

## SB0250S01 compared with SB0250

~~{deleted text}~~ shows text that was in SB0250 but was deleted in SB0250S01.

Inserted text shows text that was not in SB0250 but was inserted into SB0250S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

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

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#### 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;

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- ▶ requires that fees for a business ~~{licensing}~~ 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 ~~{State}~~ Fire ~~{Marshal}~~ Prevention Board;
- ▶ requires reciprocity between ~~{county}~~ local health departments regarding health department food truck permits and political subdivisions regarding ~~{health and}~~ fire safety ~~{inspection certificates}~~ inspections;
- ▶ establishes when a business license or event permit is required for a food truck event; ~~{and}~~
- ▶ prevents a political subdivision from imposing certain requirements or prohibitions on the operation of a food truck ~~{.}~~ ;
  - ▶ requires the Utah Fire Prevention Board to establish criteria for the fire safety inspection of a food truck; and
  - ▶ makes technical and conforming changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

This bill provides a coordination clause.

### Utah Code Sections Affected:

#### AMENDS:

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

#### ENACTS:

11-55-101, Utah Code Annotated 1953

11-55-102, Utah Code Annotated 1953

11-55-103, Utah Code Annotated 1953

11-55-104, Utah Code Annotated 1953

11-55-105, Utah Code Annotated 1953

11-55-106, Utah Code Annotated 1953

### Utah Code Sections Affected by Coordination Clause:

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11-55-103, Utah Code Annotated 1953

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

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

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

### **11-55-101. Title.**

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

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

### **11-55-102. Definitions.**

As used in this chapter:

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

(2) "Food cart" means a cart:

(a) that is not motorized; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(~~7~~10) "Political subdivision" means:

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

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

(~~8~~11) (a) "Temporary mass gathering" means:

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

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

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

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

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

(1) A political subdivision may not:

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

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

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

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presents to the political subdivision:

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

(ii) a current ~~certificate showing that the food truck has passed an inspection that a county~~ health department food truck permit from a local health department within the state ~~conducted~~; and

(iii) a current ~~certificate showing that the food truck has passed a fire safety inspection that~~ approval of a political subdivision within the state that shows that the food truck passed a fire safety inspection that the other political subdivision conducted in accordance with Subsection 11-55-104(~~2~~4)(a).

(b) If a food truck operator presents the documents described in Subsection (2)(a), the political subdivision may not:

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

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

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

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

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

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

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

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

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

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

#### ~~(1) (a) A county~~ -- Fees.

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

(2) (a) A local health department shall ~~consider valid within the county~~ grant a health ~~department's jurisdiction a certificate from another county~~ department food truck permit to operate a food truck within the jurisdiction of the local health department to a food truck operator who has obtained the health department food truck permit described in Subsection (1) from another local health department within the state ~~that shows that the food truck passed an inspection that the other county health department conducted.~~

~~(b) A county health department may not require that a food truck pass a county health department inspection in a given calendar year~~ if the food truck operator presents to the ~~county~~ local health department ~~a certificate~~ the current health department food truck permit from the other local health department.

(b) If a food truck operator presents the health department food truck permit described in Subsection (1) ~~(a) issued during the same calendar year.~~

#### ~~(2)~~, the local health department may not:

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

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

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

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

(4) (a) A political subdivision inspecting a food truck for fire safety shall conduct the

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inspection based on ~~{reasonable standards in }~~the ~~{fire safety check list for food trucks that the Utah State Fire Marshal publishes on the Department of Public Safety's website}~~criteria that the Utah Fire Prevention Board, created in Section 53-7-203, establishes in accordance with Section 53-7-204.

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

(ii) A political subdivision may not require that a food truck pass a fire safety inspection in a given calendar year if the food truck operator presents to the political subdivision ~~{a certificate}~~an approval described in Subsection (~~{2}~~4)(b)(i) issued during the same calendar year.

