

Senator Deidre M. Henderson proposes the following substitute bill:

FOOD TRUCK LICENSING AND REGULATION

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Deidre M. Henderson

House Sponsor: Kim F. Coleman

LONG TITLE

General Description:

This bill enacts the Food Truck Licensing and Regulation Act to address local regulation of food trucks.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prevents a political subdivision from requiring multiple business licenses, permits, or fees for a food truck to operate in more than one location within the political subdivision;
- ▶ requires a political subdivision to grant a business license to a food truck operator who presents certain safety certificates and a business license from another political subdivision;
- ▶ requires that fees for a business license or a health department food truck permit not generate revenue but only reimburse the political subdivision or local health department for the cost of regulation;
- ▶ requires a political subdivision conducting a fire safety inspection of a food truck to ensure compliance with certain standards set by the Utah Fire Prevention Board;
- ▶ requires reciprocity between local health departments regarding health department



- 26 food truck permits and political subdivisions regarding fire safety inspections;
- 27 ▶ establishes when a business license or event permit is required for a food truck
- 28 event;
- 29 ▶ prevents a political subdivision from imposing certain requirements or prohibitions
- 30 on the operation of a food truck;
- 31 ▶ requires the Utah Fire Prevention Board to establish criteria for the fire safety
- 32 inspection of a food truck; and
- 33 ▶ makes technical and conforming changes.

34 **Money Appropriated in this Bill:**

35 None

36 **Other Special Clauses:**

37 This bill provides a coordination clause.

38 **Utah Code Sections Affected:**

39 AMENDS:

40 **53-7-204**, as last amended by Laws of Utah 2011, Chapter 14

41 ENACTS:

42 **11-55-101**, Utah Code Annotated 1953

43 **11-55-102**, Utah Code Annotated 1953

44 **11-55-103**, Utah Code Annotated 1953

45 **11-55-104**, Utah Code Annotated 1953

46 **11-55-105**, Utah Code Annotated 1953

47 **11-55-106**, Utah Code Annotated 1953

48 **Utah Code Sections Affected by Coordination Clause:**

49 **11-55-103**, Utah Code Annotated 1953



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

52 Section 1. Section **11-55-101** is enacted to read:

53 **CHAPTER 55. FOOD TRUCK LICENSING AND REGULATION ACT**

54 **11-55-101. Title.**

55 This chapter is known as the "Food Truck Licensing and Regulation Act."

56 Section 2. Section **11-55-102** is enacted to read:

57 11-55-102. Definitions.

58 As used in this chapter:

59 (1) "Event permit" means a permit that a political subdivision issues to the organizer of
60 a public food truck event located on public property.

61 (2) "Food cart" means a cart:

62 (a) that is not motorized; and

63 (b) that a vendor, standing outside the frame of the cart, uses to prepare, sell, or serve
64 food or beverages for immediate human consumption.

65 (3) (a) "Food truck" means a fully encased food service establishment:

66 (i) on a motor vehicle or on a trailer that a motor vehicle pulls to transport; and

67 (ii) from which a food truck vendor, standing within the frame of the vehicle, prepares,
68 cooks, sells, or serves food or beverages for immediate human consumption.

69 (b) "Food truck" does not include a food cart or an ice cream truck.

70 (4) "Food truck event" means an event where an individual has ordered or
71 commissioned the operation of a food truck at a private or public gathering.

72 (5) "Food truck operator" means a person who owns, manages, or controls, or who has
73 the duty to manage or control, the operation of a food truck.

74 (6) "Food truck vendor" means a person who sells, cooks, or serves food or beverages
75 from a food truck.

76 (7) "Health department food truck permit" means a document that a local health
77 department issues to authorize a person to operate a food truck within the jurisdiction of the
78 local health department.

79 (8) "Ice cream truck" means a fully encased food service establishment:

80 (a) on a motor vehicle or on a trailer that a motor vehicle pulls to transport;

81 (b) from which a vendor, from within the frame of the vehicle, serves ice cream;

82 (c) that attracts patrons by traveling through a residential area and signaling the truck's
83 presence in the area, including by playing music; and

84 (d) that may stop to serve ice cream at the signal of a patron.

