

FOOD TRUCK AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Deidre M. Henderson

House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill amends provisions regarding food truck licensing and political subdivision regulation.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ focuses requirements and protections on food truck businesses rather than food truck operators;
- ▶ clarifies provisions regarding reciprocal business licenses and local health department permits;
- ▶ clarifies that a political subdivision may not enforce local regulations and ordinances that conflict with state law;
- ▶ imposes a limitation on reciprocal business license fees;
- ▶ prohibits a political subdivision from:
 - requiring a fee or permit for a food truck to operate on private property; or
 - requiring a food truck operator to provide the dates, times, and duration of food truck operation;
- ▶ allows a food truck to operate in a stationary manner at a temporary mass gathering for multiple dates without moving in certain circumstances; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

29 None

30 **Other Special Clauses:**

31 None

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **11-56-102**, as enacted by Laws of Utah 2017, Chapter 165

35 **11-56-103**, as last amended by Laws of Utah 2018, Chapter 172

36 **11-56-104**, as enacted by Laws of Utah 2017, Chapter 165

37 **11-56-105**, as enacted by Laws of Utah 2017, Chapter 165

38 **11-56-106**, as last amended by Laws of Utah 2018, Chapter 172

39

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

41 Section 1. Section **11-56-102** is amended to read:

42 **11-56-102. Definitions.**

43 As used in this chapter:

44 (1) "Event permit" means a permit that a political subdivision issues to the organizer of
45 a public food truck event located on public property.

46 (2) "Food cart" means a cart:

47 (a) that is not motorized; and

48 (b) that a vendor, standing outside the frame of the cart, uses to prepare, sell, or serve
49 food or beverages for immediate human consumption.

50 (3) (a) "Food truck" means a fully encased food service establishment:

51 (i) on a motor vehicle or on a trailer that a motor vehicle pulls to transport; and

52 (ii) from which a food truck vendor, standing within the frame of the vehicle, prepares,
53 cooks, sells, or serves food or beverages for immediate human consumption.

54 (b) "Food truck" does not include a food cart or an ice cream truck.

55 (4) "Food truck business" means a person who operates a food truck or, under the same

56 business, multiple food trucks.

57 [~~(4)~~] (5) "Food truck event" means an event where an individual has ordered or
58 commissioned the operation of a food truck at a private or public gathering.

59 [~~(5)~~] (6) "Food truck operator" means a person who owns, manages, or controls, or
60 who has the duty to manage or control, the [~~operation of a~~] food truck business.

61 [~~(6)~~] (7) "Food truck vendor" means a person who sells, cooks, or serves food or
62 beverages from a food truck.

63 [~~(7)~~] (8) "Health department food truck permit" means a document that a local health
64 department issues to authorize a person to operate a food truck within the jurisdiction of the
65 local health department.

66 [~~(8)~~] (9) "Ice cream truck" means a fully encased food service establishment:

- 67 (a) on a motor vehicle or on a trailer that a motor vehicle pulls to transport;
- 68 (b) from which a vendor, from within the frame of the vehicle, serves ice cream;
- 69 (c) that attracts patrons by traveling through a residential area and signaling the truck's
70 presence in the area, including by playing music; and
- 71 (d) that may stop to serve ice cream at the signal of a patron.

72 [~~(9)~~] (10) "Local health department" means the same as that term is defined in Section
73 [26A-1-102](#).

74 [~~(10)~~] (11) "Political subdivision" means:

- 75 (a) a city, town, or metro township; or
- 76 (b) a county, as it relates to the licensing and regulation of businesses in the
77 unincorporated area of the county.

78 [~~(11)~~] (12) (a) "Temporary mass gathering" means:

- 79 (i) an actual or reasonably anticipated assembly of 500 or more people that continues,
80 or reasonably can be expected to continue, for two or more hours per day; or
- 81 (ii) an event that requires a more extensive review to protect public health and safety
82 because the event's nature or conditions have the potential of generating environmental or

83 health risks.

84 (b) "Temporary mass gathering" does not include an assembly of people at a location
85 with permanent facilities designed for that specific assembly, unless the assembly is a
86 temporary mass gathering described in Subsection ~~[(11)(a)(ii)]~~ (12)(a)(i).

