



STATE OF KANSAS

Office of the Attorney General

1st Floor, State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

Curt T. Schneider
Attorney General

February 27, 1976

ATTORNEY GENERAL OPINION NO. 76- 76

The Honorable David Mikesic
State Representative
3rd Floor - State Capitol Building
Topeka, Kansas 66612

Re: Counties--Home Rule--Licensing

Synopsis: The enactment of a county business and occupational licensing code, as authorized by House Bill 2917, is within the existing legislative authority of the county under its home rule powers, K.S.A. 19-101a *et seq.*

* * *

Dear Representative Mikesic:

You inquire concerning 1976 House Bill No. 2917. It applies to only those counties with a population exceeding 175,000 and not exceeding 200,000. It requires that the board of county commissioners of such county by resolution enact a "licensing code" and

"declare that no person, firm, or corporation, either as principal, officer, agent, servant or employee shall conduct, pursue, carry on or operate in such county and outside the corporate limits of any city of the first class, any business, trade, occupation or profession, or furnish any service for which a license is required by the ordinances of such city or cities of the first class without first obtaining a license to so operate from the county."

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You inquire whether the enactment of such a licensing code is within the powers of local government and legislation vested in counties by K.S.A. 19-101a *et seq.*, known as county home rule. That section commences thus:

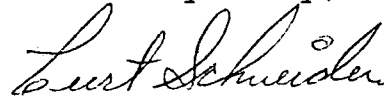
"(a) Counties are hereby empowered to transact all county business and perform such powers of local legislation and administration as they deem appropriate, subject only to the following limitations, restrictions, or prohibitions"

The enactment of a county business and occupational licensing code is not prohibited by any of the statutory restrictions upon county home rule. Such a licensing code is clearly a local matter, and is, in my judgment, clearly within the legislative powers vested in the board of county commissioners under this statute.

House Bill No. 2917, if enacted, could very well be construed as a limitation on the powers of counties within its terms to license occupations and businesses, for, although section one is unnecessarily ambiguous, it certainly implies that in enactment of such a licensing code, it is limited to licensing only those businesses, trades, occupations, professions, and services for which a license is required by the ordinances of any city of the first class located in the county.

In addition, it should be pointed out that because the proposed enactment applies only to certain counties in the state, and perhaps only one county, any county which is subject to its terms could exempt itself from any or all provisions of the bill by charter resolution.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj