

# SB0071S01 compared with SB0071

~~text~~ shows text that was in SB0071 but was deleted in SB0071S01.

Inserted text shows text that was not in SB0071 but was inserted into SB0071S01.

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Senator Deidre M. Henderson proposes the following substitute bill:

## FOOD TRUCK~~LICENSE~~ AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Deidre M. Henderson**

House Sponsor: \_\_\_\_\_

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### LONG TITLE

#### General Description:

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

#### Highlighted Provisions:

This bill:

- ▶ clarifies provisions regarding reciprocal business licenses;
- ▶ 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 ~~if~~:
  - requiring a fee or permit for a food truck to operate on private property; or
  - requiring a food truck operator to ~~obtain a business license if~~ provide the

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dates, times, and duration of food truck ~~{operator has a license from another political subdivision}~~ operation;

- ▶ ~~{requires a food truck operator to obtain a business license, health department permit, and fire safety certification in the political subdivision in which the food truck conducts the majority of the food truck's operations;~~

→ ~~sets a criminal penalty for violating a license, permit, and certification requirement;~~

→ ~~repeals provisions related to reciprocal licensing and related reciprocal fees;~~

→ ~~repeals provisions related to reciprocal health department permits and related~~

~~reciprocal fees}~~ 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:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

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

~~{11-56-104}~~ 11-56-105, as enacted by Laws of Utah 2017, Chapter 165

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

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

Section 1. Section **11-56-103** is amended to read:

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

(1) A political subdivision may not:

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

(b) require a fee for each employee the food truck operator employs; or

(c) as a business license qualification, require a food truck operator or food truck

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vendor to:

- (i) submit to or offer proof of a criminal background check; or
- (ii) demonstrate how the operation of the food truck will comply with a land use or zoning ordinance at the time the operator or vendor applies for the business license.

(2) (a) A political subdivision ~~{}~~ shall grant a business license to operate a food truck within the political subdivision to ~~{}~~ may not require a food truck operator who has obtained a business license to operate a food truck in another political subdivision within the state ~~{}~~ if the food truck operator presents to the political subdivision: ~~{}~~ to obtain a separate additional license to operate within the political subdivision.

~~—— (b) (i) A food truck operator may not engage in commerce in any political subdivision without first obtaining, where appropriate from the political subdivision with jurisdiction over the area in which the majority of the food truck's operations take place:~~

