

**Opinion No. 167.**

**Cosmetology—Practice of, Fees for—  
Itinerant Cosmetologist, Who Is.**

HELD: One who goes about from house to house giving free facials and selling cosmetics, is a cosmetologist as defined by Section 2, Chapter 222, Laws, 1939, and must pay the license fee provided by said Chapter 222.

November 21, 1939.

Jessie Taber  
Secretary-Treasurer,  
The Montana State Examining  
Board of Beauty Culturists  
Forsyth, Montana

Dear Madam:

Your letter of November 15 submits the following questions:

1. Is a representative of an out-of-state company manufacturing cosmetics, who goes from house to house giving free facials and selling their line of cosmetics, a cosmetologist?
2. Should an itinerant cosmetologist, representing an out-of-state company manufacturing cosmetics, pay a license fee?

Section 2 of Chapter 222, Laws of 1939, amended Section 3228.2, R. C. M., 1935, and describes a cosmetologist as one who does work such as is generally and usually included in the term of hairdressing and beauty culture, and hairdressing and beauty culture is such work as is done for the embellishment, cleanliness and beautification of the hair, scalp, face, arms and hands.

As to the first question we would interpret the law to mean that any person who goes about to give treatments such as are covered by the above definition is a cosmetologist. Section 3 of the amending chapter provides that before any person may practice \* \* \* cosmetology, such person must obtain a license or certificate of registration from the State Board, and qualify as provided for in said Section 3.

Section 12 of the aforesaid amending chapter, as far as pertinent to the question, reads as follows:

"\* \* \* Each applicant for itinerant license as a cosmetologist, shall pay a fee of twenty-five dollars (\$25.00). Such license fees shall be paid annually in advance to the secretary of the board."

Section 2, as far as pertinent herein, provides an exception for certain cosmetologists, reading as follows:

"\* \* \* Provided, however, that itinerant cosmetologists shall not be construed to include itinerant cosmetologists who perform their services without compensation for demonstration purposes, in any regularly established store or place of business, holding a license from the State of Montana as such store or place of business."

It is quite apparent from said Chapter 222, Laws of 1939, that the intention of the legislature was to prevent the practice of cosmetology by going from house to house and giving treatments and that those who do so practice should pay an itinerant license as a cosmetologist.