

Representative Stephen E. Sandstrom proposes the following substitute bill:

LICENSING ELIGIBILITY

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen E. Sandstrom

Senate Sponsor: Margaret Dayton

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 new 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;
- requires the applicant to provide the licensing agency with an affidavit stating that the applicant is a citizen or lawfully present in the United States; and
- provides a definition for applicant.

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



26 17-53-216, as last amended by Laws of Utah 2008, Chapter 250

27

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

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

30 **10-1-203. License fees and taxes -- Documentation of lawful presence --**
31 **Disproportionate rental fee -- Application information to be transmitted to the county**
32 **assessor.**

33 (1) As used in this section:

34 (a) (i) "Applicant" means a natural person or a sole proprietorship.

35 (ii) "Applicant" does not mean a corporation, partnership, limited liability company,
36 trust, or any other legal entity.

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

40 ~~(c)~~ (c) "Telecommunications provider" is as defined in Section 10-1-402.

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

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

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

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

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

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

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

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

57 United States.

58 (d) Subsection (b) does not apply to an application for a renewal or replacement
59 license.

60 (e) If the business licensing agency provides for an electronic filing of an application
61 for a new, renewal, or replacement license, then it may also provide for the electronic filing of:

62 (i) verification documents required under Subsection (2)(b); and

63 (ii) the affidavit required under Subsection (2)(c).

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

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

71 (ii) A franchise agreement as defined in Subsection 10-1-303(6) in effect on January 1,
72 1997, or a future franchise shall remain in full force and effect.

73 (c) A municipality that collects a contractual franchise fee pursuant to a franchise
74 agreement as defined in Subsection 10-1-303(6) with an energy supplier that is in effect on July
75 1, 1997, may continue to collect that fee as provided in Subsection 10-1-310(2).

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

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

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

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

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

86 (ii) A municipality may not charge a contractual franchise fee under the provisions
87 permitted by Subsection (3)(b)(i) unless the municipality charges an equal contractual franchise

88 fee or a tax on all energy suppliers.

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

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

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

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

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

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

101 (B) a public assembly or other related facility in an amount that is less than or equal to
102 \$5 per ticket purchased from the public assembly or other related facility; and

103 (C) subject to the limitations of Subsections (5)(c), (d), and (e), a business:

104 (I) that causes disproportionate costs of municipal services; or

105 (II) for which the municipality provides an enhanced level of municipal services.

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

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

111 (i) "Municipal services" includes:

112 (A) public utilities; and

113 (B) services for:

114 (I) police;

115 (II) fire;

116 (III) storm water runoff;

117 (IV) traffic control;

118 (V) parking;

119 (VI) transportation;
120 (VII) beautification; or
121 (VIII) snow removal.
122 (ii) "Parking service business" means a business:
123 (A) that primarily provides off-street parking services for a public facility that is
124 wholly or partially funded by public moneys;
125 (B) that provides parking for one or more vehicles; and
126 (C) that charges a fee for parking.
127 (iii) "Public assembly or other related facility" means an assembly facility that:
128 (A) is wholly or partially funded by public moneys;
129 (B) is operated by a business; and
130 (C) requires a person attending an event at the assembly facility to purchase a ticket.
131 (c) (i) Before the legislative body of a municipality imposes a license fee on a business
132 that causes disproportionate costs of municipal services under Subsection (5)(a)(i)(C)(I), the
133 legislative body of the municipality shall adopt an ordinance defining for purposes of the tax
134 under Subsection (5)(a)(i)(C)(I):
135 (A) the costs that constitute disproportionate costs; and
136 (B) the amounts that are reasonably related to the costs of the municipal services
137 provided by the municipality.
138 (ii) The amount of a fee under Subsection (5)(a)(i)(C)(I) shall be reasonably related to
139 the costs of the municipal services provided by the municipality.
140 (d) (i) Before the legislative body of a municipality imposes a license fee on a business
141 for which it provides an enhanced level of municipal services under Subsection (5)(a)(i)(C)(II),
142 the legislative body of the municipality shall adopt an ordinance defining for purposes of the
143 fee under Subsection (5)(a)(i)(C)(II):
144 (A) the level of municipal services that constitutes the basic level of municipal services
145 in the municipality; and
146 (B) the amounts that are reasonably related to the costs of providing an enhanced level
147 of municipal services in the municipality.
148 (ii) The amount of a fee under Subsection (5)(a)(i)(C)(II) shall be reasonably related to
149 the costs of providing an enhanced level of the municipal services.

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

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

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

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

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

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

161 (III) operates and manages rental housing in accordance with applicable municipal
162 ordinances.

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

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

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

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

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

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

171 (A) the municipality:

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

173 (II) conducts a municipal services study;

174 (III) updates the municipal services study:

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

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

177 (IV) establishes a good landlord program; and

178 (B) the disproportionate rental fee does not exceed the rental housing cost, as
179 determined by the municipal services study.

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

181 landlord program does not apply to a municipality that imposed and collected a
182 disproportionate rental fee on January 1, 2009.

183 (B) A municipality claiming an exemption under Subsection (5)(e)(iii)(A) shall
184 conduct an updated municipal services study at least every four years.

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

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

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

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

191 (v) The fee limitation under Subsection (5)(e)(ii)(B) does not apply to a municipality
192 that:

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

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

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

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

200 (A) on May 2, 2005, imposed and collected a disproportionate rental fee that exceeds
201 \$17 per unit per year;

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

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

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

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

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

210 (8) If challenged in court, an ordinance enacted by a municipality before January 1,
211 1994, imposing a business license fee on rental dwellings under this section shall be upheld

212 unless the business license fee is found to impose an unreasonable burden on the fee payer.

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

214 **17-53-216. Business license fees and taxes -- Documentation of lawful presence --**
215 **Application information to be transmitted to the county assessor.**

216 (1) ~~[For the purpose of]~~ As used in this section~~["business"]~~:

217 (a) (i) "Applicant" means a natural person or a sole proprietorship.

218 (ii) "Applicant" does not mean a corporation, partnership, limited liability company,
219 trust, or any other legal entity.

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

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

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

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

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

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

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

235 (c) Each applicant for a new license, a renewal of a license, or a replacement license
236 shall execute and submit an affidavit to the county's business licensing agency, under penalty of
237 perjury, stating that the applicant is a United States citizen or lawfully present in the United
238 States.

239 (d) Subsection (2)(b) does not apply to an application for a renewal or replacement
240 license.

241 (e) If the business licensing agency provides for an electronic filing of an application
242 for a new, renewal, or replacement license, then it may also provide for the electronic filing of:

243 (i) verification documents required under Subsection (2)(b); and

244 (ii) the affidavit required under Subsection (2)(c).

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

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

250 (5) This section may not be construed to enhance, diminish, or otherwise alter the
251 taxing power of counties existing prior to the effective date of Laws of Utah 1988, Chapter
252 144.