

1 **MUNICIPAL BUSINESS LICENSING AMENDMENTS**

2 2016 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Jacob L. Anderegg**

5 Senate Sponsor: _____

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions related to a municipality's authority to license a business.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ amends provisions authorizing a municipality to license a business;

13 ▶ prohibits a municipality from requiring a license for certain businesses; ~~H→~~ **and**

14 [~~→~~ **prohibits a municipality from transmitting information about certain businesses; and** ~~←H~~]

15 ▶ makes technical corrections.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **10-1-203**, as last amended by Laws of Utah 2014, Chapter 189

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

25 Section 1. Section **10-1-203** is amended to read:

26 **10-1-203. License fees and taxes -- Application information to be transmitted to**
27 **the county assessor.**



28 (1) As used in this section:

29 (a) (i) "Business" means any enterprise carried on for the purpose of gain or economic
30 profit, except that the acts of employees rendering services to employers are not included in
31 this definition.

32 (ii) "Business" does not include a nonprofit corporation as defined in Section
33 [16-6a-102](#).

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

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

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

40 (ii) "Commercial breeder" does not include:

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

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

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

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

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

50 (f) "Off-highway vehicle" means the same as that term is defined in Section [41-22-2](#).

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

52 (h) "Residential child care" means the same as that term is defined in Section
53 [26-39-102](#).

54 ~~(b)~~ (i) "Telecommunications provider" ~~[is as defined]~~ means the same as that term is
55 defined in Section [10-1-402](#).

56 ~~(c)~~ (j) "Telecommunications tax or fee" ~~[is as defined]~~ means the same as that term is
57 defined in Section [10-1-402](#).

58 (2) (a) Except as provided in Subsections (3) through (5), the legislative body of a

59 municipality may license for the purpose of regulation [~~and revenue~~] any business within the
60 limits of the municipality and may regulate that business by ordinance.

61 (b) A municipality may not require a license for a business that:

62 (i) is primarily located at the business owner's residence; and

63 (ii) receives customers at the business owner's residence.

64 (c) Notwithstanding Subsection (2)(b), a municipality may:

65 (i) license for the purpose of regulation a business described in Subsection (2)(b) if the
66 business:

67 (A) involves a hazardous occupation as defined in Section [34-23-103](#);

68 (B) employs one or more employees or contracts with one or more independent
69 contractors who work in the business owner's residence;

70 (C) is a kennel, a mechanic business, a business for which the owner or an employee is
71 required to have a license under Title 58, Occupations and Professions; or

72 (D) provides residential child care; or

73 (ii) regulate a business described in Subsection (2)(b) to ensure that:

74 (A) the number of customer motor vehicles present at any one time in the vicinity of
75 the business owner's residence does not significantly disrupt the flow of traffic; or

76 (B) the number of customers present at any one time in the business owner's residence
77 or on the business owner's property does not significantly interrupt another property owner's
78 enjoyment or use of the property owner's property.

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

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

86 (ii) A franchise agreement as defined in Subsection [10-1-303\(6\)](#) in effect on January 1,
87 1997, or a future franchise shall remain in full force and effect.

88 (c) A municipality that collects a contractual franchise fee pursuant to a franchise
89 agreement as defined in Subsection [10-1-303\(6\)](#) with an energy supplier that is in effect on July

90 1, 1997, may continue to collect that fee as provided in Subsection 10-1-310(2).

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

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

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

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

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

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

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

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

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

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

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

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

116 (B) a public assembly or other related facility in an amount that is less than or equal to
117 \$5 per ticket purchased from the public assembly or other related facility; and

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

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

120 (II) a purchaser from a business for which the municipality provides an enhanced level

121 of municipal services.

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

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

127 (i) "Municipal services" includes:

128 (A) public utilities; and

129 (B) services for:

130 (I) police;

131 (II) fire;

132 (III) storm water runoff;

133 (IV) traffic control;

134 (V) parking;

135 (VI) transportation;

136 (VII) beautification; or

137 (VIII) snow removal.

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

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

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

142 (C) that charges a fee for parking.

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

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

145 (B) is operated by a business; and

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

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

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

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

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

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

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

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

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

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

168 (7) The municipality ~~H~~→ [;:

169 ~~—(a) ←H~~ shall transmit the information from each approved business license application to
 170 the county assessor within 60 days following the approval of the application ~~H~~→ [H] . [H] [; and

171 ~~—(b) may not transmit to the county or other government entity any information~~
 172 ~~regarding a business that is not required to be licensed under this section.] ←H~~

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

Legislative Review Note
Office of Legislative Research and General Counsel