

HB0132S01 compared with HB0132

~~{deleted text}~~ shows text that was in HB0132 but was deleted in HB0132S01.

inserted text shows text that was not in HB0132 but was inserted into HB0132S01.

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~~{MUNICIPAL BUSINESS}~~ Representative Jacob L. Anderegg proposes the following substitute bill:

LOCAL GOVERNMENT LICENSING AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jacob L. Anderegg

Senate Sponsor: _____

LONG TITLE

General Description:

This bill ~~{amends}~~ modifies provisions related to a municipality's or a county's authority to license a business.

Highlighted Provisions:

This bill:

- ▶ amends provisions authorizing a municipality or a county to license a business;
- ▶ prohibits a municipality from requiring a license or charging a fee for certain

~~{businesses;~~

→ ~~prohibits a municipality from transmitting information about certain}~~ home based businesses; and

- ▶ makes technical ~~{corrections}~~ and conforming changes.

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 2014, Chapter 189

[17-53-216](#), as last amended by Laws of Utah 2008, Chapter 250

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~~

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~~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" means the same as that term is defined in Section 41-22-2.~~

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

~~—— (h) "Residential child care" means the same as that term is defined in Section 26-39-102.~~

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

~~{} (c) {} (j) "Telecommunications tax or fee" {} is as defined {} means the same as that term is defined} in Section 10-1-402.~~

(2) ~~{(a)}~~ Except as provided in Subsections (3) through (5) and (7), 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 that:~~

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

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

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

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

~~—— (A) involves a hazardous occupation as defined in Section 34-23-103;~~

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

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

~~—— (D) provides residential child care; or~~

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

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

~~—— (B) the number of customers present at any one time in the business owner's residence or on the business owner's property does not significantly interrupt another property owner's~~

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enjoyment or use of the property owner's property.

‡ (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 Act~~(3)~~ 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

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telecommunications provider except as provided in Part 4, Municipal Telecommunications 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

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wholly or partially funded by public money;

(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) The municipality:~~

~~(a) (a) A municipality may require a license or charge a fee for a home based business only if the combined offsite impact of the home based business and the primary residential use~~

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materially exceeds the offsite impact of the primary residential use alone.

(b) Notwithstanding Subsection (7)(a), a municipality may not require a license for a home based business that is operated:

(i) occasionally; and

(ii) by an individual who is under 18 years of age.

[(7)] (8) The municipality shall transmit the information from each approved business license application to the county assessor within 60 days following the approval of the application ~~{[.]; and~~

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

~~—— (8)};~~

[(8)] (9) 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.

†

Legislative Review Note

~~Office of Legislative Research and General Counsel} Section 2. Section 17-53-216 is amended to read:~~

17-53-216. Business license fees and taxes -- Application information to be transmitted to the county assessor.

(1) [For the purpose of] As used in this section [,"business"]:

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

(2) [The] Except as provided in Subsection (4), the legislative body of a county may by ordinance provide for the licensing of businesses within the unincorporated areas of the county

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for the purpose of regulation [and revenue].

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

(4) (a) A county may require a license or charge a fee for a home based business only if the combined offsite impact of the home based business and the primary residential use materially exceeds the offsite impact of the primary residential use alone.

(b) Notwithstanding Subsection (4)(a), a county may not require a license for a home based business that is operated:

(i) occasionally; and

(ii) by an individual who is under 18 years of age.

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

[(5)] (6) This section may not be construed to enhance, diminish, or otherwise alter the taxing power of counties existing prior to the effective date of Laws of Utah 1988, Chapter 144.