

1 **MOBILE BUSINESS LICENSING AMENDMENTS**

2 2023 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Robert M. Spendlove**

5 Senate Sponsor: Kirk A. Cullimore

7 **LONG TITLE**

8 **General Description:**

9 This bill establishes an enclosed mobile business as a specific type of business, and
10 clarifies and amends a political subdivision's authority to regulate mobile businesses.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ defines terms;
- 14 ▶ establishes an enclosed mobile business as a specific type of business;
- 15 ▶ subjects enclosed mobile businesses to statutory provisions governing food trucks,
16 food carts, and ice cream trucks; and
- 17 ▶ modifies a political subdivision's authority to regulate mobile businesses.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **11-56-102**, as last amended by Laws of Utah 2022, Chapter 306

25 **11-56-103**, as last amended by Laws of Utah 2022, Chapter 306

26 **11-56-104**, as last amended by Laws of Utah 2022, Chapter 306

27 **11-56-105**, as last amended by Laws of Utah 2019, Chapter 260



28 **11-56-106**, as last amended by Laws of Utah 2019, Chapter 260

29 REPEALS:

30 **11-56-101**, as enacted by Laws of Utah 2017, Chapter 165



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

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

34 **CHAPTER 56. MOBILE BUSINESS LICENSING AND REGULATION ACT**

35 **11-56-102. Definitions.**

36 As used in this chapter:

37 (1) (a) "Enclosed mobile business" means a business that maintains ongoing mobility
38 and of which the receipt of goods or services offered and point of sales occurs within an
39 enclosed vehicle, an enclosed trailer, or an enclosed mobile structure.

40 (b) An enclosed mobile business's goods or services include those offered in the
41 following industries:

- 42 (i) barber;
- 43 (ii) beauty and cosmetic, including nail, eyelash, and waxing;
- 44 (iii) cycling;
- 45 (iv) cell phone;
- 46 (v) computer;
- 47 (vi) footwear;
- 48 (vii) media archive and transfer;
- 49 (viii) pet grooming;
- 50 (ix) sewing and tailoring;
- 51 (x) small engine; and
- 52 (xi) tool.

53 (c) "Enclosed mobile business" does not include a food cart, a food truck, or an ice
54 cream truck.

55 ~~[(+)]~~ (2) "Event permit" means a permit that a political subdivision issues to the
56 organizer of a ~~[public food truck event]~~ mobile business event located on public property.

57 ~~[(2)]~~ (3) (a) "Food cart" means a cart:

- 58 ~~[(a)]~~ (i) that is not motorized; and

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

61 (b) "Food cart" does not include an enclosed mobile business, a food truck, or an ice
62 cream truck.

63 ~~[(3)]~~ (4) (a) "Food truck" means~~[-(a)]~~ a fully encased food service establishment:

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

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

67 (b) "Food truck" does not include an enclosed mobile business, a food cart, or an ice
68 cream truck.

69 ~~[(b) a food cart; or]~~

70 ~~[(c) an ice cream truck.]~~

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

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

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

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

79 ~~[(8)]~~ (5) [~~"Health department food truck permit"~~] "Health department permit" means a
80 document that a local health department issues to authorize ~~[a person to operate a food truck]~~ a
81 mobile business to operate within the jurisdiction of the local health department.

82 ~~[(9)]~~ (6) (a) "Ice cream truck" means a fully encased food service establishment:

83 ~~[(a)]~~ (i) on a motor vehicle or on a trailer that a motor vehicle pulls to transport;

84 ~~[(b)]~~ (ii) from which a vendor, from within the frame of the vehicle, serves ice cream;

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

87 ~~[(d)]~~ (iv) that may stop to serve ice cream at the signal of a patron.

88 (b) "Ice cream truck" does not include an enclosed mobile business, a food cart, or a
89 food truck.

90 [(10)] (7) "Local health department" means the same as that term is defined in Section
91 26A-1-102.

92 (8) "Mobile business" means an enclosed mobile business, a food cart, a food truck, or
93 an ice cream truck.

94 (9) "Mobile business event" means an event at which a mobile business has been
95 invited by the event organizer to offer the mobile business's goods or services at a private or
96 public gathering.

97 (10) "Operator" means a person, including a vendor, who owns, manages, controls, or
98 operates a mobile business.

99 (11) "Political subdivision" means:

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

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

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

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

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

109 (b) "Temporary mass gathering" does not include an assembly of people at a location
110 with permanent facilities designed for that specific assembly, unless the assembly is a
111 temporary mass gathering described in Subsection [(12)(a)(i)] (15)(a)(i).

