

OPINION 25

It is, therefore, clear that under the above statutes beauty culturists without the necessity of having a hair cutter's license are now authorized:

1. To cut hair in combination with the giving of a permanent wave.

2. Under the Barber Act they are authorized to do light hair trimming incidental to waving of all kinds, which would include hair setting. By these provisions the legislature has somewhat differentiated between hair cutting and light trimming. A hairdresser or beauty culturist who does not have a hair cutter's license is not authorized to cut hair except in connection with such person giving a permanent wave, nor is such operator without a hair cutter's license authorized to light trim the hair except in connection with a setting or waving of the hair. This sufficiently answers your question Number One.

As to your question Number Two, I am of the opinion any person cutting hair in a beauty shop or hairdresser's establishment must have a hair cutter's license issued by the Barber Board except for those hairdressers and beauty culturists exempt therefrom, as pointed out in the last preceding paragraph of this opinion.

OFFICIAL OPINION NO. 25

April 12, 1950.

Mr. Bernard E. Doyle, Chairman,
Indiana Alcoholic Beverage Commission,
201 Illinois Building,
Indianapolis, Indiana.

Dear Sir:

I have your communication of April 3, 1950, which reads as follows:

"The Act of 1947, Chap. 222, Sec. 17, thereof, provides that cigarette distributors engaged in interstate business shall be permitted to set aside such part of the stock as may be necessary for the conduct of such interstate business without affixing the stamps required by the Act.

“Will you please give this Commission an official opinion as to whether or not the Commission must collect the tax or may be permitted to waive the collection of the tax, when untaxed cigarettes are stolen from the premises of wholesalers, if evidenced by proof of insurance loss and by evidence of a police report showing the cigarettes to be stolen.

“Also, please give us your opinion as to whether or not in Sec. 23 of said Chap. 222, requires a cigarette distributor to stamp all cigarettes within six days of receipt of same.”

I assume that in quoting from the statute in reference to setting aside cigarettes to be sold in interstate commerce, that your question involves such type of cigarettes and does not apply to cigarettes held for retail intrastate trade.

I am of the opinion that if cigarettes held by the distributor in storage and set aside for interstate sales are stolen, that the Commission may waive the collection of the tax upon proper showing of that fact. The evidence of such theft should be established to your entire satisfaction. It must be understood, however, that what is said here does not apply to cigarettes for retail intrastate trade that have been held in storage for six (6) days without the payment of the tax, that the tax can not be waived because it is the duty of the distributor to see that the proper stamps are applied before the six (6) days have expired.

In answer to your second question, Section 23 specifically requires that every individual package of cigarettes held, owned, possessed or controlled by any person which have not been stamped as required by law, shall be contraband goods, all cigarettes, except those held for interstate shipment must be stamped within six (6) days after the receipt of the same.

It, therefore, appears there is no other exception to the requirements as to the distributor.