

lotions, creams, toilet articles, cigars, tobacco, confectionery, laundry, and such commodities as are used and sold in barber shops, unless a substantial partition of ceiling height separates the portion used for residential or business purposes;

"* * * * *"

The term "business" has been held to include "all enterprises of whatever character conducted for gain, profit or income * * *." Ransom & R. Co. v. Evatt, 142 Ohio St. 398 (1944). An even broader definition was applied in the case of Smith v. Duracraft, 75 Ohio App. 556 (1945), which states that business "means anything that engages time, attention, or labor." In view of Section 4503.10, Revised Code, which sets forth the sums involved in each licensing transaction, it is clear that the selling of drivers' licenses and license plates meets the requirements of either definition, since it not only engages time, attention, and labor, but also is conducted for income. The selling of licenses and plates may well be a function of the State, but it is nonetheless a public "business" within the meaning of that term in this statute. Accordingly, the definition of "business" is satisfied.

Moreover, the prohibition of Section 4709.22 (E), supra, should be strictly construed because of the obvious intent of the General Assembly, in enacting Chapter 4709, Revised Code, to prescribe that barber shops be operated with a high degree of sanitation. Section 4709.05, Revised Code, provides that the Board of Barber Examiners shall make and enforce regulations prescribing sanitary requirements for barber shops and barber schools. Section 4709.06, Revised Code, limits the practice of barbering to certain specific acts and carefully prohibits the treatment of diseases by barbers. The qualifications for registration as a barber are carefully spelled out in Sections 4709.08 through 4709.15, Revised Code. Grounds for refusal of registration, many of them clearly designed for sanitary purposes, are enumerated in Section 4709.17, Revised Code. And a number of unsanitary practices, in addition to the one with which we are concerned here, are prohibited in Sections 4709.21 and 4709.22, Revised Code. Since license plates are not a commodity enumerated in Section 4709.22 (E), supra, or other "such commodities as are used and sold in barber shops", the exception provided by that Section does not apply. It is, therefore, mandatory that "a substantial partition of ceiling height separate the portion used for * * * business purposes".

In specific answer to your question it is my opinion, and you are so advised, that the selling of drivers' licenses and license plates constitutes a "business" as described within Section 4709.22 (E), Revised Code, and such items may be sold in barber shops by duly appointed deputy registrars only in an additional room or enclave separated from the barbering area by a substantial partition of ceiling height.