

MUNICIPAL BUSINESS LICENSING AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jacob L. Anderegg

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to the authority of a municipality to license a business.

Highlighted Provisions:

This bill:

- ▶ amends provisions authorizing a municipality to license a business;
- ▶ prohibits a municipality from requiring a license for certain businesses;
- ▶ authorizes a municipality to require certain businesses that are exempt from licensure to register with the municipality; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-1-203, as last amended by Laws of Utah 2012, Chapter 289

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

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



28 **10-1-203. License fees and taxes -- Application information to be transmitted to**
29 **the county assessor.**

30 (1) As used in this section:

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

34 (ii) "Business" does not include a nonprofit corporation as defined in Section
35 16-6a-102.

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

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

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

41 (b) A municipality may not require a license for a business if:

42 (i) the business's annual revenue is less than \$250,000; and

43 (ii) the business:

44 (A) is primarily conducted at the residence of the owner of the business;

45 (B) does not involve a hazardous occupation as defined in Section 34-23-103;

46 (C) does not receive customers at the business owner's residence; and

47 (D) does not employ employees or contract with independent contractors who work in
48 the business owner's residence.

49 (c) As used in Subsection (2)(b), "residence" means a person's principal place of abode
50 within Utah.

51 (d) (i) A municipality may require a business described in Subsection (2)(b) to register
52 with the municipality.

53 (ii) Notwithstanding Subsection (2)(d)(i), a municipality may not impose a registration
54 fee or penalty for failure to register.

55 (3) (a) The legislative body of a municipality may raise revenue by levying and
56 collecting a municipal energy sales or use tax as provided in Part 3, Municipal Energy Sales
57 and Use Tax Act, except a municipality may not levy or collect a franchise tax or fee on an
58 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 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) and (d):
95 (I) a business that causes disproportionate costs of municipal services; or
96 (II) a purchaser from a business for which the municipality provides an enhanced level
97 of municipal services.

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

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

103 (i) "Municipal services" includes:

104 (A) public utilities; and

105 (B) services for:

106 (I) police;

107 (II) fire;

108 (III) storm water runoff;

109 (IV) traffic control;

110 (V) parking;

111 (VI) transportation;

112 (VII) beautification; or

113 (VIII) snow removal.

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

115 (A) that primarily provides off-street parking services for a public facility that is
116 wholly or partially funded by public money;

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

118 (C) that charges a fee for parking.

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

120 (A) is wholly or partially funded by public money;

121 (B) is operated by a business; and

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

123 (c) (i) Before the legislative body of a municipality imposes a license fee on a business
124 that causes disproportionate costs of municipal services under Subsection (5)(a)(i)(C)(I), the
125 legislative body of the municipality shall adopt an ordinance defining for purposes of the tax
126 under Subsection (5)(a)(i)(C)(I):

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

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

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

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

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

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

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

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

144 [~~(7) The municipality shall transmit the information from each approved business
145 license application to the county assessor within 60 days following the approval of the
146 application.~~]

147 [~~(8)~~ (7) If challenged in court, an ordinance enacted by a municipality before January
148 1, 1994, imposing a business license fee on rental dwellings under this section shall be upheld
149 unless the business license fee is found to impose an unreasonable burden on the fee payer.

Legislative Review Note
as of 1-8-14 3:45 PM

Office of Legislative Research and General Counsel