85 (9) "Local health department" means the same as that term is defined in Section
86 [26A-1-102\(5\)](#).

87 (10) "Political subdivision" means:

88 (a) a city, town, or metro township; or

89 (b) a county, as it relates to the licensing and regulation of businesses in the
90 unincorporated area of the county.

91 (11) (a) "Temporary mass gathering" means:

92 (i) an actual or reasonably anticipated assembly of 500 or more people that continues,
93 or reasonably can be expected to continue, for two or more hours per day; or

94 (ii) an event that requires a more extensive review to protect public health and safety
95 because the event's nature or conditions have the potential of generating environmental or
96 health risks.

97 (b) "Temporary mass gathering" does not include an assembly of people at a location
98 with permanent facilities designed for that specific assembly, unless the assembly is a
99 temporary mass gathering described in Subsection (8)(a)(ii).

100 Section 3. Section **11-55-103** is enacted to read:

101 **11-55-103. Licensing -- Reciprocity -- Fees.**

102 (1) A political subdivision may not:

103 (a) require a separate license or fee beyond the initial business license and fee for the
104 operation of a food truck in more than one location or on more than one day within the political
105 subdivision in the same calendar year; or

106 (b) as a business license qualification, require a food truck operator or food truck
107 vendor to submit to or offer proof of a criminal background check.

108 (2) (a) A political subdivision shall grant a business license to operate a food truck
109 within the political subdivision to a food truck operator who has obtained a business license to
110 operate a food truck in another political subdivision within the state if the food truck operator
111 presents to the political subdivision:

112 (i) a current business license from the other political subdivision within the state;

113 (ii) a current health department food truck permit from a local health department within
114 the state; and

115 (iii) a current approval of a political subdivision within the state that shows that the
116 food truck passed a fire safety inspection that the other political subdivision conducted in
117 accordance with Subsection [11-55-104\(4\)\(a\)](#).

118 (b) If a food truck operator presents the documents described in Subsection (2)(a), the

119 political subdivision may not:

120 (i) impose additional license qualification requirements on the food truck operator
121 before issuing a license to operate within the political subdivision, except for charging a fee in
122 accordance with Subsection (3); or

123 (ii) issue a license that expires on a date earlier or later than the day on which the
124 license described in Subsection (2)(a)(i) expires.

125 (c) Nothing in this Subsection (2) prevents a political subdivision from enforcing the
126 political subdivision's land use regulations, zoning, and other ordinances in relation to the
127 operation of a food truck.

128 (3) (a) Notwithstanding Subsections 10-1-203(2) and 17-53-216(2), a political
129 subdivision may only charge a licensing fee to a food truck operator in an amount that
130 reimburses the political subdivision for the cost of regulating the food truck.

131 (b) For a business license that a political subdivision issues in accordance with
132 Subsection (2), the political subdivision shall reduce the amount of the business licensing fee to
133 an amount that accounts for the lower administrative burden on the political subdivision.

134 (4) Nothing in this section prevents a political subdivision from:

135 (a) requiring a food truck operator to obtain an event permit, in accordance with
136 Section 11-55-105; or

137 (b) revoking a license that the political subdivision has issued if the operation of the
138 related food truck within the political subdivision violates the terms of the license.

139 Section 4. Section **11-55-104** is enacted to read:

140 **11-55-104. Safety and health inspections and permits -- Reciprocity -- Fees.**

141 (1) A food truck operator shall obtain an annual health department food truck permit
142 from the local health department with jurisdiction over the area in which the majority of the
143 food truck's operations takes place.

144 (2) (a) A local health department shall grant a health department food truck permit to
145 operate a food truck within the jurisdiction of the local health department to a food truck
146 operator who has obtained the health department food truck permit described in Subsection (1)
147 from another local health department within the state if the food truck operator presents to the
148 local health department the current health department food truck permit from the other local
149 health department.