87 Section 2. Section **11-56-103** is amended to read:

88 **11-56-103. Licensing -- Reciprocity -- Fees.**

89 (1) A political subdivision may not:

90 (a) require a separate license, permit, or fee beyond the initial or reciprocal business
91 license described in Subsection (2) and the fee [for the operation of a] described in Subsection
92 (3) for a food truck business, regardless of whether a food truck operates in more than one
93 location or on more than one day within the political subdivision in the same calendar year;

94 (b) require a fee for each employee the food truck ~~[operator]~~ business employs; or

95 (c) as a business license qualification, require a food truck business to, regarding a food
96 truck operator or food truck vendor [to]:

97 (i) submit to or offer proof of a criminal background check; or

98 (ii) demonstrate how the operation of the food truck business will comply with a land
99 use or zoning ordinance at the time the ~~[operator or vendor]~~ business applies for the business
100 license.

101 (2) (a) A political subdivision shall grant a business license to operate a food truck
102 within the political subdivision to a food truck ~~[operator who]~~ business that has obtained a
103 business license to operate a food truck in another political subdivision within the state if the
104 food truck ~~[operator]~~ business presents to the political subdivision:

105 (i) a current business license from the other political subdivision within the state; and

106 (ii) for each food truck that the food truck business operates:

107 ~~[(ii)]~~ (A) a current health department food truck permit from a local health department
108 within the state; and

109 ~~[(iii)]~~ (B) a current approval of a political subdivision within the state that shows that

110 the food truck passed a fire safety inspection that the other political subdivision conducted in
111 accordance with Subsection 11-56-104(4)(a).

112 (b) If a food truck [operator] business presents the documents described in Subsection
113 (2)(a), the political subdivision may not:

114 (i) impose additional license qualification requirements on the food truck [operator]
115 business before issuing a license to operate within the political subdivision, except for charging
116 a fee in accordance with Subsection (3); or

117 (ii) issue a license that expires on a date earlier or later than the day on which the
118 license described in Subsection (2)(a)(i) expires.

119 (c) Nothing in this Subsection (2) prevents a political subdivision from enforcing the
120 political subdivision's land use regulations, zoning, and other ordinances in relation to the
121 operation of a food truck to the extent that the regulations and ordinances do not conflict with
122 this chapter.

123 (3) (a) [A] For an initial business license, a political subdivision may only charge a
124 licensing fee to a food truck [operator] business in an amount that reimburses the political
125 subdivision for the actual cost of ~~[regulating the food truck]~~ processing the business license.

126 (b) For a reciprocal business license that a political subdivision issues in accordance
127 with Subsection (2), the political subdivision shall reduce the amount of the business licensing
128 fee to an amount that accounts for the actual administrative burden on the political subdivision
129 for processing the reciprocal license.

130 (4) Nothing in this section prevents a political subdivision from:

131 (a) requiring a food truck [operator] business to comply with local zoning and land use
132 regulations to the extent that the regulations do not conflict with this chapter;

133 (b) promulgating local ordinances and regulations consistent with this section that
134 address how and where a food truck may operate within the political subdivision;

135 (c) requiring a food truck [operator] business to obtain an event permit, in accordance
136 with Section 11-56-105; or

137 (d) revoking a license that the political subdivision has issued if the operation of the
138 related food truck within the political subdivision violates the terms of the license.

139 Section 3. Section **11-56-104** is amended to read:

140 **11-56-104. Safety and health inspections and permits -- Reciprocity -- Fees.**

141 (1) A food truck [~~operator~~] business shall obtain, for each food truck that the business
142 operates, an annual health department food truck permit from the local health department with
143 jurisdiction over the area in which the majority of the food truck's operations takes place.

144 (2) (a) A local health department shall grant a health department food truck permit to
145 operate a food truck within the jurisdiction of the local health department to a food truck
146 [~~operator who~~] business that has obtained the health department food truck permit described in
147 Subsection (1) from another local health department within the state if the food truck [~~operator~~]
148 business presents to the local health department the current health department food truck
149 permit from the other local health department.

150 (b) If a food truck [~~operator~~] business presents the health department food truck permit
151 described in Subsection (1), the local health department may not:

152 (i) impose additional permit qualification requirements on the food truck [~~operator~~]
153 business before issuing a health department food truck permit to operate within the jurisdiction
154 of the local health department, except for charging a fee in accordance with Subsection (3); or

155 (ii) issue a health department food truck permit that expires on a date earlier or later
156 than the day on which the permit described in Subsection (1) expires.

157 (3) (a) A local health department may only charge a health department food truck
158 permit fee to a food truck [~~operator~~] business in an amount that reimburses the local health
159 department for the cost of regulating the food truck.

