

1981 WL 158053 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 23, 1981

*1 Honorable Isadore E. Lourie
Senator
District No. 7
Box 11548
Columbia, South Carolina 29201

Dear Isadore:

Thank you for your letter of November 2, 1981, concerning the imposition of a business license upon private investigators who do not have an office in a city but need to conduct some surveillance work there.

The cities have authority, pursuant to Section 5-7-30, to levy a business license tax based on gross income and the counties have the same authority upon those persons engaged in any business, occupation or profession, in whole or in part, outside the corporate limits of any municipality.

Your question is whether or not the private investigators are 'doing business in the city.' This is measured, in my opinion, by the previous decisions of the Supreme Court regarding municipalities which have taken place over the years. Previously, there was a statute, such as one requiring that a warehouse be kept in a city before the business license tax could be levied, but that is not in the law at the present time. The transitory nature of the private investigator about which you write probably removes him from the area of 'doing business in the city' but the frequency that this is undertaken may also affect the matter drastically. This is what occurred in one decision by the Supreme Court in bread delivery cases. If the surveillance work is undertaken infrequently, and there is no office in the city and no solicitation is done in the city, it seems to me that it is rather doubtful that he can be considered as 'doing business within the city.' However, a city council or city attorney may view it differently, and I could not say that they would be flatly wrong. I think the primary thing which your letter does not indicate is the frequency of the solicitations that he undertakes, and the fact that he does 'some' of that type of work in the city is subject to some ambiguity.

I am sorry that I cannot give a definite answer but I think it should be addressed in detail to the city involved.

I should also point out that a private investigator is required to be licensed by the Law Enforcement Division and I assume that the individual about which you write has followed that procedure. [Sections 47-17-20, et seq., of the 1976 Code of Laws](#).

With best wishes,
Very truly yours,

Daniel R. McLeod
Attorney General

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