yearly, each year, every year, once a year, once in every year."

Where a statute provided that every trust company shall pay annually for the privilege of exercising its corporation franchise a certain annual tax, it was held that the word "annually" did not show that the Legislature did not intend that a trust company should pay for any period of existence less than a year, and hence a trust company was liable for a tax although it had only been in business six days when the tax was assessed.

Poe vs. Miller, 85 A. pp. Div. 211-214.
83 N.Y.S 185.

The word "annually" as used in the city charter of San Francisco, provided that the first general election for city officers shall be held in April, 1851, and thereafter "annually" at the general election for state officers does not mean a measure of time, but a succession of calendar years, and as the general elections are held in September the first officers elected in April only hold to such time; as the word annually has no relation to the first election held in April so as to make the one of the annual elections contemplated.

People vs. Brenham, 3 Cal. 477-488.

CONCLUSION.

Therefore, we conclude from the foregoing statutory provisions and the constructions herein set forth, that the annual registration fee as provided in Section 9092 supra shall be paid for the privilege of conducting a hairdressing or cosmetologist's or Manicurist's establishment or school as provided in Section 9089 supra, for a year or any fractional part thereof; as in our opinion the word "annually" does not mean a measure of time and has no relation to the time when paid, so as to make the one to be paid each year on the date first paid, and that said fee is not divisible.

Respectfully submitted,

W. W. BARNES,
Assistant Attorney General.

APPROVED:

ROY McKITTRICK,
Attorney General.

WWB:MM