

OPINION NO. 66-055

Syllabus:

An applicant for a license as a managing cosmetologist must meet the requirements of Section 4713.04 (C), Revised Code, as amended, to be eligible to be so licensed.

To: E. E. Schaedler, Secretary, State Board of Cosmetology, Columbus, Ohio
By: William B. Saxbe, Attorney General, March 4, 1966

Your request for my opinion reads as follows:

"Amended Substitute Senate Bill #108, Section 4713.04 Paragraph 'C' states: 'Applicants for a managing cosmetologist's license shall be of good moral character, have the equivalent of an Ohio public school eighth grade education, and shall have practiced as a cosmetologist in a licensed beauty salon in this or another state of the United States or the District of Columbia for at least one year, or have completed two hundred fifty hours additional in a licensed school of cosmetology in this state in subjects relative to advanced cosmetology, business management and supervision.

"We have many instances of where students have been enrolled in various licensed schools of cosmetology throughout the state prior to the enactment of this statute, which incidentally became effective October 16, 1965, attempting to obtain a manager's license.

"It is this Board's opinion that inasmuch as the legislature in the enactment of Senate Bill 108 did not furnish us with a grandfather clause, that these individuals are now requested to abide by the law by having one year's experience.

"It is quite apparent a good many people have taken exception to our interpretation and we would therefore like to have your written opinion."

Section 4713.04 (C), Revised Code, as effective on October 16, 1965, reads:

"Applicants for a managing cosmetologist's license shall be of good moral character, have the equivalent of an Ohio public school eighth grade education, and shall have

practiced as a cosmetologist in a licensed beauty salon in this or another state of the United States or the District of Columbia for at least one year, or have completed two hundred fifty hours additional in a licensed school of cosmetology in this state in subjects relative to advanced cosmetology, business management, and supervision. Certification of applicant's completion of one year's experience shall be made to the state board of cosmetology by the licensed managing cosmetologist of the licensed beauty salon in which the applicant has been employed, or certification of completion of the prescribed course of two hundred fifty additional hours shall be made to the board by the school of cosmetology in this state. Upon either of the foregoing certifications, the board shall issue a managing cosmetologist license to the applicant. (Emphasis added)

The underscored portion above represents the additions made to this section which increase the qualifications required by an applicant for a managing cosmetologist's license. Inasmuch as Section 4713.14, Revised Code, provides that each beauty salon shall be "in charge of and under the immediate supervision of a licensed managing cosmetologist", it is apparent that the legislature felt it to be in the public interest to prescribe additional experience or training beyond the requirements for a cosmetologist's license for the manager of a beauty salon.

The requirements for a cosmetologist's license provided for in Section 4713.04 (A), Revised Code, were increased by changing the number of hours of instruction required from twelve hundred fifty hours to fifteen hundred hours; however, a savings clause was added as follows:

"(A) * * * provided any applicant who was a student in such school prior to the effective date of this act shall only be required to receive the number of hours of instruction required prior to such date.
* * *"

Current license holders were protected by the legislature in Section 4713.11, Revised Code, which now reads in pertinent part:

"All persons who are or have been licensed as cosmetologists or managing cosmetologists prior to the effective date of this act shall be relicensed as such; subject to the requirements in effect prior to that date, by making application for such license on forms provided by the board and paying the required fee."

The requirements for licensing which are in effect at the time the application for license is made are controlling unless the legislature has provided otherwise by the insertion of a

savings clause. If they had intended the new requirements not to apply to students enrolled in a school prior to the effective date of the act it would have been a simple matter to include a savings clause in Section 4713.04 (C), Revised Code.

Therefore, it is my opinion and you are hereby advised that an applicant for a license as a managing cosmetologist must meet the requirements of Section 4713.04 (C), Revised Code, as amended, to be eligible to be so licensed.