

# MAINE STATE LEGISLATURE

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20  
November 20, 1964

State Board of Barbers  
Vickery & Hill Building  
Augusta, Maine

Gentlemen:

Re: Registration of Barber Shops; Permits to Practice  
Barbering.

Your memo of November 5 contains four questions. The four questions involve two separate sets of facts. It will be necessary to set forth two sets of facts and four separate questions.

**FACTS, NO. 1.**

Two barbers own a barber shop as partners. One sells his interest so the shop is run by the one remaining partner.

**QUESTION NO. 1**

How should the shop be registered and what is the fee?

**ANSWER NO. 1**

See Reason below.

**REASON NO. 1**

The matter of registration of barber shops is covered by R.S. 1954, C. 25, § 230-D. The third paragraph provides in part:

"No person, firm or corporation shall operate or cause to be operated a shop or establishment where barbering is practiced unless such shop or establishment has been duly licensed. The fee for a license to operate a barber shop and the yearly renewal thereof shall be \$7 yearly."

Obviously, the law contemplates a single license for each shop. Hence it follows that whoever operates the shop shall be the licensee. If two persons operate a shop as a partnership, then one license is issued to the partnership for a fee of \$7.00.

**QUESTION NO. 2.**

When one partner withdraws and the shop is operated by the remaining partner, must he re-register the shop and pay the fee of \$25.00?

**ANSWER NO. 2.**

Yes.

**REASON NO. 2.**

The third paragraph of section 230-D provides, following the portion quoted above:

"Shop licenses that require a special inspection, such as new barber shops, change of barber shop location and change of barber shop ownership, shall be \$25 in the first instance including the license, and \$7 for each yearly renewal thereof." (Underlining supplied.)

The legislature clearly stated that a "change of barber shop ownership" must have a special inspection and the fee for the first license after a change of ownership is \$25.

"Upon the dissolution of the partnership and the transfer of the interest of one partner to the other, the joint property becomes the latter's individual estate. *Hove v. Lawrence* 9 Cush. 553 and cases cited in note, 57 Am. Dec. 73. Thereafter, there can be no doubt that the plaintiff though conducting the business under the same trade name, was a legal entity separate and distinct from the former partnership." *Gass v. Robie*, 138 Me. 348 @ 351.

Hence, the changing from a partnership to a sole ownership is a "change of barber shop ownership" and requires a special inspection and a fee of \$25.

It should be pointed out, however, that such a barber shop is not a "new barber shop" as set forth in the rules and regulations relating to the Sanitation of Barber Shops, section 18.

**FACTS NO. 2.**

A person licensed as a barber in another state moves to Maine. He wishes to continue the practice of barbering in Maine.

**QUESTION NO. 1.**

Is a person who holds a license in another state and qualifies for examination in this state, and who has acquired his six months residence in this state immediately after an examination has been given by the Board, entitled to a "Permit to Practice Barbering" until the following examination is given?

**ANSWER NO. 1.**

See Reason below.

**REASON NO. 1.**

It must be assumed that the person is not eligible for a license without examination under section 230-G.

A person licensed in a state having no reciprocal agreement with Maine must establish a six months residence before taking an examination. See section 230-K.

It is necessary that a person be a resident for six months in order to qualify for a "permit to Practice Barbering." This is clearly set forth in the second paragraph of section 230-J.

"If any applicant to practice barbering, who has been a resident of the State of Maine for a period of at least 6 months, qualifies for examination, the board may issue to such applicant, until the results of the applicant's examination have been given, a permit to practice barbering . . . ."

An applicant who qualifies for the examination and has a 6 months residence is entitled to a permit "until the results of the . . . examination have been given." He does not have to take and fail an examination to be eligible for the permit provided for in section 230-J.

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QUESTION NO. 2.

Would a person, eligible to take the barber's examination, and who has been given a "Permit to Practice Barbering" before the examination, but who fails to appear for the examination, be considered eligible for a second permit?

ANSWER NO. 2.

No.

REASON NO. 2.

The only way the permit may be renewed or extended is upon failing to pass an examination.

"If applicant fails first examination following qualification, said applicant may renew permit. . . ."  
(Emphasis supplied).

A person cannot fail an examination he does not take.

Very truly yours,

George C. West  
Deputy Attorney General

GCW:H