

# HB0146S01 compared with HB0146

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inserted text shows text that was not in HB0146 but was inserted into HB0146S01.

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~~{FOOD TRUCK}~~ Senator Curtis S. Bramble proposes the following substitute bill:

## LOCAL LICENSING AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Karianne Lisonbee**

Senate Sponsor: ~~{ }~~ Jacob L. Anderegg

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### LONG TITLE

#### General Description:

This bill modifies the ~~{Food Truck Licensing and Regulation Act}~~ authority of political subdivisions related to business licenses.

#### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies the ~~{definition of a food truck}~~ general authority of a municipality and a county related to business licenses;
- ▶ modifies a municipality's and a county's regulation and business licensing authority over food truck businesses, including the regulation and business licensing authority over a food truck business that has previously obtained a business license in another political subdivision;

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- ▶ modifies health and safety inspection requirements for food truck businesses;
- ▶ modifies the authority of a political subdivision related to the licensing of a business, including a business that rents all-terrain vehicles; and
- ▶ makes technical 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

11-56-102, as last amended by Laws of Utah 2019, Chapter 260

11-56-103, as last amended by Laws of Utah 2019, Chapter 260

11-56-104, as last amended by Laws of Utah 2019, Chapter 260

17-53-216, as last amended by Laws of Utah 2017, Chapter 361

ENACTS:

11-65-101, Utah Code Annotated 1953

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*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)(a), and subject to~~

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~~Subsection (7)(b)~~ Subsection (7), 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 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) 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

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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 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

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(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.

(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.

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(7) A municipality may not:

(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]~~ old;

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

(c) require, as a condition of obtaining or maintaining a license or permit for a business:

(i) that an employee or agent of a business complete education, continuing education, or training that is in addition to requirements under state law or state licensing requirements; or

(ii) that a business disclose financial information, inventory amounts, or proprietary business information, except as specifically authorized under state or federal law.

(8) (a) Notwithstanding Subsection (7)(b), a municipality may charge an administrative fee for a license to a home-based business 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 of the exemption described in Subsection (7)(b) in any communication with the owner.

(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.

(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.

Section ~~11-56-101~~2. Section **11-56-102** is amended to read:

### **11-56-102. Definitions.**

As used in this chapter:

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

(2) "Food cart" means a cart:

(a) that is not motorized; and

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

(3) [~~(a)~~] "Food truck" means:

(a) a fully encased food service establishment:

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

(ii) from which a food truck vendor, standing within the frame of the vehicle, prepares, cooks, sells, or serves food or beverages for immediate human consumption[-];

(b) [~~"Food truck" does not include a food cart or an ice cream truck.;~~] a food cart; or

(c) an ice cream truck.

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

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

(6) "Food truck operator" means a person who owns, manages, or controls, or who has the duty to manage or control, the food truck business.

(7) "Food truck vendor" means a person who sells, cooks, or serves food or beverages from a food truck.

(8) "Health department food truck permit" means a document that a local health department issues to authorize a person to operate a food truck within the jurisdiction of the local health department.

(9) "Ice cream truck" means a fully encased food service establishment:

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

(b) from which a vendor, from within the frame of the vehicle, serves ice cream;

(c) that attracts patrons by traveling through a residential area and signaling the truck's presence in the area, including by playing music; and

(d) that may stop to serve ice cream at the signal of a patron.

(10) "Local health department" means the same as that term is defined in Section 26A-1-102.

(11) "Political subdivision" means:

(a) a city, town, or metro township; or

(b) a county, as it relates to the licensing and regulation of businesses in the

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unincorporated area of the county.

(12) (a) "Temporary mass gathering" means:

(i) an actual or reasonably anticipated assembly of 500 or more people that continues, or reasonably can be expected to continue, for two or more hours per day; or

(ii) an event that requires a more extensive review to protect public health and safety because the event's nature or conditions have the potential of generating environmental or health risks.

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

Section ~~{2}~~3. Section **11-56-103** is amended to read:

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

(1) (a) Subject to the provisions of this chapter, a political subdivision may require a food truck business to obtain a business license if the food truck business does not hold a current business license in good standing from another political subdivision in the state.

(b) A political subdivision may only charge a licensing fee to a food truck business in an amount that reimburses the political subdivision for the actual cost of processing the business license.

~~[(1) A political subdivision may not:]~~

~~[(a) require a separate license, permit, or fee beyond the initial or reciprocal business license described in Subsection (2) and the fee described in Subsection (3) for a food truck business, regardless of whether a 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 business employs; or]~~

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

~~[(i) submit to or offer proof of a criminal background check; or]~~

~~[(ii) demonstrate how the operation of the food truck business will comply with a land use or zoning ordinance at the time the business 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 a food truck business that has obtained a business license to~~



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~~operate a food truck in another political subdivision within the state if the food truck business presents to the political subdivision:]~~

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

~~[(ii) for each food truck that the food truck business operates:]~~

(2) A political subdivision may not:

(a) require a food truck business to:

(i) obtain a separate **business** license ~~{or permit}~~ beyond the initial business license described in Subsection (1)(a);

(ii) pay a fee other than the fee for the initial business license described in Subsection (1); or

(iii) pay a fee for each employee the food truck business employs;

(b) as a condition of **a** food truck business obtaining a business license under Subsection (1):

(i) require a food truck operator or food truck vendor to submit to or offer evidence of a criminal background check, **except as provided in Subsection (5)**; or

(ii) require a food truck operator to demonstrate how the operation of the food truck business will comply with a land use or zoning ordinance at the time the food truck business applies for the business license; or

(c) regulate or restrict the size of a food truck operated by a food truck business.

