OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Mrs. Agnes McCurry, Secretary
State Board of Hairdressers and Cosmetologists
Austin, Texas

Dear Madam:

Opinion No. O-4631
Re: State Board of Hairdressers and Cosmetologists has no legislative power and cannot waive requirements of law with reference to the payment of renewal license fees of operators.

Your request for opinion has been received and carefully considered by this department. We quote from your request as follows:

"We respectfully request that you advise us whether or not the Board would be authorized to make a ruling, for the duration of the War, to suspend the license fees on men who have been called into the service.

"In this connection, we are quoting herewith Section 18, House Bill No. 189, which reads as follows:

"'The first certificate of registration and license shall be valid until August 31, 1936. Thereafter no certificate or license shall be issued for a longer period than one (1) year and shall expire on the 31st day of August, of the year for which they are issued unless renewed prior to that date. The holder of an expired certificate or license may have said certificate or license restored within one (1) year after the date of expiration, upon the payment of the required renewal fee and satisfactory proof of his or her qualifications to resume practice.'

"We have had so many inquiries recently regarding this point that we would like to know if the State Board would be authorized to suspend the fees and renew the licenses on these men, upon their return to civilian life. Otherwise, the State Board examination would be necessary, if their license had lapsed, before they could be issued another one to resume work as an operator in this state."

Section 1 of Article 734b, Vernon's Annotated Texas Penal Code, makes it unlawful for any person to engage in the practice or occupation of a hairdresser or cosmetologist or to conduct a hairdressing or cosmetological establishment or school without a certificate or registration and/or license as provided under the act. Section 18 of the act (Article 734b, V. A. P. C.) quoted by you in your letter provides for the annual renewal of certificates of registration and/or licenses and provides that the holder of an expired certificate or license may have said certificate or license restored within one (1) year after the date of expiration, upon the payment of the required renewal fee and satisfactory proof of his or her qualifications to resume practice.

Article 1, Section 28 of our State Constitution, provides:

"No power of suspending laws in this State shall be exercised except by the Legislature."

The Legislature has undoubted power to amend or change existing statutory law, including that which is contained in a code or revision, in order to meet changing conditions. An act may be amended during the session at which it was passed or at any subsequent session, by enactment specifically setting forth its changed terms. (Texas Jurisprudence, Volume 39, page 125, and authorities cited therein)

You are respectfully advised that it is the opinion of this department that the State Board of Hairdressers and Cosmetologists is without power to waive or suspend the requirements of the statute set out in Section 18 of the act.

Whether such law should be amended or repealed is a question addressing itself peculiarly and exclusively to the

Legislature.

Very truly yours
ATTORNEY GENERAL OF TEXAS

By Wm. J. Fanning
Wm. J. Fanning
Assistant

WJF:GO

APPROVED
OPINION
COMMITTEE
BY
CHAIRMAN

APPROVEDJUN 11, 1942

Gerald C. Mann
ATTORNEY GENERAL OF TEXAS