

LICENSES: Baker Employment Agency, Danville, Illinois,  
EMPLOYMENT AGENCIES: is not required to secure a license as such  
from the State Division of Industrial  
Inspection.

Opinion No. 281

October 2, 1963



Mr. Don L. Cummings, Director  
Division of Industrial Inspection  
Department of Labor and Industrial Relations  
Jefferson City, Missouri

Dear Mr. Cummings:

In your letter of June 28, 1963, you request an opinion  
from this office as follows:

"Enclosed herewith you will please find a  
copy of correspondence that I have had  
with the Baker Employment Agency who main-  
tains an office in Danville, Illinois.

"As you will note I have indicated that I  
am of the opinion that Mr. Baker should  
obtain a license in the State of Missouri  
if he wishes to advertise as an employment  
agency in the newspapers of our state.

"Mr. Baker has, however, raised some perti-  
nent questions concerning this matter, and  
as a result, I would like to respectfully  
request that you give us a ruling as to  
whether, in your opinion, the Baker Employ-  
ment Agency should be licensed as a private  
employment agency in the State of Missouri."

You submitted correspondence with T. A. Baker of the Baker  
Employment Agency, Danville, Illinois. From these letters, it  
appears that Mr. T. A. Baker is the owner of the Baker Employ-  
ment Agency. According to the information gained from these

letters, the Baker Employment Agency maintains an office in Danville, Illinois, where all interviews with applicants for employment occur. Mr. Baker or the Baker Employment Agency does not have any office in Missouri. He does advertise in newspapers in Missouri as an employment agency located in Danville, Illinois. There is nothing to indicate that Mr. Baker transacts any business in Missouri other than advertising in the papers.

Section 289.010, RSMo 1959, provides in part:

"No person, firm or corporation in this state shall open, operate or maintain an employment office or agency for hire, or where a fee is charged to either applicants for employment or for help, without first obtaining a license for the same from the director of the division of industrial inspection of the state department of labor and industrial relations. \* \* \* Every license shall contain a designation of the city, street and number of the building in which the licensed party conducts said employment agency. The license, together with a copy of sections 289.010 to 289.040, shall be posted in a conspicuous place in each and every employment agency. \* \* \*"

[Emphasis supplied.]

The general rule to be applied in construing license statutes is stated in 53 C.J.S., Licenses, paragraph 12, page 495, as follows:

"Statutes and ordinances imposing licenses and business taxes are generally to be construed liberally in favor of the citizen and strictly against the government, whether state or municipal, especially where they provide penalties for their violation."

In *National Exhibition Company v. City of St. Louis*, 136 SW2d 396, the St. Louis Court of Appeals, in discussing how licensing ordinances should be construed, stated, l. c. 401:

"The general rule with respect to the imposition of license fees is stated in 62 C.J. 852, as follows: 'Ordinances imposing license fees, being in derogation of the common law, are to be strictly construed in favor of the person against whom they are sought to be applied.'"

Section 289.010, supra, is a licensing statute which requires the payment of a fee and provides a penalty for its violation. It should be strictly construed against the state.

Section 289.010, supra, provides in part that no person, firm or corporation in this state shall "open, operate or maintain an employment office or agency for hire" where a fee is charged for such service without first obtaining a license. The words "in this state" limit the operation of this statute to the employment agency business which has an office or place of business in Missouri. The provision of the statute requiring the license to state the location of the employment agency is relevant to and indicates the same conclusion. The words "maintains an office or agency" require the location of an office or place of business in the state. The clear intent of Section 289.010 requires an employment agency to have an office or place of business in Missouri. A person or corporation that advertises in newspapers, magazines or other periodicals that are either published or circulated in this state can not be considered as operating or maintaining an "office or agency" in the state when all the business in connection therewith, other than the advertising and correspondence, is transacted outside of the state.

#### CONCLUSION

It is the opinion of this office that a person, firm or corporation who advertises in the newspapers of this state as an employment agency, but does not maintain or operate an office in this state, and who does not conduct any of the business in connection therewith in this state, other than by correspondence, is not required to secure a license under the provisions of Chapter 289, RSMo 1959.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Moody Mansur.

Very truly yours,

THOMAS F. EAGLETON  
Attorney General