~~—— (i) (A) a ~~{}~~ current ~~{}~~~~

~~(i) a current business license ~~{}~~ from the other political subdivision within the state ~~{}~~;~~

~~~~{}~~ (ii) ~~{}~~ (B) a ~~{}~~ current ~~{}~~ health department food truck permit ~~{}~~ from a local health department within the state ~~{}~~ that the relevant health department issued or renewed within the previous year; and~~

~~—— ~~{}~~; and~~

~~(iii) a current approval of a ~~{}~~ political subdivision within the state that shows~~

~~—— (C) a certification, that the ~~{}~~ political subdivision ~~{}~~ issued or renewed ~~{}~~ within the ~~{}~~ previous year, state that shows that the food truck passed a fire safety inspection ~~{}~~ that the other political subdivision conducted ~~{}~~ in accordance with Subsection 11-56-104 ~~{}~~ (4) (3) (a).~~

~~—— (ii) A violation of Subsection (2)(b)(i) is a class B misdemeanor.~~

~~—— ~~{}~~ (4) (a).~~

(b) If a food truck operator presents the documents described in Subsection (2)(a), the political subdivision may not: ~~{}~~

~~{}~~ (i) impose additional license qualification requirements on the food truck operator before issuing a license to operate within the political subdivision, except for charging a fee in accordance with Subsection (3); or ~~{}~~

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

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~~{}~~(c) Nothing in this Subsection (2) prevents a political subdivision from enforcing ~~{}~~

~~———— (c) Before operating in a political subdivision, a food truck operator shall request a copy of~~ the political subdivision's land use regulations ~~{}~~, zoning, and other ordinances in relation ~~{}~~ pertaining to the operation of a food truck ~~{}~~.

~~———— (d) Upon request by an officer of a political subdivision, a food truck operator shall provide a copy of the documents described in Subsection (2)(b)(i).~~

~~———— (3) [(a) A] to the extent that the regulations and ordinances do not conflict with this chapter.~~

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

~~{}~~(b) For a reciprocal business license that a political subdivision issues in accordance with Subsection (2), the political subdivision shall reduce the amount of the business licensing fee to an amount that:

(i) accounts for the actual administrative burden on the political subdivision [:-] for processing the reciprocal license; and

(ii) does not exceed \$25.

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

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

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

(c) requiring a food truck operator to obtain an event permit, in accordance with Section 11-56-105 ~~{}~~; or ~~{}~~

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

Section 2. Section ~~{11-56-104}~~ 11-56-105 is amended to read:

~~{11-56-104}~~ 11-56-105. {Safety and health inspections and permits -- Reciprocity -- Fees.

~~———— (1) A} Food truck events.~~

(1) Subject to Subsection (4), a political subdivision may not require a food truck

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operator ~~{shall obtain an annual health department food truck permit from the local health department with jurisdiction over the area in which the majority of the food truck's operations takes place.~~

~~——— [(2) (a) A local health department shall grant a health department food truck] to pay any fee or obtain from the political subdivision [an event] any permit to operate a food truck ~~{within the jurisdiction of the local health department to a food truck operator who has obtained the health department food truck permit described in Subsection (1) from another local health department within the state if the food truck operator presents to the local health department the current health department food truck permit from the other local health department.}~~~~

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

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

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

~~——— [(3) (a)] (2) A local health department may only charge a health department food truck permit fee to a food truck operator in an amount that reimburses the local health department for the cost of regulating the food truck.~~

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

~~——— [(4)] (3) (a) A political subdivision inspecting a food truck for fire safety shall conduct the inspection based on the criteria that the Utah Fire Prevention Board, created in Section 53-7-203, establishes in accordance with Section 53-7-204.~~

~~——— (b) [(i)] A political subdivision shall consider valid} at a food truck event that takes place on private property within the political ~~{subdivision's jurisdiction an approval from another}~~ subdivision, regardless of whether the event is open or closed to the public.~~

(2) If the food truck operator has a business license from any political subdivision

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within the state ~~{ that shows that the food truck passed a fire safety inspection that the other political subdivision conducted.~~

~~— [(ii) A],~~ a political subdivision may not require {that a food truck pass a fire safety inspection in a given calendar year if the} a food truck operator {presents } to pay any fee or obtain from the political subdivision an ~~{approval}~~ additional business license or permit to operate a food truck at a food truck event that:

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

(b) is not open to the public.

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

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

(b) (i) A food truck operating at a temporary mass gathering that occurs over multiple days may operate in a stationary manner for up to five consecutive days without moving or changing location if the food truck maintains sanitary conditions and operates in compliance with the permitting requirements and regulations imposed on other food vendors at the temporary mass gathering.

(i) A county health department may not impose a requirement on a food truck described in Subsection (4)(b)(i) ~~{issued during the same calendar year.}~~

~~— [(5)]~~ (4) (a) Nothing in this section prevents a local} that the county health department ~~{from:~~

~~— (i) requiring}~~ does not impose on other food vendors operating at the temporary mass gathering.

Section 3. Section 11-56-106 is amended to read:

### 11-56-106. Food truck operation.

A political subdivision may not:

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

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

(3) restrict the total number of days a food truck operator ~~{to obtain an event permit, in~~

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~~accordance with Section 11-56-105; or~~

~~—— (ii) revoking a health department food truck permit that the local health department has issued if the operation of the related food truck within the jurisdiction of the local health department violates the terms of the permit;~~

~~—— (b) Nothing in this section prevents a political subdivision from revoking the political subdivision's approval described in Subsection [(4)(b)(i)] (3)(b) if the operation of the related} may operate a food truck within the political subdivision ~~{fails to meet the criteria described in Subsection [(4)(a)] (3)(a):~~~~

~~} during a calendar year;~~

(4) require a food truck operator to:

(a) provide to the political subdivision:

(i) a site plan for each location in which the food truck operates in the public right of way, if the political subdivision permits food truck operation in the public right of way; or

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

(b) obtain and pay for a land use permit for each location and time during which the food truck operates; or

(5) if a food truck operator has the consent of a private property owner to operate the food truck on the private property:

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

(b) require that the food truck operator provide to the political subdivision or keep on file in the food truck the private property owner's written consent; or

(c) require a site plan for the operation of the food truck on the private property where the food truck operates in the same location for less than 10 hours per week.