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

113 **11-56-103. Licensing -- Reciprocity -- Fees.**

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

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

- 121 (2) A political subdivision may not:
- 122 (a) require a ~~[food truck business]~~ mobile business to:
- 123 (i) obtain a separate business license beyond the initial business license described in
- 124 Subsection (1)(a);
- 125 (ii) pay a fee other than the fee for the initial business license described in Subsection
- 126 (1); or
- 127 (iii) pay a fee for each employee the ~~[food truck business]~~ mobile business employs;
- 128 (b) as a condition of a ~~[food truck business]~~ mobile business obtaining a business
- 129 license under Subsection (1):
- 130 (i) require ~~[a food truck operator or food truck vendor]~~ an operator to submit to or offer
- 131 evidence of a criminal background check, except as provided in Subsection (5); or
- 132 (ii) require a ~~[food truck operator]~~ mobile business or its operator to demonstrate how
- 133 the ~~[operation of the food truck business]~~ mobile business will comply with a land use or
- 134 zoning ordinance at the time the ~~[food truck business]~~ mobile business applies for the business
- 135 license; or
- 136 (c) regulate or restrict the size of a ~~[food truck operated by a food truck business]~~
- 137 mobile business.
- 138 (3) (a) A political subdivision shall recognize as valid within the political subdivision
- 139 the business license of a ~~[food truck business]~~ mobile business obtained in another political
- 140 subdivision within the state, if the business license is current and in good standing.
- 141 ~~[(b) Notwithstanding Subsection (3)(a), a political subdivision is not required to~~
- 142 ~~recognize as valid the business license of a food truck business issued in another political~~
- 143 ~~subdivision within the state if the food truck business does not have the following for each~~
- 144 ~~food truck that the food truck business operates:]~~
- 145 ~~[(i) a current health department food truck permit from a local health department~~
- 146 ~~within the state; and]~~
- 147 ~~[(ii) a current approval of a political subdivision within the state that shows that the~~
- 148 ~~food truck passed a fire safety inspection that the other political subdivision conducted in~~
- 149 ~~accordance with Subsection ~~11-56-104~~(3)(a).]~~
- 150 (b) Notwithstanding Subsection (3)(a), a political subdivision is not required to
- 151 recognize as valid the business license issued by another political subdivision within the state

152 if:

153 (i) (A) the mobile business does not have a current health department permit from a
154 local health department within the state; and

155 (B) the nature of the mobile business requires that the mobile business have a health
156 department permit in order to operate; or

157 (ii) (A) the mobile business does not have current evidence of passing a fire safety
158 inspection, conducted by another political subdivision within the state in accordance with
159 Subsection 11-56-104(3)(a); and

160 (B) the nature of the mobile business requires that the mobile business pass a fire
161 safety inspection in order to operate.

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

163 (a) requiring a [~~food truck business~~] mobile business to comply with local zoning and
164 land use regulations to the extent that the regulations do not conflict with this chapter;

165 (b) promulgating local ordinances and regulations consistent with this section that
166 address how and where a food truck or enclosed mobile business truck may operate within the
167 political subdivision;

168 (c) requiring a [~~food truck business~~] mobile business to obtain an event permit in
169 accordance with Section 11-56-105; or

170 (d) if the nature of the mobile business requires the mobile business to have a business
171 license, health department permit, or fire safety inspection, requiring [a ~~food truck business~~
172 the mobile business to keep a copy of the following in each [~~food truck operated by the food~~
173 truck business] mobile business that is in operation and engaging in transactions:

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

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

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

180 (5) As a condition of obtaining and maintaining in good standing an initial business
181 license as described in Subsection (1)(a), a political subdivision may require a food truck
182 business that operates one or more ice cream trucks to submit to or offer evidence of an annual

183 criminal background check for each employee of the food truck business that operates or will
184 operate an ice cream truck.

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

186 **11-56-104. Safety and health inspections and permits -- Fees.**

187 (1) (a) (i) A food truck business shall obtain, for each food truck that the business
188 operates, an annual health department [~~food truck~~] permit from the local health department
189 [~~with~~] that has jurisdiction over the area in which the majority of the food truck's operations
190 [~~takes place~~] occur.

191 (ii) Subject to Subsection (4)(a), a mobile business is not subject to a local health
192 department's regulations or permit requirements, unless the nature of the mobile business's
193 operation subjects the mobile business to the local health department's regulations or permit
194 requirements.