(3) (a) A political subdivision shall recognize as valid within the political subdivision the business license of a food truck business obtained in another political subdivision within the state, if the business license is current and in good standing.

(b) ~~{Notwithstanding}~~ **Notwithstanding** Subsection (3)(a), a political subdivision is not required to recognize as valid the business license of a food truck business issued in another political subdivision within the state if the food truck business does not have the following for each food truck that the food truck business operates:

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

~~[(B)]~~ (ii) a current approval of a political subdivision within the 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).

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

~~[(i) impose additional license qualification requirements on the food truck business 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.]~~

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

~~[(3) (a) For an initial business license, a political subdivision may only charge a licensing fee to a food truck business in an amount that reimburses the political subdivision for the actual cost of 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 accounts for the actual administrative burden on the political subdivision for processing the reciprocal license:]~~

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

(a) requiring a food truck business 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;

(c) requiring a food truck business 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:]~~

(d) requiring a food truck business to keep a copy of the following in each food truck operated by the food truck business:

(i) a valid business license for the food truck business, as described in this section, whether issued by the political subdivision or another political subdivision;

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(ii) a valid health department food truck permit, as described in Section 11-56-104, whether issued by a local health department or another health department; or

(iii) evidence of passing a fire safety inspection, as described in Section 11-56-104, whether conducted by the political subdivision or another political subdivision.

(5) As a condition of obtaining and maintaining in good standing an initial business license as described in Subsection (1)(a), a political subdivision may require a food truck business that operates one or more ice cream trucks to submit to or offer evidence of an annual criminal background check for each employee of the food truck business that operates or will operate an ice cream truck.

Section ~~(3)~~4. Section **11-56-104** is amended to read:

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

(1) (a) A food truck business shall obtain, for each food truck that the business operates, 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.

(b) A local health department shall recognize as valid a health department food truck permit that has been issued by another local health department within the state.

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

~~[(b) If a food truck business 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 business 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 business in an amount that reimburses the local health department for

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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]~~ recognize as valid within the political subdivision's jurisdiction an approval from another political subdivision within the state that shows that the food truck passed a fire safety inspection that the other political subdivision conducted.

(ii) A political subdivision may not require that a food truck pass a fire safety inspection in a given calendar year if the food truck business presents to the political subdivision an approval described in Subsection ~~[(4)]~~ (3)(b)(i) issued during the same calendar year.

~~[(5)]~~ (4) (a) Nothing in this section prevents a local health department from~~[-(i)]~~ requiring a food truck business to obtain an event permit, in 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:

(i) described in Subsection (1)(b), if the operation of the related food truck within the political subdivision fails a health inspection **by a local health department**; or

(ii) described in Subsection ~~[(4)]~~ (3)(b)(i), if the operation of the related food truck within the political subdivision fails to meet the criteria described in Subsection ~~[(4)]~~ (3)(a).

(c) For each food truck that fails a health inspection as described in Subsection (4)(b)(i), a local health department may charge and collect a fee from the associated food truck business for that health inspection.

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Section 5. Section 11-65-101 is enacted to read:

### **CHAPTER 65. ALL-TERRAIN VEHICLE REGULATION**

#### **11-65-101. Limits on regulation of all-terrain vehicles.**

(1) As used in this chapter:

(a) "Political subdivision" means:

(i) a city, town, or metro township; or

(ii) a county, as it relates to the licensing and regulation of businesses in the unincorporated area of the county.

(b) "Street-legal ATV" means any all-terrain type vehicle that meets the requirements, including the registration, inspection, and license plate requirements, of being a street-legal ATV as described in Section 41-6a-1509.

(2) For any business, including a business that rents one or more street-legal ATVs, a political subdivision may not as a condition of the business obtaining or maintaining a business license or permit:

(a) require any additional inspection, registration, or license plate requirements, including requiring any additional sticker or other identifying mark, for any street-legal ATV owned or rented by the business;

(b) require any equipment modifications of a street-legal ATV owned or rented by the business; or

(c) limit the amount of street-legal ATVs owned or rented by the business.

(3) A political subdivision may not revoke or fail to renew a business license or permit of a business based on the violation of a traffic ordinance or other local ordinance by any customer of the business operating a street-legal ATV.

(4) A political subdivision may not enact or enforce a noise ordinance or other local ordinance, except as authorized under Section 41-22-10.5, that imposes a fine or other penalty for the operation of a street-legal ATV.

Section 6. Section 17-53-216 is amended to read:

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

(1) As used in this section, "business" means any enterprise carried on for the purpose of gain or economic profit, except that the acts of employees rendering services to employers

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are not included in this definition.

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

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

(4) A county may not:

(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] old;

(b) charge a license fee for a home based business unless the combined offsite impact of the home based business and the primary residential use materially exceeds the offsite impact of the primary residential use alone[-]; or

(c) require, as a condition of obtaining or maintaining a license or permit for a business:

(i) that an employee or agent of a business complete education, continuing education, or training that is in addition to requirements under state law or state licensing requirements; or

(ii) that a business disclose financial information, inventory amounts, or proprietary business information except as specifically authorized under state or federal law.

(5) The county business licensing agency shall transmit the information from each approved business license application to the county assessor within 60 days following the approval of the application.

(6) This section may not be construed to enhance, diminish, or otherwise alter the taxing power of counties existing prior to the effective date of Laws of Utah 1988, Chapter 144.