

**Agents—Cities and Towns—Insurance—Taxes.**

The mere fact that a city imposes an occupational license tax upon some occupation or profession which is already licensed by the state does not invalidate the ordinance imposing it so long as the ordinance is not objectionable in other ways.

Geo. P. Porter, Esq.,  
State Auditor,  
Helena, Montana.

My dear Mr. Porter:

You have submitted to this office for my opinion the question of whether a license ordinance of Miles City imposing a tax on fire insurance agents and real estate dealers is illegal, because of the fact that the latter are licensed by the state.

Subdivision 3, of Section 5039, R. C. M. 1921, authorizes cities and towns to license all industrial pursuits, professions and occupations, and specifies that the amount to be paid for such license must not exceed the sum required by the state law, when the state law requires a license therefor. The only limitation contained in the above section is to the effect that the license imposed by the city must not exceed the state license.

It is, therefore, my opinion that the facts above set forth constitute no valid objection to the licenses in question. Nothing herein contained must be construed, however, as expressing an approval of the legality of the license ordinance of Miles City. It would be impossible for me to pass upon this ordinance and reach any conclusion as to its validity without having a copy of it before me.

It is well settled in this state that a city may impose an occupational license tax for police regulations, but that it cannot do so for revenue purposes.

See Riley vs. Hathaway, 46 Montana 1.

Johnson vs. City of Great Falls, 38 Mont. 369.

State ex rel. City of Butte vs. Police Court, 65 Mont. 94.

Very truly yours,

WELLINGTON D. RANKIN,

Attorney General.