

# OFFICE OF THE ATTORNEY GENERAL

85-00103



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ATTORNEY GENERAL  
STATE OF ALABAMA

NOV 28 1984

ADMINISTRATIVE BUILDING  
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MONTGOMERY, ALABAMA 36130

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Honorable Perry Young  
Mayor, City of Lineville  
P. O. Box 247  
Lineville, AL 36266

Municipalities -- Police  
Jurisdiction -- Taxation

Where business is located within police jurisdiction of more than one municipality, only that municipality whose corporate limits are closest to business may levy license or sales tax on said business.

Dear Mayor Young:

On behalf of the City Council of the City of Lineville, you have requested an opinion concerning the municipal powers of the City to collect a sales tax and to issue a municipal license within the police jurisdiction but outside the corporate limits for businesses located within the overlapping police jurisdictions of the City of Ashland and the City of Lineville. You evidently desire to know which city has the authority to tax or license five businesses that are within the overlapping police jurisdictions of the two previously referred to cities.

Section 11-51-91, Code of Alabama 1975 provides that when the place at which any business, trade or profession is done is within the police jurisdiction of two or more municipalities that levy the licenses authorized by that section, such licenses shall be paid to and collected by that municipality only whose boundary measured to the nearest point thereof is closest to such business, trade or profession. In other words, whenever a business is located within the police jurisdiction of more than one municipality, the municipality whose corporate limits are closest to the business is the only municipality that may license

the business. The municipal sales tax is levied pursuant to §11-51-200, et seq., Code of Alabama 1975. Section 11-51-206 provides for the levy of the tax outside the corporate limits but within the police jurisdiction. This section contains no provision similar to the one contained in §11-51-91 pertaining to businesses located within overlapping police jurisdictions. However, it is the opinion of this office that the same rule contained in §11-51-91 pertaining to licenses should apply to the sales tax levy pursuant to §11-51-206. This is a reasonable construction of the statutes in view of the fact that §11-51-205 provides that the sales tax may be levied in lieu of the gross receipts license tax authorized by §11-51-91. These two taxes should therefore be construed in pari materia. This result is further supported by the rule that taxation by one city precludes a similar tax by another city. City of Homewood v. Wofford Oil Company, 232 Ala. 634, 169 So. 288 (1936). Were it not for the fact that the legislature specifically addressed the problem of overlapping police jurisdictions in §11-51-91, the city that first asserted jurisdiction over the businesses would be allowed to continue its authority to the exclusion of other cities, Wofford Oil, supra.

Sincerely yours,

CHARLES A. GRADDICK  
Attorney General  
By-



RON BOWDEN  
Assistant Attorney General

RB:jt