

✓
CITIES AND TOWNS: Authority of cities and towns to license insurance agents.

6840 Laws 31
8.23 7046 R.S. Mo 29

August 11, 1933.



Mr. Frank C. Hendrix
Attorney at Law
New London, Missouri

Dear Sir:

This Department is in receipt of your letter of July 28th, with the request for an opinion, which letter of request is as follows:

"I have a friend who writes life insurance and when goes into a little town they want him to pay license. He has State license. Can they make him pay when has no office there? Or if he does have an office?"

According to your letter, you seem to be particularly interested in "a little town" and as this is a hypothetical case, of course, we do not know what particular town, or towns, you may have in mind and what classification they belong to.

However, we find that by Section 6840 R. S. 1929, as amended by Laws of 1931, at page 277, under "Cities of the Third Class", that,

"The council shall have power and authority to levy and collect a license tax on, * * * insurance companies, insurance agents, * * * * * etc."

Also, in Section 7046 R. S. 1929, under "Cities of the Fourth Class", it is said:

"The mayor and board of aldermen shall have power and authority to regulate and

to license and to levy and collect a license tax on * * * *, insurance companies, insurance agents, * * * * etc. "

Of course, the statutes above only give the power to the cities in the above classes to pass such ordinances imposing the licenses therein mentioned and until an ordinance is duly and regularly passed by the cities of the above classes they have no power to impose the license.

In the case of City of Lamar v. Adams, 90 Mo. App. 35, a city of the fourth class, an ordinance concerning a license taxing and legalizing occupations, trades and business, was held valid; in this particular case a license tax had been levied against fire insurance agencies.

Under Section 7097 R. S. 1929, Art. IX, is set forth the powers of the board of trustees of towns and villages, which is below the classification of towns of the fourth class, to pass by-laws and ordinances, but we do not find that they have such power to regulate and license insurance agencies and insurance companies as in cities of the third and fourth class.

Section 7287 R. S. 1929, provides as follows:

"BUSINESS NOT TAXABLE, WHEN.--No municipal corporation in this state shall have the power to impose a license tax upon any business avocation, pursuit or calling, unless such business avocation, pursuit or calling is specially named as taxable in the charter of such municipal corporation, or unless such power be conferred by statute."

Since you have not given us the particular town you have in mind, or the particular class to which it belongs, we are unable to be more definite in this opinion than we have been. We hope that this, however, covers the matter inquired about.

Yours very truly,

COVELL R. HEWITT
Assistant Attorney-General.

APPROVED:

ROY MCKITTRICK
Attorney-General.