

SB0047S01 compared with SB0047

~~text~~ shows text that was in SB0047 but was deleted in SB0047S01.

text shows text that was not in SB0047 but was inserted into SB0047S01.

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Representative Stephanie Gricius proposes the following substitute bill:

LOCAL GOVERNMENT BUSINESS LICENSE AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: ~~Heidi Balderree~~

House Sponsor: ~~_____~~ Stephanie Gricius

LONG TITLE

General Description:

This bill modifies provisions relating to business licenses issued by a county or municipality.

Highlighted Provisions:

This bill:

- ▶ ~~expands~~ modifies a prohibition against a county or municipality requiring a license or permit for an occasionally operated business ~~to apply to an individual who is 18 years old or older and enrolled in a traditional high school~~; and
- ▶ provides a limitation on the requirements that may be imposed on a participant at a county or municipal event.

Money Appropriated in this Bill:

None

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Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-1-203, as last amended by Laws of Utah 2022, Chapter 306

17-53-216, as last amended by Laws of Utah 2022, Chapter 306

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 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,

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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 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

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(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

(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

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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.

(7) (a) As used in this Subsection (7):

(i) (A) "Event requirement" means a requirement a municipality imposes on individuals who participate in a municipal event.

(B) "Event requirement" does not include a requirement that is inconsistent with Subsection (7)(b).

(ii) "Exempt individual" means an individual who, under Subsection (7)(b), may not be required to have a business license or permit.

(iii) "Municipal event" means an event hosted or sponsored by a municipality.

(b) 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

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~~(A)~~ } under ~~[18]~~ 19 years old ~~;~~ or

~~(B)~~ 18 years old or older and enrolled in a traditional high school;

~~(b)~~ } ;

(c) Subsection (7)(b) does not prevent a municipality from imposing an event requirement on an exempt individual who participates in a municipal event.

(8) A municipality may not:

(a) [(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)] (b) 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)] (9) (a) Notwithstanding Subsection [(7)(b)] (8)(a), a municipality may charge an administrative fee for a license to a home-based business owner who is otherwise exempt under Subsection [(7)(b)] (8)(a) 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)] (8)(a) in any communication with the owner.

[(9)] (10) 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)] (11) 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 2. 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

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of gain or economic profit, except that the acts of employees rendering services to employers are not included in this definition.

(2) Except as provided in Subsection (4), 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) As used in this Subsection (4):

(i) (A) "Event requirement" means a requirement a county imposes on individuals who participate in a county event.

(B) "Event requirement" does not include a requirement that is inconsistent with Subsection (4)(b).

(ii) "Exempt individual" means an individual who, under Subsection (4)(b), may not be required to have a business license or permit.

(iii) "County event" means an event hosted or sponsored by a county.

(b) 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

— (A) under 18 years old, or

— (B) 18 years old or older and enrolled in a traditional high school;

— (b) [c].

(c) Subsection (4)(b) does not prevent a county from imposing an event requirement on an exempt individual who participates in a county event.

[(b)] (5) A county may not:

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

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(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)]~~ [(6)] 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)]~~ [(7)] 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, ~~(f)~~ Chapter 144.

Section 3. **Effective date.**

This bill takes effect on May 1, 2024.