

State of Arizona  
House of Representatives  
Fifty-third Legislature  
Second Regular Session  
2018

# HOUSE BILL 2371

AN ACT

AMENDING TITLE 9, CHAPTER 4, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 7.2; AMENDING TITLE 11, CHAPTER 2, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-269.20; AMENDING TITLE 36, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 15; AMENDING TITLE 41, CHAPTER 3.1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-626; AMENDING SECTIONS 42-5074 AND 42-5102, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 6, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-6015; RELATING TO BUSINESS REGULATIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 9, chapter 4, Arizona Revised Statutes, is amended  
3 by adding article 7.2, to read:

4 ARTICLE 7.2. MOBILE FOOD VENDORS AND MOBILE FOOD UNITS

5 9-485. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "MOBILE FOOD UNIT" MEANS A FOOD ESTABLISHMENT THAT IS LICENSED  
8 BY THIS STATE, THAT IS READILY MOVABLE AND THAT DISPENSES FOOD OR  
9 BEVERAGES FOR IMMEDIATE SERVICE AND CONSUMPTION AND OTHER INCIDENTAL  
10 RETAIL ITEMS FROM ANY VEHICLE.

11 2. "MOBILE FOOD VENDOR" MEANS ANY PERSON WHO OWNS, CONTROLS,  
12 MANAGES OR LEASES A MOBILE FOOD UNIT OR CONTRACTS WITH A PERSON TO PREPARE  
13 FOODS AND VEND FROM, DRIVE OR OPERATE A MOBILE FOOD UNIT.

14 9-485.01. Mobile food vendors; mobile food units; operation

15 A. IN RELATION TO A MOBILE FOOD VENDOR OR MOBILE FOOD UNIT, A CITY  
16 OR TOWN BY ORDINANCE OR RESOLUTION MAY:

17 1. PROHIBIT OR RESTRICT A MOBILE FOOD VENDOR FROM OPERATING AT A  
18 PUBLIC AIRPORT OR PUBLIC TRANSIT FACILITY, IN AN AREA ZONED FOR  
19 RESIDENTIAL USE OR WITHIN TWO HUNDRED FIFTY FEET OF AN AREA ZONED FOR  
20 RESIDENTIAL USE.

21 2. CONTINUE TO ENACT AND ENFORCE REGULATIONS AND ZONING CODES ON  
22 MOBILE FOOD UNITS OR MOBILE FOOD VENDORS THAT ARE NOT OTHERWISE PROHIBITED  
23 BY LAW.

24 B. IN RELATION TO A MOBILE FOOD VENDOR OR MOBILE FOOD UNIT, A CITY  
25 OR TOWN MAY NOT:

26 1. REQUIRE A MOBILE FOOD VENDOR, PROPERTY OWNER OR LESSEE OF A  
27 PROPERTY TO APPLY FOR AND RECEIVE ANY SPECIAL PERMIT THAT IS NOT REQUIRED  
28 FOR OTHER TEMPORARY OR MOBILE VENDING BUSINESSES IN THE SAME ZONING  
29 DISTRICT.

30 2. REQUIRE A MOBILE FOOD VENDOR OR MOBILE FOOD UNIT TO OPERATE A  
31 SPECIFIC DISTANCE FROM THE PERIMETER OF AN EXISTING COMMERCIAL  
32 ESTABLISHMENT OR RESTAURANT, EXCEPT AS REQUIRED FOR APPLICABLE BUILDING,  
33 FIRE, STREET AND SIDEWALK CODES.

34 3. PROHIBIT OR RESTRICT A MOBILE FOOD VENDOR OR MOBILE FOOD UNIT  
35 FROM USING ANY LEGAL PARKING SPACE, INCLUDING METERED PARKING, EXCEPT TO  
36 RESTRICT THE NUMBER OF SPACES, VEHICLE SIZE AND PARKING DURATION AND THE  
37 ABILITY TO OCCUPY SITES WITH INSUFFICIENT PARKING CAPACITY AS PRESCRIBED  
38 BY A LOCAL ZONING ORDINANCE OF THE CITY OR TOWN OR AS OTHERWISE PROHIBITED  
39 BY FEDERAL LAW.

40 4. REQUIRE A MOBILE FOOD UNIT TO BE INSPECTED BY A CITY OR TOWN  
41 FIRE DEPARTMENT BEFORE OPERATION IF THE MOBILE FOOD VENDOR PROVIDES  
42 EVIDENCE THAT THE MOBILE FOOD UNIT PASSED A FIRE INSPECTION BY ANOTHER  
43 CITY OR TOWN FIRE DEPARTMENT IN THIS STATE WITHIN THE PRECEDING TWELVE  
44 MONTHS.

1 C. A CITY OR TOWN WITH A POPULATION OF MORE THAN FIFTY THOUSAND  
2 PERSONS SHALL MAKE AVAILABLE ALL APPLICABLE LICENSE APPLICATIONS IN AN  
3 ELECTRONIC FORMAT THAT IS AVAILABLE ONLINE AND MAY NOT REQUIRE A MOBILE  
4 FOOD VENDOR TO APPLY IN PERSON.

5 9-485.02. Insurance requirement prohibited

6 A CITY OR TOWN MAY NOT REQUIRE A MOBILE FOOD VENDOR TO MAINTAIN AN  
7 INSURANCE POLICY THAT NAMES THE CITY OR TOWN AS AN ADDITIONAL INSURED  
8 UNLESS THE MOBILE FOOD VENDOR IS ATTENDING AN EVENT SPONSORED BY THAT CITY  
9 OR TOWN OR OPERATING ON PUBLIC PROPERTY, INCLUDING THE RIGHT-OF-WAY OR  
10 PROPERTY OWNED BY THE CITY OR TOWN.

