

Representative Stephen E. Sandstrom proposes the following substitute bill:

LICENSING ELIGIBILITY

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen E. Sandstrom

Senate Sponsor: _____

LONG TITLE

General Description:

This bill requires applicants for various licenses to provide the licensing authority with documentation of their lawful presence in the United States.

Highlighted Provisions:

This bill:

- requires an applicant for a business license issued by a municipality or a county to provide the municipality's or county's business licensing agency with documentation of the applicant's lawful presence in the United States; and

- requires an applicant for a license issued by the Division of Occupational and Professional Licensing to provide the division with an affidavit stating that the applicant is a citizen or lawfully present in the United States.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-1-203, as last amended by Laws of Utah 2008, Chapter 207



26 17-53-216, as last amended by Laws of Utah 2008, Chapter 250
27 58-1-301, as last amended by Laws of Utah 2008, Chapter 382



28
29 *Be it enacted by the Legislature of the state of Utah:*

30 Section 1. Section 10-1-203 is amended to read:

31 **10-1-203. License fees and taxes -- Disproportionate rental fee -- Application**
32 **information to be transmitted to the county assessor.**

33 (1) As used in this section:

34 (a) "Business" means any enterprise carried on for the purpose of gain or economic
35 profit, except that the acts of employees rendering services to employers are not included in
36 this definition.

37 (b) "Telecommunications provider" is as defined in Section 10-1-402.

38 (c) "Telecommunications tax or fee" is as defined in Section 10-1-402.

39 (2) (a) Except as provided in Subsections (3) through (5), the governing body of a
40 municipality may license for the purpose of regulation and revenue any business within the
41 limits of the municipality and may regulate that business by ordinance.

42 (b) In order to establish an applicant's lawful presence in the United States for the
43 purpose of receiving a business license under this chapter, the applicant shall provide the
44 municipality's business licensing agency with one of the following:

45 (i) a copy of the applicant's valid driver license indicating the applicant's lawful
46 presence in the United States;

47 (ii) a copy of the applicant's birth certificate;

48 (iii) a copy of the applicant's passport; or

49 (iv) a copy of a valid work visa or similar document issued to the applicant by the
50 United States government indicating the applicant's lawful presence in the United States.

51 (c) Each license applicant shall execute and submit an affidavit to the municipality's
52 business licensing agency, under penalty of perjury, stating that the applicant is a U.S. citizen
53 or lawfully present in the United States.

54 (3) (a) The governing body of a municipality may raise revenue by levying and
55 collecting a municipal energy sales or use tax as provided in Part 3, Municipal Energy Sales
56 and Use Tax Act, except a municipality may not levy or collect a franchise tax or fee on an

57 energy supplier other than the municipal energy sales and use tax provided in Part 3, Municipal
58 Energy Sales and Use Tax Act.

59 (b) (i) Subsection (3)(a) does not affect the validity of a franchise agreement as defined
60 in Subsection 10-1-303(6), that is in effect on July 1, 1997, or a future franchise.

61 (ii) A franchise agreement as defined in Subsection 10-1-303(6) in effect on January 1,
62 1997, or a future franchise shall remain in full force and effect.

63 (c) A municipality that collects a contractual franchise fee pursuant to a franchise
64 agreement as defined in Subsection 10-1-303(6) with an energy supplier that is in effect on July
65 1, 1997, may continue to collect that fee as provided in Subsection 10-1-310(2).

66 (d) (i) Subject to the requirements of Subsection (3)(d)(ii), a franchise agreement as
67 defined in Subsection 10-1-303(6) between a municipality and an energy supplier may contain
68 a provision that:

69 (A) requires the energy supplier by agreement to pay a contractual franchise fee that is
70 otherwise prohibited under Part 3, Municipal Energy Sales and Use Tax Act; and

71 (B) imposes the contractual franchise fee on or after the day on which Part 3,
72 Municipal Energy Sales and Use Tax Act is:

73 (I) repealed, invalidated, or the maximum allowable rate provided in Section 10-1-305
74 is reduced; and

75 (II) is not superseded by a law imposing a substantially equivalent tax.

76 (ii) A municipality may not charge a contractual franchise fee under the provisions
77 permitted by Subsection (3)(b)(i) unless the municipality charges an equal contractual franchise
78 fee or a tax on all energy suppliers.

79 (4) (a) Subject to Subsection (4)(b), beginning July 1, 2004, the governing body of a
80 municipality may raise revenue by levying and providing for the collection of a municipal
81 telecommunications license tax as provided in Part 4, Municipal Telecommunications License
82 Tax Act.

83 (b) A municipality may not levy or collect a telecommunications tax or fee on a
84 telecommunications provider except as provided in Part 4, Municipal Telecommunications
85 License Tax Act.

