

MUNICIPAL BUSINESS LICENSURE AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jacob L. Anderegg

House Sponsor: _____

LONG TITLE

General Description:

This bill prohibits local government taxation of a business that a minor operates only occasionally.

Highlighted Provisions:

This bill:

- ▶ prohibits local government taxation of a business that a minor operates only occasionally; 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 2018, Chapter 105

17-53-216, 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



28 **the county assessor.**

29 (1) As used in this section:

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

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

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

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

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

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

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

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

53 (d) (i) Subject to the requirements of Subsection (3)(d)(ii), a franchise agreement as
54 defined in Subsection 10-1-303(6) between a municipality and an energy supplier may contain
55 a provision that~~[(A)]~~ requires the energy supplier by agreement to pay a contractual franchise
56 fee that is otherwise prohibited under Part 3, Municipal Energy Sales and Use Tax Act~~[(B)]~~ and
57 ~~[(B)]~~ imposes the contractual franchise fee on or after the day on which Part 3, Municipal
58 Energy Sales and Use Tax Act is:

59 ~~(A)~~ (A) repealed, invalidated, or the maximum allowable rate provided in Section
60 10-1-305 is reduced; and

61 ~~(B)~~ (B) not superseded by a law imposing a substantially equivalent tax.

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

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

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

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

74 (A) a parking service business in an amount that is less than or equal to~~(A)~~ \$1 per
75 vehicle that parks at the parking service business~~;~~ or ~~(B)~~ 2% of the gross receipts of the
76 parking service business;

77 (B) a public assembly or other related facility in an amount that is less than or equal to
78 \$5 per ticket purchased from the public assembly or other related facility; and

79 (C) subject to the limitations of Subsections (5)(c) and (d)~~(C)~~, a business that causes
80 disproportionate costs of municipal services~~;~~ or ~~(D)~~ a purchaser from a business for which
81 the municipality provides an enhanced level of municipal services.

82 (ii) Nothing in this Subsection (5)(a) may be construed to authorize a municipality to
83 levy or collect a license fee or tax on a public assembly or other related facility owned and
84 operated by another political subdivision other than a community reinvestment agency without
85 the written consent of the other political subdivision.

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

87 (i) "Municipal services" includes:

88 (A) public utilities; and

89 (B) services for~~(A)~~ police~~;~~ ~~(B)~~ fire~~;~~ ~~(C)~~ storm water runoff~~;~~ ~~(D)~~ traffic

90 control[;-(V)]₂ parking[;-(VH)]₂ transportation[;-(VH)]₂ beautification[;]₂ or [(VHH)] snow
91 removal.

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

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

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

96 (C) that charges a fee for parking.

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

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

99 (B) is operated by a business; and

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

101 (c) (i) Before the legislative body of a municipality imposes a license fee on a business
102 that causes disproportionate costs of municipal services under Subsection (5)(a)(i)(C)[(H)], the
103 legislative body of the municipality shall adopt an ordinance defining for purposes of the tax
104 under Subsection (5)(a)(i)(C)[(H)]:

105 (A) the costs that constitute disproportionate costs; and

106 (B) the amounts that are reasonably related to the costs of the municipal services
107 provided by the municipality.

108 (ii) The amount of a fee under Subsection (5)(a)(i)(C)[(H)] shall be reasonably related to
109 the costs of the municipal services provided by the municipality.

110 (d) (i) Before the legislative body of a municipality imposes a license fee on a
111 purchaser from a business for which it provides an enhanced level of municipal services under
112 Subsection (5)(a)(i)(C)[(H)], the legislative body of the municipality shall adopt an ordinance
113 defining for purposes of the fee under Subsection (5)(a)(i)(C)[(H)]:

114 (A) the level of municipal services that constitutes the basic level of municipal services
115 in the municipality; and

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

118 (ii) The amount of a fee under Subsection (5)(a)(i)(C)[(H)] shall be reasonably related
119 to the costs of providing an enhanced level of the municipal services.

120 (6) All license fees and taxes shall be uniform in respect to the class upon which they

121 are imposed.

122 (7) A municipality may not:

123 (a) require a license or permit for or impose any tax on a business that is operated:

124 (i) only occasionally; and

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

126 (b) charge any fee for a resident of the municipality to operate a home-based business,
127 unless the combined offsite impact of the home-based business and the primary residential use
128 materially exceeds the offsite impact of the primary residential use alone.

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

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

134 (9) The municipality shall transmit the information from each approved business
135 license application to the county assessor within 60 days following the approval of the
136 application.

137 (10) If challenged in court, an ordinance enacted by a municipality before January 1,
138 1994, imposing a business license fee on rental dwellings under this section shall be upheld
139 unless the business license fee is found to impose an unreasonable burden on the fee payer.

140 Section 2. Section **17-53-216** is amended to read:

141 **17-53-216. Business license fees and taxes -- Application information to be**
142 **transmitted to the county assessor.**

143 (1) As used in this section, "business" means any enterprise carried on for the purpose
144 of gain or economic profit, except that the acts of employees rendering services to employers
145 are not included in this definition.

146 (2) Except as provided in Subsection (4)(a), and subject to Subsection (4)(b), the
147 legislative body of a county may by ordinance provide for the licensing of businesses within
148 the unincorporated areas of the county for the purpose of regulation, and may impose fees on
149 businesses to recover the county's costs of regulation.

150 (3) All license fees and taxes shall be uniform in respect to the class upon which they
151 are imposed.

- 152 (4) A county may not:
- 153 (a) require a license or permit for or impose any tax on a business that is operated:
- 154 (i) only occasionally; and
- 155 (ii) by an individual who is under 18 years of age; or
- 156 (b) charge a license fee for a home based business unless the combined offsite impact
- 157 of the home based business and the primary residential use materially exceeds the offsite
- 158 impact of the primary residential use alone.
- 159 (5) The county business licensing agency shall transmit the information from each
- 160 approved business license application to the county assessor within 60 days following the
- 161 approval of the application.
- 162 (6) This section may not be construed to enhance, diminish, or otherwise alter the
- 163 taxing power of counties existing prior to the effective date of Laws of Utah 1988, Chapter
- 164 144.