

prentice for a period of three (3) months under the immediate personal supervision of a registered beauty culturist."

It is evident, in view of the above, that a person is neither qualified nor eligible to take an examination for a registered beauty culturist certificate unless and until she has first become qualified as a registered apprentice and practiced as such for a period of three months.

I am, therefore, of the opinion that a candidate is not entitled to take both examinations concurrently and that her examination for a certificate to practice as a registered beauty culturist was a nullity. It follows that she is entitled to the refund of the seven dollars paid for the operator's examination.

ACCOUNTS, STATE BOARD OF: Poll tax, exemption of militiamen therefrom.

December 3, 1937.

Hon. W. P. Cosgrove,
State Examiner,
State Board of Accounts,
State House,
Indianapolis, Indiana.

Dear Sir:

I have before me your recent letter which reads as follows:

"Section 45-1210, Burns, 1933, sets forth that members of the active militia are to be exempt from public tax. This is a portion of chapter 142 of the Acts of 1923.

"Section 64-201, Burns, 1933, enumerated property exempt taxation and, also, included the poll tax of soldiers, sailors and militiamen. This section was reenacted as chapter 262 of the Acts of 1937, and the poll tax exemption provision was omitted.

"I would like to have your official opinion on the question, 'Are active militiamen exempt from the payment of poll tax?'"

Section 64-201, Burns Ann. St., 1933, to which you refer reads as follows:

"The following property shall be exempt from taxation: * * *

“Twelfth. Every officer and enlisted man of the *active militia*, and *every soldier and sailor in the active service* of the United States army and navy, on any poll or road tax; and in the case of an officer, his commission, and of an enlisted man a certificate of his commanding officer, shall be sufficient evidence that he is so exempt.”

(Acts 1919, ch. 50, l. 5, p. 198; 1920 (Spec. Sess.), ch. 49, l. 1, p. 164; 1921, ch. 222, l. 6, p. 638; 1923, ch. 191, l. 1, p. 550.)

This Act of 1919, as amended, served to exempt *militiamen*, *soldiers* and *sailors* from the payment of poll tax. The legislature in 1923, subsequent to the passage of the above Act, by section 22 of an Act for reorganization of the Indiana militia, and prescribing regulations, exemptions, etc., provided as follows:

“Sec. 22. Every officer and enlisted man of the *active militia* shall be exempt from service on any jury in any court of this state and from the payment of any poll and road tax; and in case of an officer, his commission, and of an enlisted man, a certificate of his commanding officer, shall be sufficient evidence that he is so exempt, and any citizen who shall have performed duty in any military organization of the national guard of the state for a period of six (6) years and has been honorably discharged shall be exempt from serving as a juror in any court of the state. (Burns, 1933, Sec. 45-1210.)”

In view of the foregoing section of the 1923 Act, it is my opinion that, exclusive of the general exemption provisions of section 64-201, Burns, 1933, the members of the *active militia* were specifically exempt from the payment of a poll tax prior to its amendment by section 1, chapter 262 of the Acts of 1937.

The 1937 legislature, by chapter 262, amended the general provisions for tax exemptions as set out in section 64-201, Burns, 1933, and in so doing deleted clause 12 relative to poll tax exemptions for militiamen, soldiers and sailors. Therefore, since this re-enactment of tax exemptions was by amendment to the original 1919 exemption as set out in

Burns, 1933, Sec. 64-201, the statute must be considered today in its amended form as if originally passed in that form in 1919. No exemption to militiamen from the payment of poll tax now appearing in that enactment the statutes passed subsequent to that date must be looked to for any exemption for such militiamen. Such provision is made by section 22, chapter 142, Acts of 1923, as found in Burns, 1933, at section 45-1210, as quoted above.

By the language of that section, as italicized above, it is clear that the legislature intended to exempt from the payment of poll tax every officer and enlisted man of the *active militia*.

Since this Act has never been repealed or amended its provisions are still in effect and those qualifying under its provisions, i. e., "officers and enlisted men of the active militia" are now exempted from the payment of poll tax. As to a definition of "active militia," I call your attention to Burns, 1933, section 45-103, the first part of which reads as follows:

"The active militia shall consist of such able-bodied male citizens between the ages of eighteen (18) and forty-five (45) years, as may be enrolled, organized and mustered into service of the state as hereinafter provided. * * *"

In view of the foregoing, it is my opinion that active militiamen are now exempt from the payment of poll tax.

PHARMACY, BOARD OF: Poisonous medicines defined.

December 6, 1937.

Russell B. Rothrock,
Secretary,
Indiana Board of Pharmacy,
307 State House,
Indianapolis, Indiana.

Dear Mr. Rothrock:

Receipt is acknowledged of your letter dated November 13, 1937, on the interpretation and meaning of the following statute:

Section 63-1114 Burns Indiana Statutes Annotated, 1933, reads as follows: