

**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: \_\_\_\_\_

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**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;
- ▶ prohibits a municipality from transmitting information about certain businesses;
- ▶ provides a repeal date; 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

**63I-1-210**, as renumbered and amended by Laws of Utah 2008, Chapter 382



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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 -- 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.

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

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

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

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

60 (b) Notwithstanding Subsection (2)(a), a municipality may not require a license for a  
61 business if the business:

62 (i) is primarily conducted at the residence of the owner of the business;

63 (ii) receives customers at the business owner's residence only to the extent that:

64 (A) the number of customer motor vehicles present at any one time does not

65 significantly disrupt the flow of traffic; and

66 (B) the number of customers present at any one time in the residence or on the  
67 residence property does not significantly interrupt another owner's enjoyment and use of the  
68 other owner's property that is in the vicinity of the residence where the business is conducted;

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

71 (iv) does not involve a hazardous occupation as defined in Section [34-23-103](#); and

72 (v) is not:

73 (A) a kennel;

74 (B) a mechanic business;

75 (C) a business for which the owner or an employee is required to have a license in  
76 accordance with Title 58, Occupations and Professions; or

77 (D) a child care facility or preschool.

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

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

85 (ii) A franchise agreement as defined in Subsection [10-1-303\(6\)](#) in effect on January 1,  
86 1997, or a future franchise shall remain in full force and effect.

87 (c) A municipality that collects a contractual franchise fee pursuant to a franchise

88 agreement as defined in Subsection 10-1-303(6) with an energy supplier that is in effect on July  
89 1, 1997, may continue to collect that fee as provided in Subsection 10-1-310(2).

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

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

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

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

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

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

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

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

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

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

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

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

115 (B) a public assembly or other related facility in an amount that is less than or equal to  
116 \$5 per ticket purchased from the public assembly or other related facility; and

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

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

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

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

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

126 (i) "Municipal services" includes:

127 (A) public utilities; and

128 (B) services for:

129 (I) police;

130 (II) fire;

131 (III) storm water runoff;

132 (IV) traffic control;

133 (V) parking;

134 (VI) transportation;

135 (VII) beautification; or

136 (VIII) snow removal.

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

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

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

141 (C) that charges a fee for parking.

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

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

144 (B) is operated by a business; and

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

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

150 (A) the costs that constitute disproportionate costs; and  
151 (B) the amounts that are reasonably related to the costs of the municipal services  
152 provided by the municipality.

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

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

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

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

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

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

167 (7) The municipality:

168 (a) shall transmit the information from each approved business license application to  
169 the county assessor within 60 days following the approval of the application[-]; and

170 (b) may not transmit to the county or other government entity any information  
171 regarding a business that is not required to be licensed.

172 (8) If challenged in court, an ordinance enacted by a municipality before January 1,  
173 1994, imposing a business license fee on rental dwellings under this section shall be upheld  
174 unless the business license fee is found to impose an unreasonable burden on the fee payer.

175 Section 2. Section **63I-1-210** is amended to read:

176 **63I-1-210. Repeal dates, Title 10.**

177 Subsections 10-2-203(1)(a)(ii), (b), (c), (d), (e), (f), (g), and (2)(b) are repealed July 1,  
178 2016.