86 (5) (a) (i) The governing body of a municipality may by ordinance raise revenue by
87 levying and collecting a license fee or tax on:

- 88 (A) a parking service business in an amount that is less than or equal to:
- 89 (I) \$1 per vehicle that parks at the parking service business; or
- 90 (II) 2% of the gross receipts of the parking service business;
- 91 (B) a public assembly or other related facility in an amount that is less than or equal to
- 92 \$5 per ticket purchased from the public assembly or other related facility; and
- 93 (C) subject to the limitations of Subsections (5)(c), (d), and (e), a business that causes
- 94 disproportionate costs of municipal services or for which the municipality provides an
- 95 enhanced level of municipal services in an amount that is reasonably related to the costs of the
- 96 municipal services provided by the municipality.
- 97 (ii) Nothing in this Subsection (5)(a) may be construed to authorize a municipality to
- 98 levy or collect a license fee or tax on a public assembly or other related facility owned and
- 99 operated by another political subdivision other than a community development and renewal
- 100 agency without the written consent of the other political subdivision.
- 101 (b) As used in this Subsection (5):
- 102 (i) "Municipal services" include:
- 103 (A) public utilities; or
- 104 (B) services for:
- 105 (I) police;
- 106 (II) fire;
- 107 (III) storm water runoff;
- 108 (IV) traffic control;
- 109 (V) parking;
- 110 (VI) transportation;
- 111 (VII) beautification; or
- 112 (VIII) snow removal.
- 113 (ii) "Parking service business" means a business:
- 114 (A) that primarily provides off-street parking services for a public facility that is
- 115 wholly or partially funded by public moneys;
- 116 (B) that provides parking for one or more vehicles; and
- 117 (C) that charges a fee for parking.
- 118 (iii) "Public assembly or other related facility" means an assembly facility that:

- 119 (A) is wholly or partially funded by public moneys;
- 120 (B) is operated by a business; and
- 121 (C) requires a person attending an event at the assembly facility to purchase a ticket.

122 (c) Before the governing body of a municipality imposes a license fee or tax on a
123 business that causes disproportionate costs of municipal services under Subsection
124 (5)(a)[~~(iii)~~](i), the governing body of the municipality shall adopt an ordinance defining for
125 purposes of the tax under Subsection (5)(a)[~~(iii)~~](i) what constitutes disproportionate costs and
126 what amounts are reasonably related to the costs of the municipal services provided by the
127 municipality.

128 (d) Before the governing body of a municipality imposes a license fee or tax on a
129 business for which it provides an enhanced level of municipal services under Subsection
130 (5)(a)[~~(iii)~~](i), the governing body of the municipality shall adopt an ordinance defining for
131 purposes of the tax under Subsection (5)(a)[~~(iii)~~](i) what constitutes the basic level of
132 municipal services in the municipality and what amounts are reasonably related to the costs of
133 providing an enhanced level of municipal services in the municipality.

134 (e) (i) As used in this Subsection (5)(e):

135 (A) "Disproportionate rental fee" means a license fee or tax on rental housing based on
136 the disproportionate costs of municipal services caused by the rental housing or on an enhanced
137 level of municipal services provided to the rental housing.

138 (B) "Municipal services study" means a study conducted by a municipality of the cost
139 of all municipal services that the municipality provides to the applicable rental housing.

140 (C) "Rental housing cost" means the municipality's cost:

- 141 (I) of providing municipal services to the rental housing;
- 142 (II) that is reasonably attributable to the rental housing; and
- 143 (III) that would not have occurred in the absence of the rental housing.

144 (ii) (A) Each municipality that levies and collects a disproportionate rental fee that
145 exceeds \$17 per unit per year or that intends to impose a disproportionate rental fee for the first
146 time shall:

147 (I) before January 1, 2007 and except as provided in Subsection (5)(e)(iv), conduct a
148 municipal services study; and

149 (II) conduct an updated municipal services study:

150 (Aa) every six years after the first municipal services study, if the municipality has
151 established a program that provides a reduction in the disproportionate rental fee for a landlord
152 that participates in a landlord training program; and

153 (Bb) every four years after the first municipal services study, for each other
154 municipality.

155 (B) Each municipality that levies and collects a disproportionate rental fee that is \$17
156 or less per unit per year and that intends to increase its disproportionate rental fee shall conduct
157 a municipal services study before increasing its disproportionate rental fee.

158 (iii) (A) Beginning January 1, 2007, a disproportionate rental fee may not exceed the
159 rental housing cost, as determined in a municipal services study.

160 (B) Subsection (5)(e)(iii)(A) does not apply to a municipality whose disproportionate
161 rental fee is \$17 or less and that does not increase its disproportionate rental fee.