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

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

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

(b) Nothing in this section prevents a political subdivision from revoking the political subdivision's approval described in Subsection (4)(b)(i) if the operation of the related food truck within the political subdivision fails to meet the criteria described in Subsection (4)(a).

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

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

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

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

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

(b) is not open to the public.

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

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

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

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

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

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

### **53-7-204. Duties of Utah Fire Prevention Board -- Unified Code Analysis Council**

#### **-- Local administrative duties.**

(1) The board shall:

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

(b) subject to the state fire code, make rules in accordance with Title 63G, Chapter 3,

Utah Administrative Rulemaking Act:

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

(A) publicly owned building, including all public and private schools, colleges, and university buildings;

(B) building or structure used or intended for use as an asylum, a mental hospital, a hospital, a sanitarium, a home for the elderly, an assisted living facility, a children's home or day care center, or any building or structure used for a similar purpose; or

(C) place of assemblage where 50 or more persons may gather together in a building, structure, tent, or room for the purpose of amusement, entertainment, instruction, or education;

(ii) establishing safety and other requirements for placement and discharge of display fireworks on the basis of:

(A) the state fire code; and

(B) relevant publications of the National Fire Protection Association;



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(iii) establishing safety standards for retail storage, handling, and sale of class C common state approved explosives;

(iv) defining methods to establish proof of competence to place and discharge display fireworks, special effects fireworks, and flame effects;

(v) deputizing qualified persons to act as deputy fire marshals, and to secure special services in emergencies;

(vi) implementing Section 15A-1-403;

(vii) setting guidelines for use of funding;

(viii) establishing criteria for training and safety equipment grants for fire departments enrolled in firefighter certification; [and]

(ix) establishing ongoing training standards for hazardous materials emergency response agencies; and

(x) establish criteria for the fire safety inspection of a food truck;

(c) recommend to the commissioner a state fire marshal;

(d) develop policies under which the state fire marshal and the state fire marshal's authorized representatives will perform;

(e) provide for the employment of field assistants and other salaried personnel as required;

(f) prescribe the duties of the state fire marshal and the state fire marshal's authorized representatives;

(g) establish a statewide fire prevention, fire education, and fire service training program in cooperation with the Board of Regents;

(h) establish a statewide fire statistics program for the purpose of gathering fire data from all political subdivisions of the state;

(i) establish a fire academy in accordance with Section 53-7-204.2;

(j) coordinate the efforts of all people engaged in fire suppression in the state;

(k) work aggressively with the local political subdivisions to reduce fire losses;

(l) regulate the sale and servicing of portable fire extinguishers and automatic fire suppression systems in the interest of safeguarding lives and property;

(m) establish a certification program for persons who inspect and test automatic fire sprinkler systems;

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(n) establish a certification program for persons who inspect and test fire alarm systems;

(o) establish a certification for persons who provide response services regarding hazardous materials emergencies;

(p) in accordance with Section 15A-1-403, report to the Business and Labor Interim Committee; and

(q) jointly create the Unified Code Analysis Council with the Uniform Building Code Commission in accordance with Section 15A-1-203.

(2) The board may incorporate in its rules by reference, in whole or in part:

(a) the state fire code; or

(b) subject to the state fire code, a nationally recognized and readily available standard pertaining to the protection of life and property from fire, explosion, or panic.

(3) The following functions shall be administered locally by a city, county, or fire protection district:

(a) issuing permits, including open burning permits pursuant to Sections 11-7-1 and 19-2-114;

(b) creating a local board of appeals in accordance with the state fire code; and

(c) subject to the state fire code and the other provisions of this chapter, establishing, modifying, or deleting fire flow and water supply requirements.

Section ~~{7}~~8. **Coordinating S.B. 250 with S.B. 81 -- Technical and substantive amendments.**

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

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

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

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~~Legislative Review Note~~

~~Office of Legislative Research and General Counsel~~