

SB0158S01 compared with SB0158

~~{deleted text}~~ shows text that was in SB0158 but was deleted in SB0158S01.

Inserted text shows text that was not in SB0158 but was inserted into SB0158S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Senator Jacob L. Anderegg proposes the following substitute bill:

MUNICIPAL BUSINESS LICENSING

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jacob L. Anderegg

House Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ ~~{prohibits}~~ modifies a prohibition on charging a ~~{municipality from disqualifying}~~ fee for a home-based business ~~{ from a certain fee exemption solely because}~~;
- ▶ 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 ~~{receives occasional deliveries or visits;~~

~~→ requires a municipality that licenses a home-based business to provide certain~~

SB0158S01 compared with SB0158

~~information in a licensure application;~~

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

(1) As used in this section:

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

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

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

(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

SB0158S01 compared with SB0158

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 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 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

SB0158S01 compared with SB0158

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 reinvestment 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 wholly or partially funded by public money;

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

(C) that charges a fee for parking.

SB0158S01 compared with SB0158

(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) A municipality may not: (a) require a license or permit for a business that is operated:~~

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

~~— [(ii)] (b) by an individual who is under 18 years of age; or];~~

~~{ (8) (a) } A municipality may not: {~~

~~— [(b)] (i) }~~

SB0158S01 compared with SB0158

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

(i) only occasionally; and

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

(b) charge [a license ~~{any}~~ fee for a ~~homebased~~ any fee for a resident of the municipality to operate a ~~{home-based}~~ home-based business, unless the combined offsite impact of the ~~{home-based}~~ ~~homebased~~ home-based business and the primary residential use materially exceeds the offsite impact of the primary residential use alone ~~{.}; or~~

~~— (ii) disqualify};~~

(8) (a) Notwithstanding Subsection (7)(b), a municipality may charge an administrative fee for a license to a home-based business ~~{from the fee exemption described in Subsection (8)(a)(i) solely because the home-based business receives occasional visits or deliveries at the residence where the}~~ owner who is otherwise exempt under Subsection (7)(b) but who requests a license from the municipality.

(b) A municipality shall notify the owner of each home-based business ~~{is located.~~

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

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

~~— (A) language that is substantially similar to the language described in Subsections (8)(a) for the applicant to review;~~

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

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

~~— (iii) provide notice} of the exemption described in Subsection ~~(8)7~~(~~a~~)~~b~~ in ~~each~~any communication ~~{regarding licensure the municipality makes to a home-based business.~~~~

~~— (c) If, after investigating a substantiated complaint against a home-based business, a municipality finds that the home-based business creates an exceeding material off-site impact described in Subsection (8)(a)(i), the municipality:~~

~~— (i) shall provide a written notice to the home-based business owner explaining the reasons the home-based business does not qualify for the exemption described in Subsection~~

SB0158S01 compared with SB0158

~~(8)(a); and~~

~~(ii) may revoke the exemption described in Subsection (8)(a) and require the home-based business to pay a fee to operate the home-based business}~~ with the owner.

~~[(8)]~~ (9) 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.

~~[(9)]~~ (10) 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}