

OFFICE OF THE ATTORNEY GENERAL



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Honorable Steve R. Graham
District Attorney
Eleventh Judicial Circuit
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Florence, AL 35631-0892

Crimes and Offenses - Criminal
Law - Barbers

Violations of Act No. 88-144,
concerning barbering in
Lauderdale County, do not
constitute criminal offenses
for which a warrant or summons
can be issued by the district
attorney's office.

Dear Mr. Graham:

This opinion is issued in response to your request for an
opinion from the Attorney General.

QUESTION

Does a violation of Act No. 88-144,
concerning barbering in Lauderdale County,
constitute a criminal offense for which a
warrant or summons can be issued by the
Lauderdale County District Attorney's Office?

FACTS, LAW AND ANALYSIS

Act No. 88-144, Acts of Alabama 1988, p. 223, the
Lauderdale County Barber Act, provides for administrative

supervision and regulation of the practice and teaching of barbering in Lauderdale County. Barbers in Lauderdale County are required to be registered and licensed under the Act.

Section 20 of Act No. 88-144 allows the Lauderdale County Board of Barbering to refuse, revoke, and suspend licenses upon proof of violation of the Act or rules or regulations of the board. A license is not to be refused, revoked, or suspended except after a hearing as stated in Section 20. Findings of the board may be appealed to the circuit court as provided in Section 27 of Act No. 88-144. There are no criminal penalties provided in the Act, and there is no provision in the Act regarding prosecution by the district attorney.

Legislation concerning the revocation or suspension of licenses to engage in a profession or vocation is penal in nature and the rule of strict construction is to be applied to such provisions. 51 Am.Jur.2d, "License and Permits," § 58. However, an administrative hearing to revoke or suspend a professional license is not a criminal procedure. 51 Am.Jur.2d, supra, § 60.

Certain actions regarding barbering are said to be "unlawful" under Act No. 88-144. Nevertheless, acts which are penal or unlawful are not necessarily delineated as criminal, and "unlawful" is not always synonymous with "criminal." 10A Words and Phrases, "Criminal."

A reading of Act No. 88-144 indicates that violations of the provisions of that Act do not constitute a criminal offense for which a warrant or summons can be issued by the Lauderdale County District Attorney. Violations of Act No. 88-144 are to be considered in hearings before the Lauderdale County Board of Barbering as provided in the Act and under rules and regulations of the board. Of course, if there are any criminal offenses related to or associated with violations of Act No. 88-144, such crimes are to be prosecuted by the district attorney.

CONCLUSION

Violations of Act No. 88-144, concerning barbering in Lauderdale County, do not constitute criminal offenses for which a warrant or summons can be issued by the district attorney's office.

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I hope this sufficiently answers your question. If our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

JIMMY EVANS
Attorney General
By:


JAMES R. SOLOMON, JR.
Chief, Opinions Division

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