

## Opinion No. 124.

Attorneys—Licenses—Admission  
to Bar.

Held: The fee of twenty-five dollars required to be paid by an applicant for admission to the bar, under Section 8950, Revised Codes of Montana, 1935, is not exempted under the provisions of Chapter 106, Laws of 1943.

September 18, 1943.

Mr. Frank Murray, Clerk  
Supreme Court  
State Capitol  
Helena, Montana

Dear Mr. Murray:

You have requested my opinion as to "whether any provisions have been made wherein persons engaged in military service of the United States are exempt from paying the \$25.00 fee for admission to the Bar of Montana by examination or on motion as provided by the rules of the Supreme Court of Montana."

The Twenty-eighth Legislative Assembly of Montana, 1943, enacted Chapter 106, Laws of 1943, which provided for exemptions from payment of certain license fees for professional and personal service occupations. Section 1 of said chapter, in part, provides as follows: .

"The collection from any person in the military service of the United States, as defined by the soldiers' and sailors' civil relief act of October 17, 1940, as amended October 6, 1942,

of any license fee or privilege fee or charge, or tax for, and as a prerequisite for carrying on any personal service occupation, or any profession, annually, or for any other period, or any part thereof, during which such person was in military service and for an additional period of six (6) months after the termination of his period of military service, if such person were not actually professing, carrying on and practicing his profession, avocation or occupation in the State of Montana during such period as herein extended, and such person or licensee shall not hereafter be liable for such license fee or privilege fee or tax or personal service charge for any period during which said conditions obtain." (Emphasis mine.)

This statute was enacted for the purpose of extending to those residents of Montana engaged in professional and personal service occupations for the privilege of which the statutes require the payment of a license or tax, relief from the payment thereof, during their period of military service, and for six months thereafter. It is what might well be termed "courtesy" legislation. A reading of the entire statute makes it clear that it was intended to apply to only those who are at the time of entry into the service actually engaged in such profession or personal service occupation, and, under existing statutes, required, in order to continue such profession or occupation, to pay such fee or license. It is likewise clear that the exemption applies only in the event that during the period mentioned, although in the military service, such person is "not actually professing, carrying on and practicing his profession, avocation or occupation in the State of Montana."

Section 8950, Revised Codes of Montana, 1935, provides, in part, as follows:

"Every applicant for admission to the bar, by examination or otherwise, must pay to the clerk of the supreme court, at the time he files his application for examination or his petition for admission, the sum of twenty-five dollars . . ."

The fee required to be paid by this statute is for the privilege of taking the examination. While it might appear that such fee comes within the ex-

pression used in Chapter 106, supra, "privilege fee or charge," I am of the opinion that the legislature did not intend to exempt the payment of the fee required by Section 8950, because the language of Chapter 106 clearly indicates that the fees or license intended to be exempted are those required to be paid annually, or for any other period of time, for the privilege of carrying on the profession or occupation. The fee required by Section 8950, supra, does not grant the person the right to carry on or engage in the practice of the profession, but merely gives him the right to take the examination to determine his fitness to carry on or engage in the profession. It is not a fee required to be paid "annually, or for any other period of time."

It is therefore my opinion that the fee of twenty-five dollars, required to be paid by an applicant for admission to the bar, under Section 8950, Revised Codes of Montana, 1935, is not exempted under the provision of Chapter 106, Laws of 1943.

Sincerely yours,  
R. V. BOTTOMLY  
Attorney General