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

197 (2) A local health department may only charge a [~~health department food truck permit~~
198 ~~fee to a food truck business~~] fee for a health department permit in an amount that reimburses
199 the local health department for the cost of regulating the [~~food truck~~] mobile business.

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

203 (b) (i) A political subdivision shall recognize as valid within the political subdivision's
204 jurisdiction an approval from another political subdivision within the state that shows that the
205 [~~food truck~~] mobile business passed a fire safety inspection that the other political subdivision
206 conducted.

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

211 (4) (a) Nothing in this section prevents a local health department from requiring a
212 [~~food truck business~~] mobile business to obtain an event permit, in accordance with Section
213 [11-56-105](#).

214 (b) Nothing in this section prevents a political subdivision from revoking the political
215 subdivision's approval:

216 (i) described in Subsection (1)(b), if the ~~[operation of the related food truck within the~~
217 ~~political subdivision]~~ mobile business fails a health inspection by a local health department; or

218 (ii) described in Subsection (3)(b)(i), if the ~~[operation of the related food truck within~~
219 ~~the political subdivision fails to meet the criteria]~~ mobile business does not pass a fire safety
220 inspection described in Subsection (3)(a).

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

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

225 **11-56-105. Mobile business events.**

226 (1) Subject to Subsection (4), a political subdivision may not require a ~~[food truck~~
227 ~~business]~~ mobile business to pay any fee or obtain from the political subdivision any permit to
228 operate ~~[a food truck at a food truck event]~~ the mobile business at a mobile business event that
229 takes place on private property within the political subdivision, regardless of whether the event
230 is open or closed to the public.

231 (2) If ~~[the food truck business]~~ a mobile business has a business license from any
232 political subdivision within the state, a political subdivision may not require ~~[a food truck~~
233 ~~business]~~ the mobile business to pay ~~[any]~~ a fee or obtain from the political subdivision an
234 additional business license or permit to operate ~~[a food truck at a food truck event]~~ at an event
235 that:

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

237 (b) is not open to the public.

238 (3) If a political subdivision requires an event permit for a ~~[food truck event]~~ mobile
239 business event, the organizer of the ~~[food truck event]~~ mobile business event may obtain the
240 event permit on behalf of the ~~[food trucks]~~ mobile businesses that service the event.

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

243 (b) (i) ~~[A food truck]~~ A mobile business operating at a temporary mass gathering that
244 occurs over multiple days may operate in a stationary manner for the duration of the temporary

245 mass gathering, not to exceed five consecutive days, without moving or changing location if
246 the ~~[food truck]~~ mobile business maintains sanitary conditions and operates in compliance with
247 the permitting requirements and regulations imposed on other ~~[food]~~ similar vendors at the
248 temporary mass gathering.

249 (ii) A county health department may not impose a requirement on a ~~[food truck]~~
250 mobile business described in Subsection (4)(b)(i) that the county health department does not
251 impose on other ~~[food vendors]~~ similar vendors operating at the temporary mass gathering.

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

253 **11-56-106. Mobile business operation.**

254 A political subdivision may not:

255 (1) entirely or constructively prohibit ~~[food trucks]~~ mobile businesses in a zone in
256 which a food establishment is a permitted or conditional use;

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

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

260 (4) require a ~~[food truck business]~~ mobile business to:

261 (a) provide to the political subdivision:

262 (i) a site plan for each location in which a ~~[food truck]~~ mobile business operates in the
263 public right of way, if the political subdivision permits ~~[food truck operation]~~ mobile
264 businesses in the public right of way; or

265 (ii) the date, time, or duration that a ~~[food truck]~~ mobile business will operate within
266 the political subdivision; or

267 (b) obtain and pay for a land use permit for each location and time during which a
268 ~~[food truck]~~ mobile business operates; or

269 (5) if a ~~[food truck business]~~ mobile business has the consent of a private property
270 owner to operate ~~[a food truck]~~ on the private property:

271 (a) limit the number of days the ~~[food truck]~~ mobile business may operate on the
272 private property;

273 (b) require that the ~~[food truck operator]~~ mobile business provide to the political
274 subdivision or keep on file in the ~~[food truck]~~ mobile business the private property owner's
275 written consent; or

276 (c) require a site plan for the operation of the [~~food truck~~] mobile business on the
277 private property where the [~~food truck~~] mobile business operates in the same location for less
278 than 10 hours per week.

279 Section 6. **Repealer.**

280 This bill repeals:

281 Section **11-56-101**, Title.