

HB0258S01 compared with HB0258

~~deleted text~~ shows text that was in HB0258 but was deleted in HB0258S01.

inserted text shows text that was not in HB0258 but was inserted into HB0258S01.

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Representative Jacob L. Anderegg proposes the following substitute bill:

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;
- ▶ prohibits a municipality from transmitting information about certain businesses; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

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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:

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

(1) As used in this section:

(a) (i) "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.

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

(b) (i) "Commercial breeder" means a person who for a fee or other consideration:

(A) maintains in a kennel at any time six or more dogs for breeding or six or more cats for breeding and sells, leases, trades, barter, auctions, or provides to another person the offspring of those dogs or cats; or

(B) buys, sells, leases, trades, barter, or provides to another person a dog or cat at wholesale for resale to another.

(ii) "Commercial breeder" does not include:

(A) an animal shelter as defined in Section 11-46-102; or

(B) a person with five or fewer unsterilized dogs over six months old or five or fewer unsterilized cats over six months old.

(c) "Kennel" means a facility where a commercial breeder keeps, houses, and maintains dogs or cats.

(d) "Mechanic business" means a business that constructs, repairs, adjusts, inspects, or overhauls a motor vehicle or off-highway vehicle.

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(e) "Motor vehicle" means a self-propelled vehicle intended primarily for use and operation on the highways.

(f) "Off-highway vehicle" is as defined in Section 41-22-2.

(g) "Residence" means a person's principal place of abode within Utah.

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

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

(2) (a) Except as provided in Subsections (2)(b) and (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) A municipality may not require a license for a business if:

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

~~— (ii) } the business:~~

~~(A) } i) is primarily conducted at the residence of the owner of the business;~~

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

~~— (C) } does not receive; ii) receives~~ customers at the business owner's residence ~~; and~~

~~— (D) } only to the extent that:~~

(A) the number of customer motor vehicles present at any one time does not significantly disrupt the flow of traffic; and

(B) the number of customers present at any one time in the residence or on the residence property does not significantly interrupt an owner's enjoyment and use of the owner's property that is immediately adjacent to the residence where the business is conducted;

(iii) does not employ employees or contract with independent contractors who work in the business owner's residence;

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

~~— (d) } iv) does not involve a hazardous occupation as defined in Section 34-23-103; and~~

(v) is not a kennel or mechanic business.

(c) (i) A municipality may require a business ~~{described in}~~ that is exempt from licensure under Subsection (2)(b) to register with the municipality.

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

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

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

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

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

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

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

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

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

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

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

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

(b) A municipality may not levy or collect a telecommunications tax or fee on a telecommunications provider except as provided in Part 4, Municipal Telecommunications

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License Tax Act.

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

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

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

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

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

(C) subject to the limitations of Subsections (5)(c) and (d):

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

(II) a purchaser from a business for which the municipality provides an enhanced level of municipal services.

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

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

(i) "Municipal services" includes:

(A) public utilities; and

(B) services for:

(I) police;

(II) fire;

(III) storm water runoff;

(IV) traffic control;

(V) parking;

(VI) transportation;

(VII) beautification; or

(VIII) snow removal.

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

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

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

(C) that charges a fee for parking.

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

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

(B) is operated by a business; and

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

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

(A) the costs that constitute disproportionate costs; and

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

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

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

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

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

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

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

~~[(7)]~~ (7) The municipality:

(a) shall transmit the information from each approved business license application to the county assessor within 60 days following the approval of the application ~~[(7)]~~

~~[(8)]~~ ~~[(7)]~~ ~~[(7)]~~; and

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(b) may not transmit to the county or other government entity any information regarding a business that is not required to be licensed, including information that is obtained through a registration described in Subsection (2)(c)(i).

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

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Legislative Review Note

~~as of 1-8-14 3:45 PM~~

~~Office of Legislative Research and General Counsel}~~