

MUNICIPAL BUSINESS LICENSING

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jacob L. Anderegg

House Sponsor: A. Cory Maloy

LONG TITLE

General Description:

This bill addresses a municipality's licensure of a home-based business.

Highlighted Provisions:

This bill:

- ▶ modifies a prohibition on charging a fee for a home-based business;
 - ▶ allows a municipality to charge an administrative fee when an otherwise exempt business owner requests a license;
 - ▶ requires certain notification regarding the home-based business license exemption;
- and
- ▶ makes technical and conforming changes.

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 2017, Chapter 361

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.

30 (1) As used in this section:

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

34 (b) "Telecommunications provider" means the same as that term is defined in Section
35 10-1-402.

36 (c) "Telecommunications tax or fee" means the same as that term is defined in Section
37 10-1-402.

38 (2) Except as provided in Subsections (3) through (5) and (7)(a), and subject to
39 Subsection (7)(b), the legislative body of a municipality may license for the purpose of
40 regulation any business within the limits of the municipality, may regulate that business by
41 ordinance, and may impose fees on businesses to recover the municipality's costs of regulation.

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

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

49 (ii) A franchise agreement as defined in Subsection 10-1-303(6) in effect on January 1,
50 1997, or a future franchise shall remain in full force and effect.

51 (c) A municipality that collects a contractual franchise fee pursuant to a franchise
52 agreement as defined in Subsection 10-1-303(6) with an energy supplier that is in effect on July
53 1, 1997, may continue to collect that fee as provided in Subsection 10-1-310(2).

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

57 (A) requires the energy supplier by agreement to pay a contractual franchise fee that is

58 otherwise prohibited under Part 3, Municipal Energy Sales and Use Tax Act; and

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

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

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

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

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

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

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

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

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

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

79 (B) a public assembly or other related facility in an amount that is less than or equal to
80 \$5 per ticket purchased from the public assembly or other related facility; and

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

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

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

85 (ii) Nothing in this Subsection (5)(a) may be construed to authorize a municipality to

86 levy or collect a license fee or tax on a public assembly or other related facility owned and
87 operated by another political subdivision other than a community reinvestment agency without
88 the written consent of the other political subdivision.

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

90 (i) "Municipal services" includes:

91 (A) public utilities; and

92 (B) services for:

93 (I) police;

94 (II) fire;

95 (III) storm water runoff;

96 (IV) traffic control;

97 (V) parking;

98 (VI) transportation;

99 (VII) beautification; or

100 (VIII) snow removal.

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

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

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

105 (C) that charges a fee for parking.

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

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

108 (B) is operated by a business; and

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

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

114 (A) the costs that constitute disproportionate costs; and
115 (B) the amounts that are reasonably related to the costs of the municipal services
116 provided by the municipality.

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

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

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

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

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

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

131 (7) A municipality may not:

132 (a) require a license or permit for a business that is operated:

133 (i) only occasionally; and

134 (ii) by an individual who is under 18 years of age; or

135 (b) charge [~~a license fee for a homebased~~] any fee for a resident of the municipality to
136 operate a home-based business, unless the combined offsite impact of the [~~homebased~~]
137 home-based business and the primary residential use materially exceeds the offsite impact of
138 the primary residential use alone.

139 (8) (a) Notwithstanding Subsection (7)(b), a municipality may charge an administrative
140 fee for a license to a home-based business owner who is otherwise exempt under Subsection
141 (7)(b) but who requests a license from the municipality.

142 (b) A municipality shall notify the owner of each home-based business of the
143 exemption described in Subsection (7)(b) in any communication with the owner.

144 ~~[(8)]~~ (9) The municipality shall transmit the information from each approved business
145 license application to the county assessor within 60 days following the approval of the
146 application.

147 ~~[(9)]~~ (10) If challenged in court, an ordinance enacted by a municipality before January
148 1, 1994, imposing a business license fee on rental dwellings under this section shall be upheld
149 unless the business license fee is found to impose an unreasonable burden on the fee payer.