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1. DRY CLEANING AND DYEING ACT—PROVISIONS APPLICABLE TO HAT CLEANING ESTABLISHMENTS—SHOULD BE CLASSIFIED BY TYPE OF SOLVENT USED—SECTIONS 843-19 THROUGH 843-25f, 843-25a G. C.
2. BUILDINGS TO BE REPAIRED, TORN DOWN OR DEMOLISHED—STATE FIRE MARSHAL OR HIS DEPUTIES AND OFFICERS REFERRED TO IN SECTION 835 G. C. HAVE SUCH POWERS THEREIN ENUMERATED WITH RESPECT TO DRY CLEANING ESTABLISHMENTS.

SYLLABUS:

1. The provisions of the Dry Cleaning and Dyeing Act, Section 843-19 to Section 843-25f, inclusive, General Code, are applicable to hat cleaning establishments and such establishments should be classified by the type of solvent used pursuant to the provisions of Section 843-25a, General Code.

2. The power of the Fire Marshal and his deputies and the officers referred to in Section 835, General Code, to order buildings to be repaired, torn down or demolished may be exercised with respect to buildings having dry cleaning establishments.

Columbus, Ohio, September 17, 1948

Hon. Fred J. Milligan, Director of Commerce  
Columbus, Ohio

Dear Sir:

I am in receipt of your request for my opinion in which you ask the following questions:

"1. Are hat cleaning establishments subject to the provisions of Section 843-25e, General Code, and therefore required to comply with the requirements contained in said section?"

"2. If hat cleaning establishments are not subject to the requirements imposed in Section 843-25e, General Code, are they governed by and subject to the provisions of Section 835, General Code?"

Your attention is directed to the provisions of Section 843-19, General Code, in which the definition of a "dry cleaning business" is given. The definitions contained in said section are applicable to the Dry Cleaning and Dyeing Act, Section 843-19 to Section 843-25f, inclusive, General Code. Section 843-19, General Code, provides:

"For the purposes of this act a dry cleaning business is defined to be the business of removing dirt, grease, paints and other spots and stains from wearing apparel, *hats, caps or similar headgear, felts, fur, hair, feathers, leather, rugs and all other textile fabrics* by immersion or agitation in a flammable or non-flammable liquid solvent, except water, in open vessels or closed machines, or by any hazardous process, or by brushing or scouring with such solutions.

"Dry dyeing is defined as a process of dyeing wearing apparel, felts, fur, hair, feathers, leather, rugs and all other textile fabrics in a solution of dye colors and flammable liquids.

"Flammable liquid is defined as any liquid or mixture of liquids, which in its original state, or after continued use or agitation, or by distillation, will burn in a closed cup tester, or which in any state when mixed with air gives off vapors which are combustible or explosive.

"Non-flammable liquid is defined as any liquid or mixture of liquids, which in its original state or after continued use or agitation or by distillation will not burn in a closed cup tester, or which in any state when mixed with air gives off vapors which are non-combustible or non-explosive.

“Dry cleaners and dry dyers or such other combination of such words is defined as a person, firm, association, or corporation operating a dry cleaning or dyeing business as defined previously for the purposes of this act.

“Such establishments devoted to cleaning hats, caps or similar headgear shall be authorized to have on hand for cleaning or other purposes not to exceed ten (10) gallons of flammable liquid which shall be kept in a safety can or cans, of a type approved by the state fire marshal of not more than five gallons capacity.” (Emphasis added.)

Your attention is directed to the definition of a dry cleaning business. As is stated, such a business includes the cleaning of hats, caps or similar headgear or of the fabrics used in the manufacture of such headgear. It can clearly be seen that the General Assembly in enacting the Dry Cleaning and Dyeing Act intended that such act should include a hat cleaning establishment. This conclusion is further substantiated by the last paragraph in the above quoted section.

Section 843-25a, General Code, provides:

“As a means of determining the class of installation into which a dry cleaning system may fall, the following schedule shall be employed:

Ether rates . . . . .	100
Gasoline rates . . . . .	90-100
Alcohol (ethyl) rates . . . . .	60-70
Kerosene rates . . . . .	30-40
Paraffin oil rates . . . . .	10-20

“Dry cleaning systems shall be of four classes based on the foregoing hazard scale as follows:

“Class I—Systems utilizing solvents rated above 40.

