

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; and

- 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.

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



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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 new 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) ~~Ĥ~~ → (i) ← ~~Ĥ~~ Each applicant for a new license, a renewal of a license, or a replacement license

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.

~~Ĥ~~ → [~~Ĥ~~ → (ii) If the applicant is a business entity with officers, directors, or partners who reside within the United States, then the affidavit referred to in Subsection (2)(c)(i) shall also attest

that those officers, directors, or partners who reside within the United States are either United States citizens or lawfully present in the United States. ← ~~Ĥ~~] Subsection (2)(c)(i) does not apply to:

(A) an applicant that is a business entity licensed or regulated by a state or federal agency located within the United States; or

(B) the business entity applicant's officers, directors, or partners. ← ~~Ĥ~~

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

(e) If the business licensing agency provides for an electronic filing of an application

57 for a new, renewal, or replacement license, then it may also provide for the electronic filing of:

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

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

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

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

67 (ii) A franchise agreement as defined in Subsection 10-1-303(6) in effect on January 1,
68 1997, or a future franchise shall remain in full force and effect.

69 (c) A municipality that collects a contractual franchise fee pursuant to a franchise
70 agreement as defined in Subsection 10-1-303(6) with an energy supplier that is in effect on July
71 1, 1997, may continue to collect that fee as provided in Subsection 10-1-310(2).

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

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

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

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

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

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

85 (4) (a) Subject to Subsection (4)(b), beginning July 1, 2004, the legislative body of a
86 municipality may raise revenue by levying and providing for the collection of a municipal
87 telecommunications license tax as provided in Part 4, Municipal Telecommunications License

88 Tax Act.

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

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

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

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

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

97 (B) a public assembly or other related facility in an amount that is less than or equal to
98 \$5 per ticket purchased from the public assembly or other related facility; and

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

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

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

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

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

107 (i) "Municipal services" includes:

108 (A) public utilities; and

109 (B) services for:

110 (I) police;

111 (II) fire;

112 (III) storm water runoff;

113 (IV) traffic control;

114 (V) parking;

115 (VI) transportation;

116 (VII) beautification; or

117 (VIII) snow removal.

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

119 (A) that primarily provides off-street parking services for a public facility that is
120 wholly or partially funded by public moneys;

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

122 (C) that charges a fee for parking.

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

124 (A) is wholly or partially funded by public moneys;

125 (B) is operated by a business; and

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

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

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

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

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

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

140 (A) the level of municipal services that constitutes the basic level of municipal services
141 in the municipality; and

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

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

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

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

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

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

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

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

157 (III) operates and manages rental housing in accordance with applicable municipal
158 ordinances.

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

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

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

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

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

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

167 (A) the municipality:

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

169 (II) conducts a municipal services study;

170 (III) updates the municipal services study:

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

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

173 (IV) establishes a good landlord program; and

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

176 (iii) (A) The requirement under Subsection (5)(e)(ii)(A)(IV) to establish a good
177 landlord program does not apply to a municipality that imposed and collected a
178 disproportionate rental fee on January 1, 2009.

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

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

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

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

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

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

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

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

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

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

196 (A) on May 2, 2005, imposed and collected a disproportionate rental fee that exceeds
197 \$17 per unit per year;

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

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

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

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

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

206 (8) If challenged in court, an ordinance enacted by a municipality before January 1,
207 1994, imposing a business license fee on rental dwellings under this section shall be upheld
208 unless the business license fee is found to impose an unreasonable burden on the fee payer.

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

210 **17-53-216. Business license fees and taxes -- Documentation of lawful presence --**
211 **Application information to be transmitted to the county assessor.**

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

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

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

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

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

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

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

227 (c) ~~Ĥ→ (i) ←Ĥ~~ Each applicant for a new license, a renewal of a license, or a replacement
 227a license
 228 shall execute and submit an affidavit to the county's business licensing agency, under penalty of
 229 perjury, stating that the applicant is a United States citizen or lawfully present in the United
 230 States.

230a ~~Ŝ→ [Ĥ→ (ii) If the applicant is a business entity with officers, directors, or partners who reside~~
 230b ~~within the United States, then the affidavit referred to in Subsection (2)(c)(i) shall also attest~~
 230c ~~that those officers, directors, or partners who reside within the United States are either~~
 230d ~~United States citizens or lawfully present in the United States. ←Ĥ]~~ Subsection (2)(c)(i) does not
 230e apply to:

230f (A) an applicant that is a business entity licensed or regulated by a state or federal
 230g agency located within the United States; or

230h (B) the business entity applicant's officers, directors, or partners. ←Ŝ

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

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

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

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

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

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

242 (5) This section may not be construed to enhance, diminish, or otherwise alter the

243 taxing power of counties existing prior to the effective date of Laws of Utah 1988, Chapter
244 144.

H.B. 227 1st Sub. (Buff) - 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.
