

case as applied to the federal statute concerning using the mails to promote frauds indicates that the offenses under the statute here mentioned are felonies for the reason that the body of the statute does not set out whether the offenses are misdemeanors or felonies, but does specify that the penalty may be imprisonment for more than one year.

I am clearly of the opinion that in view of this construction of the federal statute with regard to felonies and misdemeanors that offenses under the federal statute concerning using the mails to promote frauds are felonies. Therefore, my answer to your question is in the affirmative; namely, that a person convicted in Federal Court of using the mails to defraud is guilty of a felony.

I trust that the above is a complete answer to your question.

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**BARBER EXAMINERS, STATE BOARD OF: Rules and regulations not applicable to hours or days of working of licensed barbers.**

April 12, 1937.

Mr. Frank McKamey, Secretary,  
State Board of Barber Examiners,  
State House,  
Indianapolis, Indiana.

Dear Sir:

I acknowledge receipt of your request of April 9 for an opinion on instructions relative to a letter of inquiry dated April 9, 1937, from the city attorney of Richmond to which letter said city attorney attaches a copy of a proposed ordinance.

The letter from the city attorney inquires whether or not the Indiana State Board of Barber Examiners has the authority to enact an ordinance such as is proposed by the city of Richmond, or whether the authority to regulate barber shops rests wholly with the Indiana State Board of Barber Examiners.

I note from the ordinance that the city proposes to regulate the days of the week and hours of each day that barber shops located within the city may remain open for the practice of the profession of barbering.

Chapter 48 of the Acts of 1933 which pertains to the practice of barbering fails to give to the Indiana State Board of Barber Examiners any power or authority whatsoever pertaining to days and hours that barber shops may remain open for the profession of barbering as practiced by duly licensed barbers.

Section 63-323 Burns Indiana Statutes, Annotated, 1933, the same being section 23 of chapter 48 of the Acts of 1933, pertaining to barbers, has the following in part to say:

“The board shall have authority to make reasonable rules and regulations for the administration of the provisions of this Act.”

Since, as stated above, the legislature of the State grants no power or authority to the board to make rules or regulations pertaining to days and hours as above stated, any rule or regulation that the Indiana Board of Barber Examiners might make pertaining to the same would be clearly without authority, as such a rule or regulation would not be reasonable and would not be within the provisions of the Barbers Act. The only provision found in the statute pertaining to days of labor for any person is that found in section 10-4301 Burns Indiana Statutes, Annotated, 1933. This section pertains to working on Sunday.

The conclusion is:

1. That the proposed ordinance fixing days and hours that barbers may follow their trade or profession does not conflict with chapter 48 of the Acts of 1933;

2. That the Indiana State Board of Barber Examiners has no supervisory authority to regulate or enforce in any way any of the terms or conditions set out in the ordinance except that of working on Sunday.

3. The crime of working on Sunday is regulated by statute, but since the ordinance prohibits working on this day, it does not in any way conflict with the statute and;

4. That any rule or regulation that might be passed by the Indiana State Board of Barber Examiners pertaining to hours and days of labor for barbers, except as above stated would be clearly without its authority and would be an unreasonable rule which could not be enforced by the State Board.