“Class II—Systems utilizing solvents rated 40 or below but which do not comply with Class III or Class IV requirements.

“Class III—Closed systems utilizing solvents rated at 25 or below. Systems and solvents shall be approved by the state fire marshal.

“Class IV—Closed systems utilizing solvents rated at 5 or below approved by the state fire marshal.”

As can readily be seen, dry cleaning establishments are classified by the type of solvent used in the dry cleaning operation. There is no clas-

sification of hat cleaning establishments as a separate group or classification other than the provisions made in the last paragraph of Section 843-19, General Code, supra, which states that "Such establishments devoted to cleaning hats, caps or similar headgear shall be authorized to have on hand for cleaning or other purposes not to exceed ten (10) gallons of flammable liquid which shall be kept in a safety can or cans, of a type approved by the state fire marshal of not more than five gallons capacity." It necessarily follows that all dry cleaning establishments or systems including hat cleaning establishments will be a member of one of the four named classes. As is stated in Section 843-25a, General Code, supra, these classes are inclusive. Section 843-25e, General Code, to which you refer in your request for my opinion sets forth the requirements for Class IV dry cleaning systems. There is no provision in the Dry Cleaning and Dyeing Act which requires that hat cleaning establishments be solely classed as Class IV systems. The clear and expressed provisions of said act require that hat cleaning establishments be classified in one of the four classes pursuant to the provisions of Section 843-25a, General Code.

In specific answer to your first question, it is my opinion that hat cleaning establishments can be classified in one of the four classifications given in Section 843-25a, General Code, and that hat cleaning establishments need not be solely classified as Class IV systems. The last paragraph of Section 843-19, General Code, is applicable in my opinion, to all four classifications.

In your second question, you ask whether Section 835, General Code, governs hat cleaning establishments. As I did not categorically answer your first question "yes" or "no" I feel that some comment should be made on Section 835, General Code. Said section provides:

"If the state fire marshal, a deputy state fire marshal, or assistant fire marshal, or any officer mentioned in the preceding section, upon an examination or inspection *finds a building or other structure, which for want of proper repair, by reason of age and dilapidated condition, defective or poorly installed electrical wiring and equipment, defective chimneys, defective gas connections, defective heating apparatus, or for any other cause or reason is especially liable to fire or endangers life or other buildings or property, such officer shall order such building or buildings to be repaired, torn down, demolished, materials removed and all dangerous conditions remedied. If such officer*

*finds in a building or upon any premises any combustible or explosive material, rubbish, rags, waste, oils, gasoline or inflammable conditions of any kind, dangerous to the safety of such buildings or premises, buildings or property, he shall order such materials removed or conditions remedied. If such officer finds that any building, structure, tank, container or vehicle used for the storage, handling or transportation of petroleum liquids, or liquefied petroleum gases, or the pumps, piping, valves, wiring and materials used in connection therewith does not comply with the standards or orders of the state fire marshal, he shall make such order as may be reasonably necessary to insure such compliance. Such order shall be made against and served personally or by registered letter upon the owner, lessee, agent, operator or occupant of such building or premises, and thereupon such order shall be complied with by the owner, lessee, agent, operator or occupant and within the time fixed in said order."* (Emphasis added.)

The powers given to the state fire marshal and his deputies or any officers mentioned in Section 835, General Code, are broad and if the aforesaid named individuals find a condition existing as is set forth in Section 835, General Code, such official has the authority to remedy said dangerous or hazardous condition. These officials have the power to order buildings repaired, torn down or demolished even though such buildings may contain hat cleaning establishments.

Therefore, it is my opinion and you are advised:

1. The provisions of the Dry Cleaning and Dyeing Act, Section 843-19 to Section 843-25f, inclusive, General Code, are applicable to hat cleaning establishments and such establishments should be classified by the type of solvent used pursuant to the provisions of Section 843-25a, General Code.

2. The power of the Fire Marshal and his deputies and the officers referred to in Section 835, General Code, to order buildings to be repaired, torn down or demolished may be exercised with respect to buildings having dry cleaning establishments.

Respectfully,

HUGH S. JENKINS,  
Attorney General.