150 (b) If a food truck operator presents the health department food truck permit described
151 in Subsection (1), the local health department may not:

152 (i) impose additional permit qualification requirements on the food truck operator
153 before issuing a health department food truck permit to operate within the jurisdiction of the
154 local health department, except for charging a fee in accordance with Subsection (3); or

155 (ii) issue a health department food truck permit that expires on a date earlier or later
156 than the day on which the permit described in Subsection (1) expires.

157 (3) (a) A local health department may only charge a health department food truck
158 permit fee to a food truck operator in an amount that reimburses the local health department for
159 the cost of regulating the food truck.

160 (b) For a health department food truck permit that a local health department issues in
161 accordance with Subsection (2), the local health department shall reduce the amount of the
162 food truck permit fee to an amount that accounts for the lower administrative burden on the
163 local health department.

164 (4) (a) A political subdivision inspecting a food truck for fire safety shall conduct the
165 inspection based on the criteria that the Utah Fire Prevention Board, created in Section
166 [53-7-203](#), establishes in accordance with Section [53-7-204](#).

167 (b) (i) A political subdivision shall consider valid within the political subdivision's
168 jurisdiction an approval from another political subdivision within the state that shows that the
169 food truck passed a fire safety inspection that the other political subdivision conducted.

170 (ii) A political subdivision may not require that a food truck pass a fire safety
171 inspection in a given calendar year if the food truck operator presents to the political
172 subdivision an approval described in Subsection (4)(b)(i) issued during the same calendar year.

173 (5) (a) Nothing in this section prevents a local health department from:

174 (i) requiring a food truck operator to obtain an event permit, in accordance with
175 Section [11-55-105](#); or

176 (ii) revoking a health department food truck permit that the local health department has
177 issued if the operation of the related food truck within the jurisdiction of the local health
178 department violates the terms of the permit.

179 (b) Nothing in this section prevents a political subdivision from revoking the political
180 subdivision's approval described in Subsection (4)(b)(i) if the operation of the related food

181 truck within the political subdivision fails to meet the criteria described in Subsection (4)(a).

182 Section 5. Section **11-55-105** is enacted to read:

183 **11-55-105. Food truck events.**

184 (1) Subject to Subsection (4), a political subdivision may not require a food truck
185 operator to obtain from the political subdivision an event permit to operate a food truck at a
186 food truck event that takes place on private property within the political subdivision, regardless
187 of whether the event is open or closed to the public.

188 (2) If the food truck operator has a business license from any political subdivision
189 within the state, a political subdivision may not require a food truck operator to obtain from the
190 political subdivision an additional business license to operate a food truck at a food truck event
191 that:

192 (a) takes place on private property within the political subdivision; and

193 (b) is not open to the public.

194 (3) If a political subdivision requires an event permit for a food truck event, the
195 organizer of the food truck event may obtain the event permit on behalf of the food trucks that
196 service the event.

197 (4) Nothing in this section prohibits a county health department from requiring a
198 permit for a temporary mass gathering.

199 Section 6. Section **11-55-106** is enacted to read:

200 **11-55-106. Food truck operation.**

201 A political subdivision may not prohibit the operation of a food truck within a given
202 distance of a restaurant.

203 Section 7. Section **53-7-204** is amended to read:

204 **53-7-204. Duties of Utah Fire Prevention Board -- Unified Code Analysis Council**
205 **-- Local administrative duties.**

206 (1) The board shall:

207 (a) administer the state fire code as the standard in the state;

208 (b) subject to the state fire code, make rules in accordance with Title 63G, Chapter 3,
209 Utah Administrative Rulemaking Act:

210 (i) establishing standards for the prevention of fire and for the protection of life and
211 property against fire and panic in any:

