

LICENSING ELIGIBILITY

2010 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 2009, Chapter 189

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



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Be it enacted by the Legislature of the state of Utah:

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

**10-1-203. License fees and taxes -- Documentation of lawful presence --
Disproportionate rental fee -- Application information to be transmitted to the county
assessor.**

(1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

59 Energy Sales and Use Tax Act.

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

62 (ii) A franchise agreement as defined in Subsection 10-1-303(6) in effect on January 1,
63 1997, or a future franchise shall remain in full force and effect.

64 (c) A municipality that collects a contractual franchise fee pursuant to a franchise
65 agreement as defined in Subsection 10-1-303(6) with an energy supplier that is in effect on July
66 1, 1997, may continue to collect that fee as provided in Subsection 10-1-310(2).

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

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

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

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

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

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

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

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

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

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

- 90 (I) \$1 per vehicle that parks at the parking service business; or
- 91 (II) 2% of the gross receipts of the parking service business;
- 92 (B) a public assembly or other related facility in an amount that is less than or equal to
- 93 \$5 per ticket purchased from the public assembly or other related facility; and
- 94 (C) subject to the limitations of Subsections (5)(c), (d), and (e), a business:
 - 95 (I) that causes disproportionate costs of municipal services; or
 - 96 (II) for which the municipality provides an enhanced level of municipal services.
- 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" includes:
 - 103 (A) public utilities; and
 - 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) (i) Before the legislative body of a municipality imposes a license fee on a business
123 that causes disproportionate costs of municipal services under Subsection (5)(a)(i)(C)(I), the
124 legislative body of the municipality shall adopt an ordinance defining for purposes of the tax
125 under Subsection (5)(a)(i)(C)(I):

126 (A) the costs that constitute disproportionate costs; and

127 (B) the amounts that are reasonably related to the costs of the municipal services
128 provided by the municipality.

129 (ii) The amount of a fee under Subsection (5)(a)(i)(C)(I) shall be reasonably related to
130 the costs of the municipal services provided by the municipality.

131 (d) (i) Before the legislative body of a municipality imposes a license fee on a business
132 for which it provides an enhanced level of municipal services under Subsection (5)(a)(i)(C)(II),
133 the legislative body of the municipality shall adopt an ordinance defining for purposes of the
134 fee under Subsection (5)(a)(i)(C)(II):

135 (A) the level of municipal services that constitutes the basic level of municipal services
136 in the municipality; and

137 (B) the amounts that are reasonably related to the costs of providing an enhanced level
138 of municipal services in the municipality.

139 (ii) The amount of a fee under Subsection (5)(a)(i)(C)(II) shall be reasonably related to
140 the costs of providing an enhanced level of the municipal services.

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

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

145 (B) "Disproportionate rental fee reduction" means a reduction of a disproportionate
146 rental fee as a condition of complying with the requirements of a good landlord program.

147 (C) "Good landlord program" means a program established by a municipality that
148 provides a reduction in a disproportionate rental fee for a landlord who:

149 (I) completes a landlord training program approved by the municipality;

150 (II) implements measures to reduce crime in rental housing as specified in municipal
151 ordinances; and

152 (III) operates and manages rental housing in accordance with applicable municipal
153 ordinances.

154 (D) "Municipal services study" means a study, or an updated study, conducted by a
155 municipality of the cost of all municipal services that the municipality provides to the
156 applicable rental housing.

157 (E) "Rental housing cost" means the municipality's cost:

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

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

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

161 (ii) A municipality may impose and collect a disproportionate rental fee if:

162 (A) the municipality:

163 (I) adopts the ordinances required under Subsections (5)(c) and (d), as applicable;

164 (II) conducts a municipal services study;

165 (III) updates the municipal services study:

166 (Aa) before increasing the amount of the disproportionate rental fee; and

167 (Bb) before decreasing the amount of the disproportionate rental fee reduction; and

168 (IV) establishes a good landlord program; and

169 (B) the disproportionate rental fee does not exceed the rental housing cost, as

170 determined by the municipal services study.

171 (iii) (A) The requirement under Subsection (5)(e)(ii)(A)(IV) to establish a good

172 landlord program does not apply to a municipality that imposed and collected a

173 disproportionate rental fee on January 1, 2009.

174 (B) A municipality claiming an exemption under Subsection (5)(e)(iii)(A) shall

175 conduct an updated municipal services study at least every four years.

176 (iv) The requirement under Subsection (5)(e)(ii)(A)(II) to conduct a municipal services
177 study does not apply to a municipality that:

178 (A) imposed and collected a disproportionate rental fee on May 2, 2005 of \$17 or less
179 per unit per year:

180 (B) does not increase the amount of its disproportionate rental fee; and

181 (C) does not decrease the amount of its disproportionate rental fee reduction.

182 (v) The fee limitation under Subsection (5)(e)(ii)(B) does not apply to a municipality

183 that:

184 (A) imposed and collected a disproportionate rental fee on May 2, 2005 that was \$17 or
185 less per unit per year;

186 (B) does not increase the amount of its disproportionate rental fee; and

187 (C) does not decrease the amount of its disproportionate rental fee reduction.

188 (vi) Until May 2, 2012, the requirement under Subsection (5)(e)(ii)(A)(II) to conduct a
189 municipal services study before imposing and collecting a disproportionate rental fee, does not
190 apply to a municipality that:

191 (A) on May 2, 2005, imposed and collected a disproportionate rental fee that exceeds
192 \$17 per unit per year;

193 (B) had implemented, before January 1, 2005, a good landlord program;

194 (C) does not decrease the amount of the disproportionate rental fee reduction; and

195 (D) does not increase the amount of its disproportionate rental fee.

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

198 (7) The municipality shall transmit the information from each approved business
199 license application to the county assessor within 60 days following the approval of the
200 application.

201 (8) If challenged in court, an ordinance enacted by a municipality before January 1,
202 1994, imposing a business license fee on rental dwellings under this section shall be upheld
203 unless the business license fee is found to impose an unreasonable burden on the fee payer.

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

205 **17-53-216. Business license fees and taxes -- Documentation of lawful presence --**
206 **Application information to be transmitted to the county assessor.**

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

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

213 (b) In order to establish an applicant's lawful presence in the United States for the

214 purpose of receiving a business license under this chapter, the applicant shall provide the
 215 county business licensing agency with one of the following:

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

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

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

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

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

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

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

230 (5) This section may not be construed to enhance, diminish, or otherwise alter the
 231 taxing power of counties existing prior to the effective date of Laws of Utah 1988, Chapter
 232 144.

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

234 **58-1-301. License application -- Documentation of lawful presence -- Licensing**
 235 **procedure.**

236 (1) (a) (i) Each new license applicant shall apply to the division [~~in writing~~] upon
 237 forms available from the division.

238 (ii) Each completed application shall:

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

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

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

243 (D) be accompanied by the appropriate fees.

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

245 63G-2-302(1)(h).

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

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

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

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

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

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

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

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

Legislative Review Note
as of 1-14-10 10:34 AM

Office of Legislative Research and General Counsel

H.B. 227 - Licensing Eligibility

Fiscal Note

2010 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.
