

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 documentation of the applicant's lawful presence 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

17-53-216, as last amended by Laws of Utah 2008, Chapter 250

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:

45 (i) a copy of the applicant's birth certificate;

46 (ii) a copy of the applicant's passport; or

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

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

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

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

59 (ii) A franchise agreement as defined in Subsection 10-1-303(6) in effect on January 1,
60 1997, or a future franchise shall remain in full force and effect.

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

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

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

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

71 (I) repealed, invalidated, or the maximum allowable rate provided in Section 10-1-305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

73 (II) is not superseded by a law imposing a substantially equivalent tax.

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

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

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

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

86 (A) a parking service business in an amount that is less than or equal to:

87 (I) \$1 per vehicle that parks at the parking service business; or

88 (II) 2% of the gross receipts of the parking service business;

89 (B) a public assembly or other related facility in an amount that is less than or equal to

90 \$5 per ticket purchased from the public assembly or other related facility; and

91 (C) subject to the limitations of Subsections (5)(c), (d), and (e), a business that causes
92 disproportionate costs of municipal services or for which the municipality provides an
93 enhanced level of municipal services in an amount that is reasonably related to the costs of the
94 municipal services provided by the municipality.

95 (ii) Nothing in this Subsection (5)(a) may be construed to authorize a municipality to
96 levy or collect a license fee or tax on a public assembly or other related facility owned and
97 operated by another political subdivision other than a community development and renewal
98 agency without the written consent of the other political subdivision.

99 (b) As used in this Subsection (5):

100 (i) "Municipal services" include:

101 (A) public utilities; or

102 (B) services for:

103 (I) police;

104 (II) fire;

105 (III) storm water runoff;

106 (IV) traffic control;

107 (V) parking;

108 (VI) transportation;

109 (VII) beautification; or

110 (VIII) snow removal.

111 (ii) "Parking service business" means a business:

112 (A) that primarily provides off-street parking services for a public facility that is
113 wholly or partially funded by public moneys;

114 (B) that provides parking for one or more vehicles; and

115 (C) that charges a fee for parking.

116 (iii) "Public assembly or other related facility" means an assembly facility that:

117 (A) is wholly or partially funded by public moneys;

118 (B) is operated by a business; and

119 (C) requires a person attending an event at the assembly facility to purchase a ticket.

120 (c) Before the governing body of a municipality imposes a license fee or tax on a

121 business that causes disproportionate costs of municipal services under Subsection
122 (5)(a)(~~(iii)~~)(i), the governing body of the municipality shall adopt an ordinance defining for
123 purposes of the tax under Subsection (5)(a)(~~(iii)~~)(i) what constitutes disproportionate costs and
124 what amounts are reasonably related to the costs of the municipal services provided by the
125 municipality.

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

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

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

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

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

139 (I) of providing municipal services to the rental housing;

140 (II) that is reasonably attributable to the rental housing; and

141 (III) that would not have occurred in the absence of the rental housing.

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

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

147 (II) conduct an updated municipal services study:

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

151 (Bb) every four years after the first municipal services study, for each other

152 municipality.

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

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

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

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

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

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

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

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

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

174 (8) If challenged in court, an ordinance enacted by a municipality before January 1,
175 1994, imposing a business license fee or tax on rental dwellings under this section shall be
176 upheld unless the business license fee or tax is found to impose an unreasonable burden on the
177 fee or tax payer.

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

179 **17-53-216. Business license fees and taxes -- Application information to be**
180 **transmitted to the county assessor.**

181 (1) For the purpose of this section, "business" means ~~[any]~~ an enterprise carried on for
182 the purpose of gain or economic profit, except that the acts of employees rendering services to

183 employers are not included in this definition.

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

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

190 (i) a copy of the applicant's birth certificate;

191 (ii) a copy of the applicant's passport; or

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

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

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

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

202 (5) This section may not be construed to enhance, diminish, or otherwise alter the
203 taxing power of counties existing prior to the effective date of Laws of Utah 1988, Chapter
204 144.

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

206 **58-1-301. License application -- Licensing procedure.**

207 (1) (a) (i) Each license applicant shall apply to the division in writing upon forms
208 available from the division.

209 (ii) Each completed application shall:

210 (A) contain documentation of the particular qualifications required of the applicant[;
211 shall];

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

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

214 (D) be accompanied by the appropriate fees.

215 (b) An applicant's Social Security number is a private record under Subsection
216 63G-2-302(1)(h).

217 (c) In order to establish an applicant's lawful presence in the United States for the
218 purpose of receiving a license under this title, the applicant shall provide the division with:

219 (i) a copy of the applicant's birth certificate;

220 (ii) a copy of the applicant's passport; or

221 (iii) a copy of a valid work visa or similar document issued to the applicant by the
222 United States government indicating the applicant's legally authorized presence in the United
223 States.

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

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

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

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

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

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

244 (3) Before [~~any person~~] an applicant is issued a license under this title, all requirements

245 for that license as established under this title and by rule shall be met.

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

247 license.

Legislative Review Note
as of 1-13-09 8:09 AM

Office of Legislative Research and General Counsel