- 212 (A) publicly owned building, including all public and private schools, colleges, and
213 university buildings;
- 214 (B) building or structure used or intended for use as an asylum, a mental hospital, a
215 hospital, a sanitarium, a home for the elderly, an assisted living facility, a children's home or
216 day care center, or any building or structure used for a similar purpose; or
- 217 (C) place of assemblage where 50 or more persons may gather together in a building,
218 structure, tent, or room for the purpose of amusement, entertainment, instruction, or education;
- 219 (ii) establishing safety and other requirements for placement and discharge of display
220 fireworks on the basis of:
- 221 (A) the state fire code; and
- 222 (B) relevant publications of the National Fire Protection Association;
- 223 (iii) establishing safety standards for retail storage, handling, and sale of class C
224 common state approved explosives;
- 225 (iv) defining methods to establish proof of competence to place and discharge display
226 fireworks, special effects fireworks, and flame effects;
- 227 (v) deputizing qualified persons to act as deputy fire marshals, and to secure special
228 services in emergencies;
- 229 (vi) implementing Section [15A-1-403](#);
- 230 (vii) setting guidelines for use of funding;
- 231 (viii) establishing criteria for training and safety equipment grants for fire departments
232 enrolled in firefighter certification; [and]
- 233 (ix) establishing ongoing training standards for hazardous materials emergency
234 response agencies; and
- 235 (x) establish criteria for the fire safety inspection of a food truck;
- 236 (c) recommend to the commissioner a state fire marshal;
- 237 (d) develop policies under which the state fire marshal and the state fire marshal's
238 authorized representatives will perform;
- 239 (e) provide for the employment of field assistants and other salaried personnel as
240 required;
- 241 (f) prescribe the duties of the state fire marshal and the state fire marshal's authorized
242 representatives;

- 243 (g) establish a statewide fire prevention, fire education, and fire service training
- 244 program in cooperation with the Board of Regents;
- 245 (h) establish a statewide fire statistics program for the purpose of gathering fire data
- 246 from all political subdivisions of the state;
- 247 (i) establish a fire academy in accordance with Section 53-7-204.2;
- 248 (j) coordinate the efforts of all people engaged in fire suppression in the state;
- 249 (k) work aggressively with the local political subdivisions to reduce fire losses;
- 250 (l) regulate the sale and servicing of portable fire extinguishers and automatic fire
- 251 suppression systems in the interest of safeguarding lives and property;
- 252 (m) establish a certification program for persons who inspect and test automatic fire
- 253 sprinkler systems;
- 254 (n) establish a certification program for persons who inspect and test fire alarm
- 255 systems;
- 256 (o) establish a certification for persons who provide response services regarding
- 257 hazardous materials emergencies;
- 258 (p) in accordance with Section 15A-1-403, report to the Business and Labor Interim
- 259 Committee; and
- 260 (q) jointly create the Unified Code Analysis Council with the Uniform Building Code
- 261 Commission in accordance with Section 15A-1-203.
- 262 (2) The board may incorporate in its rules by reference, in whole or in part:
- 263 (a) the state fire code; or
- 264 (b) subject to the state fire code, a nationally recognized and readily available standard
- 265 pertaining to the protection of life and property from fire, explosion, or panic.
- 266 (3) The following functions shall be administered locally by a city, county, or fire
- 267 protection district:
- 268 (a) issuing permits, including open burning permits pursuant to Sections 11-7-1 and
- 269 19-2-114;
- 270 (b) creating a local board of appeals in accordance with the state fire code; and
- 271 (c) subject to the state fire code and the other provisions of this chapter, establishing,
- 272 modifying, or deleting fire flow and water supply requirements.

273 Section 8. **Coordinating S.B. 250 with S.B. 81 -- Technical and substantive**

274 **amendments.**

275 If this S.B. 250 and S.B. 81, Local Government Licensing Amendments, both pass and
276 become law, it is the intent of the Legislature that the Office of Legislative Research and
277 General Counsel shall prepare the Utah Code database for publication by modifying Subsection
278 11-55-103(3) to read:

279 "(3) (a) A political subdivision may only charge a licensing fee to a food truck operator
280 in an amount that reimburses the political subdivision for the cost of regulating the food truck.

281 (b) For a business license that a political subdivision issues in accordance with
282 Subsection (2), the political subdivision shall reduce the amount of the business licensing fee to
283 an amount that accounts for the lower administrative burden on the political subdivision."