162 (iv) The requirement under Subsection (5)(e)(ii)(A)(I) to conduct a municipal services
163 study before January 1, 2007, does not apply to a municipality that levies and collects a
164 disproportionate rental fee that exceeds \$17 per unit per year if the municipality:

165 (A) has implemented, before January 1, 2005, a program that provides a reduction in
166 the disproportionate rental fee for each landlord that implements measures to reduce crime in
167 the rental housing;

168 (B) does not decrease the amount of the disproportionate rental fee reduction provided
169 in a program described in Subsection (5)(e)(iv)(A); and

170 (C) does not increase its disproportionate rental fee.

171 (6) All license fees and taxes shall be uniform in respect to the class upon which they
172 are imposed.

173 (7) The governing body shall transmit the information from each approved business
174 license application to the county assessor within 60 days following the approval of the
175 application.

176 (8) If challenged in court, an ordinance enacted by a municipality before January 1,
177 1994, imposing a business license fee or tax on rental dwellings under this section shall be
178 upheld unless the business license fee or tax is found to impose an unreasonable burden on the
179 fee or tax payer.

180 Section 2. Section **17-53-216** is amended to read:

181 **17-53-216. Business license fees and taxes -- Application information to be**
182 **transmitted to the county assessor.**

183 (1) For the purpose of this section, "business" means [~~any~~] an enterprise carried on for
184 the purpose of gain or economic profit, except that the acts of employees rendering services to
185 employers are not included in this definition.

186 (2) (a) The legislative body of a county may by ordinance provide for the licensing of
187 businesses within the unincorporated areas of the county for the purpose of regulation and
188 revenue.

189 (b) In order to establish an applicant's lawful presence in the United States for the
190 purpose of receiving a business license under his chapter, the applicant shall provide the county
191 business licensing agency with one of the following:

192 (i) a copy of the applicant's valid driver license indicating the applicant's lawful
193 presence in the United States;

194 (ii) a copy of the applicant's birth certificate;

195 (iii) a copy of the applicant's passport; or

196 (iv) a copy of a valid work visa or similar document issued to the applicant by the
197 United States government indicating the applicant's lawful presence in the United States.

198 (c) Each license applicant shall execute and submit an affidavit to the county's business
199 licensing agency, under penalty of perjury, stating that the applicant is a U.S. citizen or lawfully
200 present in the United States.

201 (3) All license fees and taxes shall be uniform in respect to the class upon which they
202 are imposed.

203 (4) The county business licensing agency shall transmit the information from each
204 approved business license application to the county assessor within 60 days following the
205 approval of the application.

206 (5) This section may not be construed to enhance, diminish, or otherwise alter the
207 taxing power of counties existing prior to the effective date of Laws of Utah 1988, Chapter
208 144.

209 Section 3. Section **58-1-301** is amended to read:

210 **58-1-301. License application -- Licensing procedure.**

211 (1) (a) (i) Each new license applicant shall apply to the division [~~in writing~~] upon

212 forms available from the division.

213 (ii) Each completed application shall:

214 (A) contain documentation of the particular qualifications required of the applicant[; ~~shall~~];

215 (B) include the applicant's Social Security number[; ~~shall~~];

216 (C) be verified by the applicant[;]; and [~~shall~~]

217 (D) be accompanied by the appropriate fees.

218 (b) An applicant's Social Security number is a private record under Subsection

219 63G-2-302(1)(h).

220 (c) Each license applicant shall execute and submit an affidavit to the division, under
221 penalty of perjury, stating that the applicant is a U.S. citizen or lawfully present in the United
222 States.

223 (2) (a) [~~A~~] The division shall issue a license [~~shall be issued~~] to an applicant who
224 submits a complete application if the division determines that the applicant meets the
225 qualifications of licensure.

226 (b) [~~A~~] The division shall provide a written notice of additional proceedings [~~shall be~~
227 ~~provided~~] to an applicant who submits a complete application, but who has been, is, or will be
228 placed under investigation by the division for conduct directly bearing upon the applicant's
229 qualifications for licensure, if the outcome of additional proceedings is required to determine
230 the division's response to the application.

231 (c) [~~A~~] The division shall provide a written notice of denial of licensure [~~shall be~~
232 ~~provided~~] to an applicant who submits a complete application if the division determines that
233 the applicant does not meet the qualifications of licensure.

234 (d) [~~A~~] (i) The division shall provide a written notice of incomplete application and
235 conditional denial of licensure [~~shall be provided~~] to an applicant who submits an incomplete
236 application. [~~This~~]

237 (ii) The notice shall advise the applicant that the application is incomplete and that the
238 application is denied, unless the applicant corrects the deficiencies within the time period
239 specified in the notice and otherwise meets all qualifications for licensure.

240 (3) Before [~~any person~~] an applicant is issued a license under this title, all requirements
241 for that license as established under this title and by rule shall be met.

243 (4) If all requirements are met for the specific license, the division shall issue the
244 license.

H.B. 262 1st Sub. (Buff) - Licensing Eligibility

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