160 (b) For a health department food truck permit that a local health department issues in
161 accordance with Subsection (2), the local health department shall reduce the amount of the
162 food truck permit fee to an amount that accounts for the lower administrative burden on the
163 local health department.

164 (4) (a) A political subdivision inspecting a food truck for fire safety shall conduct the
 165 inspection based on the criteria that the Utah Fire Prevention Board, created in Section
 166 53-7-203, establishes in accordance with Section 53-7-204.

167 (b) (i) A political subdivision shall consider valid within the political subdivision's
 168 jurisdiction an approval from another political subdivision within the state that shows that the
 169 food truck passed a fire safety inspection that the other political subdivision conducted.

170 (ii) A political subdivision may not require that a food truck pass a fire safety
 171 inspection in a given calendar year if the food truck [~~operator~~] business presents to the political
 172 subdivision an approval described in Subsection (4)(b)(i) issued during the same calendar year.

173 (5) (a) Nothing in this section prevents a local health department from:

174 (i) requiring a food truck [~~operator~~] business to obtain an event permit, in accordance
 175 with Section 11-56-105; or

176 (ii) revoking a health department food truck permit that the local health department has
 177 issued if the operation of the related food truck within the jurisdiction of the local health
 178 department violates the terms of the permit.

179 (b) Nothing in this section prevents a political subdivision from revoking the political
 180 subdivision's approval described in Subsection (4)(b)(i) if the operation of the related food
 181 truck within the political subdivision fails to meet the criteria described in Subsection (4)(a).

182 Section 4. Section **11-56-105** is amended to read:

183 **11-56-105. Food truck events.**

184 (1) Subject to Subsection (4), a political subdivision may not require a food truck
 185 [~~operator to~~] business to pay any fee or obtain from the political subdivision [~~an event~~] any
 186 permit to operate a food truck at a food truck event that takes place on private property within
 187 the political subdivision, regardless of whether the event is open or closed to the public.

188 (2) If the food truck [~~operator~~] business has a business license from any political
 189 subdivision within the state, a political subdivision may not require a food truck [~~operator to~~]
 190 business to pay any fee or obtain from the political subdivision an additional business license

191 or permit to operate a food truck at a food truck event that:

192 (a) takes place on private property within the political subdivision; and

193 (b) is not open to the public.

194 (3) If a political subdivision requires an event permit for a food truck event, the
195 organizer of the food truck event may obtain the event permit on behalf of the food trucks that
196 service the event.

197 (4) (a) Nothing in this section prohibits a county health department from requiring a
198 permit for a temporary mass gathering.

199 (b) (i) A food truck operating at a temporary mass gathering that occurs over multiple
200 days may operate in a stationary manner for the duration of the temporary mass gathering, not
201 to exceed five consecutive days, without moving or changing location if the food truck
202 maintains sanitary conditions and operates in compliance with the permitting requirements and
203 regulations imposed on other food vendors at the temporary mass gathering.

204 (ii) A county health department may not impose a requirement on a food truck
205 described in Subsection (4)(b)(i) that the county health department does not impose on other
206 food vendors operating at the temporary mass gathering.

207 Section 5. Section **11-56-106** is amended to read:

208 **11-56-106. Food truck operation.**

209 A political subdivision may not:

210 (1) entirely or constructively prohibit food trucks in a zone in which a food
211 establishment is a permitted or conditional use;

212 (2) prohibit the operation of a food truck within a given distance of a restaurant;

213 (3) restrict the total number of days a food truck [~~operator~~] business may operate a food
214 truck within the political subdivision during a calendar year;

215 (4) require a food truck [~~operator~~] business to:

216 (a) provide to the political subdivision:

217 (i) a site plan for each location in which [the] a food truck operates in the public right

218 of way, if the political subdivision permits food truck operation in the public right of way; or

219 (ii) the date, time, or duration that a food truck will operate within the political

220 subdivision; or

221 (b) obtain and pay for a land use permit for each location and time during which [~~the~~] a

222 food truck operates; or

223 (5) if a food truck [~~operator~~] business has the consent of a private property owner to

224 operate [~~the~~] a food truck on the private property:

225 (a) limit the number of days the food truck may operate on the private property;

226 (b) require that the food truck operator provide to the political subdivision or keep on

227 file in the food truck the private property owner's written consent; or

228 (c) require a site plan for the operation of the food truck on the private property where

229 the food truck operates in the same location for less than 10 hours per week.