

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:

▶ prohibits a municipality from disqualifying a home-based business from a certain fee exemption solely because the home-based business receives occasional deliveries or visits;

▶ requires a municipality that licenses a home-based business to provide certain information in a licensure application;

▶ provides that a municipality may revoke a certain home-based business fee exemption under certain conditions.

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:



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

29 **10-1-203. License fees and taxes -- Application information to be transmitted to**
30 **the county assessor.**

31 (1) As used in this section:

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

35 (b) "Telecommunications provider" means the same as that term is defined in Section
36 [10-1-402](#).

37 (c) "Telecommunications tax or fee" means the same as that term is defined in Section
38 [10-1-402](#).

39 (2) Except as provided in Subsections (3) through (5) and (7)~~(a)~~, and subject to
40 Subsection ~~(7)(b)~~ [\(8\)\(a\)](#), the legislative body of a municipality may license for the purpose of
41 regulation any business within the limits of the municipality, may regulate that business by
42 ordinance, and may impose fees on businesses to recover the municipality's costs of regulation.

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

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

50 (ii) A franchise agreement as defined in Subsection [10-1-303\(6\)](#) in effect on January 1,
51 1997, or a future franchise shall remain in full force and effect.

52 (c) A municipality that collects a contractual franchise fee pursuant to a franchise
53 agreement as defined in Subsection [10-1-303\(6\)](#) with an energy supplier that is in effect on July
54 1, 1997, may continue to collect that fee as provided in Subsection [10-1-310\(2\)](#).

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

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

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

60 (B) imposes the contractual franchise fee on or after the day on which Part 3,

61 Municipal Energy Sales and Use Tax Act is:

62 (I) repealed, invalidated, or the maximum allowable rate provided in Section 10-1-305

63 is reduced; and

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

65 (ii) A municipality may not charge a contractual franchise fee under the provisions

66 permitted by Subsection (3)(b)(i) unless the municipality charges an equal contractual franchise

67 fee or a tax on all energy suppliers.

68 (4) (a) Subject to Subsection (4)(b), beginning July 1, 2004, the legislative body of a

69 municipality may raise revenue by levying and providing for the collection of a municipal

70 telecommunications license tax as provided in Part 4, Municipal Telecommunications License

71 Tax Act.

72 (b) A municipality may not levy or collect a telecommunications tax or fee on a

73 telecommunications provider except as provided in Part 4, Municipal Telecommunications

74 License Tax Act.

75 (5) (a) (i) The legislative body of a municipality may by ordinance raise revenue by

76 levying and collecting a license fee or tax on:

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

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

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

80 (B) a public assembly or other related facility in an amount that is less than or equal to

81 \$5 per ticket purchased from the public assembly or other related facility; and

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

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

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

85 of municipal services.

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

87 levy or collect a license fee or tax on a public assembly or other related facility owned and

88 operated by another political subdivision other than a community reinvestment agency without

89 the written consent of the other political subdivision.

- 90 (b) As used in this Subsection (5):
- 91 (i) "Municipal services" includes:
- 92 (A) public utilities; and
- 93 (B) services for:
- 94 (I) police;
- 95 (II) fire;
- 96 (III) storm water runoff;
- 97 (IV) traffic control;
- 98 (V) parking;
- 99 (VI) transportation;
- 100 (VII) beautification; or
- 101 (VIII) snow removal.
- 102 (ii) "Parking service business" means a business:
- 103 (A) that primarily provides off-street parking services for a public facility that is
- 104 wholly or partially funded by public money;
- 105 (B) that provides parking for one or more vehicles; and
- 106 (C) that charges a fee for parking.
- 107 (iii) "Public assembly or other related facility" means an assembly facility that:
- 108 (A) is wholly or partially funded by public money;
- 109 (B) is operated by a business; and
- 110 (C) requires a person attending an event at the assembly facility to purchase a ticket.
- 111 (c) (i) Before the legislative body of a municipality imposes a license fee on a business
- 112 that causes disproportionate costs of municipal services under Subsection (5)(a)(i)(C)(I), the
- 113 legislative body of the municipality shall adopt an ordinance defining for purposes of the tax
- 114 under Subsection (5)(a)(i)(C)(I):
- 115 (A) the costs that constitute disproportionate costs; and
- 116 (B) the amounts that are reasonably related to the costs of the municipal services
- 117 provided by the municipality.
- 118 (ii) The amount of a fee under Subsection (5)(a)(i)(C)(I) shall be reasonably related to
- 119 the costs of the municipal services provided by the municipality.
- 120 (d) (i) Before the legislative body of a municipality imposes a license fee on a

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

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

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

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

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

132 (7) A municipality may not~~[-(a)]~~ require a license or permit for a business that is
 133 operated:

134 ~~[(i)]~~ (a) only occasionally; and

135 ~~[(ii)]~~ (b) by an individual who is under 18 years of age~~[-or]~~.

136 (8) (a) A municipality may not:

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

141 (ii) disqualify a home-based business from the fee exemption described in Subsection
 142 (8)(a)(i) solely because the home-based business receives occasional visits or deliveries at the
 143 residence where the home-based business is located.

144 (b) If a municipality licenses a home-based business, the municipality shall:

145 (i) include on the licensure application for the home-based business:

146 (A) language that is substantially similar to the language described in Subsections

147 (8)(a) for the applicant to review;

148 (B) an area where the applicant can affirm or certify that the applicant's home-based
 149 business qualifies for the exemption described in Subsection (8)(a);

150 (ii) exempt from any business-related fee an applicant that affirms or certifies under
 151 Subsection (8)(b)(i)(B) that the applicant's home-based business qualifies for the exemption;

152 and
153 (iii) provide notice of the exemption described in Subsection (8)(a) in each
154 communication regarding licensure the municipality makes to a home-based business.
155 (c) If, after investigating a substantiated complaint against a home-based business, a
156 municipality finds that the home-based business creates an exceeding material off-site impact
157 described in Subsection (8)(a)(i), the municipality:
158 (i) shall provide a written notice to the home-based business owner explaining the
159 reasons the home-based business does not qualify for the exemption described in Subsection
160 (8)(a); and
161 (ii) may revoke the exemption described in Subsection (8)(a) and require the
162 home-based business to pay a fee to operate the home-based business.
163 ~~[(8)]~~ (9) The municipality shall transmit the information from each approved business
164 license application to the county assessor within 60 days following the approval of the
165 application.
166 ~~[(9)]~~ (10) If challenged in court, an ordinance enacted by a municipality before January
167 1, 1994, imposing a business license fee on rental dwellings under this section shall be upheld
168 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