

Date Issued: June 29, 1982 (AGO 82-53)

Requested by: Robert W. Holte, Mountrail County State's Attorney

- QUESTION PRESENTED -

Whether a county may require a transient merchant to obtain county license and surety bond when a transient merchant's license has been obtained from the office of the Attorney General.

- ATTORNEY GENERAL'S OPINION -

It is my opinion that if a transient merchant's license is obtained from the Attorney General, a county is precluded from also requiring that transient merchant to obtain a county license and surety bond for the transaction of such business.

- ANALYSIS -

A transient merchant's license can be obtained from either a county auditor or from the Attorney General. In accordance with sections 51-04-02 and 51-04-02.1 of the North Dakota Century Code, if the transient merchant's license is obtained from a county auditor, the license is only valid within the county from which the license was obtained. However, if the license is obtained from the office of the Attorney General, the license is valid throughout the entire state. Further, in such cases, "the license fee shall be paid to, and the bond subject to the approval of, the attorney general." Section 51-04-02.1, N.D.C.C.

Therefore, it is my opinion that if a transient merchant's license is obtained from the office of the Attorney General, a county is precluded from also requiring that transient merchant to obtain a county license and surety bond for the transaction of such business.

-EFFECT-

This opinion is issued pursuant to section 54-12-01, N.D.C.C. It governs the actions of public officials until such time as the question presented is decided by the courts.

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