11 Sec. 2. Title 11, chapter 2, article 4, Arizona Revised Statutes,  
12 is amended by adding section 11-269.20, to read:

13 11-269.20. Mobile food vendors; mobile food units; operation;  
14 insurance requirement prohibited; definitions

15 A. IN RELATION TO A MOBILE FOOD VENDOR OR MOBILE FOOD UNIT, A  
16 COUNTY BOARD OF SUPERVISORS BY ORDINANCE OR RESOLUTION MAY:

17 1. IMPOSE OPERATING HOURS ONLY IF THEY ARE THE SAME AS THE  
18 OPERATING HOURS IMPOSED ON RESTAURANTS IN THAT COUNTY.

19 2. RESTRICT THE OPERATION OF NOISEMAKING DEVICES DURING SPECIFIC  
20 TIMES OF DAY.

21 3. RESTRICT OR PROHIBIT THE OPERATION OF A MOBILE FOOD UNIT IN AN  
22 AREA THAT IS ZONED AS RESIDENTIAL ONLY.

23 4. PROHIBIT A MOBILE FOOD UNIT THAT IS OPERATING ON PRIVATE  
24 PROPERTY FROM BLOCKING INGRESS TO AND EGRESS FROM THAT PROPERTY.

25 5. PROHIBIT A MOBILE FOOD UNIT FROM BLOCKING OR INHIBITING THE USE  
26 OF A PUBLIC SIDEWALK.

27 6. PROHIBIT A MOBILE FOOD VENDOR OR MOBILE FOOD UNIT FROM BLOCKING  
28 VEHICULAR TRAFFIC ON PUBLIC STREETS AND ROADS.

29 7. REQUIRE A MOBILE FOOD VENDOR TO OBTAIN CONSENT FROM A PRIVATE  
30 PROPERTY OWNER OR LESSEE OR THE OWNER'S OR LESSEE'S AGENT BEFORE BEGINNING  
31 OPERATION ON THAT PROPERTY.

32 8. PROHIBIT OR RESTRICT A MOBILE FOOD VENDOR FROM OPERATING AT A  
33 PUBLIC AIRPORT.

34 9. REQUIRE A MOBILE FOOD VENDOR WITH A STATE LICENSE THAT IS NOT  
35 ISSUED BY THAT COUNTY TO APPLY FOR A PERMIT IN ORDER TO CONDUCT BUSINESS  
36 WITHIN THE COUNTY. THE COUNTY MAY CHARGE A FEE FOR THE PERMIT. THE  
37 PERMIT SHALL BE MADE AVAILABLE IN AN ELECTRONIC FORMAT THAT IS AVAILABLE  
38 ONLINE. THE ORDINANCE OR RESOLUTION MAY NOT REQUIRE A MOBILE FOOD VENDOR  
39 WITH A STATE LICENSE TO BE INSPECTED AS A CONDITION OF RECEIVING THE  
40 PERMIT.

41 10. PROHIBIT OR RESTRICT A MOBILE FOOD VENDOR FROM OPERATING AT A  
42 COUNTY PUBLIC PARK.

43 B. IN RELATION TO A MOBILE FOOD VENDOR OR MOBILE FOOD UNIT, A  
44 COUNTY BOARD OF SUPERVISORS MAY NOT:



ARTICLE 2. LICENSURE AND REGULATION

36-1761. Mobile food vendors; mobile food units; rules; health and safety licensing standards

A. THE DIRECTOR SHALL ADOPT RULES THAT DO ALL OF THE FOLLOWING:

1. ESTABLISH HEALTH AND SAFETY LICENSING STANDARDS FOR MOBILE FOOD VENDORS AND MOBILE FOOD UNITS THAT APPLY ON A STATEWIDE BASIS. THE LICENSING STANDARDS SHALL:

(a) INCLUDE THREE CATEGORIES OF MOBILE FOOD UNITS THAT ARE BASED ON THE TYPE OF FOOD DISPENSED AND THE AMOUNT OF HANDLING AND PREPARATION REQUIRED.

(b) INCLUDE GENERAL PHYSICAL AND OPERATION REQUIREMENTS OF A MOBILE FOOD UNIT, INCLUDING:

(i) INSTALLATION OF COMPRESSORS, GENERATORS AND SIMILAR MECHANICAL UNITS THAT ARE NOT AN INTEGRAL PART OF THE FOOD PREPARATION OR STORAGE EQUIPMENT.

(ii) NECESSARY COMMISSARY OR OTHER SERVICING AREA AGREEMENTS.

(iii) VEHICLE AND EQUIPMENT CLEANING.

(iv) WASTE DISPOSAL DURING AND AFTER OPERATION ON PUBLIC OR PRIVATE PROPERTY, WHICH MAY NOT INCLUDE THE SIZE OR DIMENSIONS OF ANY REQUIRED SOLID WASTE RECEPTACLE.

2. ESTABLISH STATEWIDE INSPECTION STANDARDS THAT ARE BASED ON OBJECTIVE FACTORS FOR USE BY THE COUNTY HEALTH DEPARTMENTS.

3. ESTABLISH A LICENSING PROCESS FOR MOBILE FOOD UNITS THAT DOES ALL OF THE FOLLOWING:

(a) REQUIRES A SEPARATE LICENSE FOR EACH MOBILE FOOD UNIT.

(b) REQUIRES A LICENSE TO BE RENEWED ANNUALLY.

(c) DELEGATES TO THE COUNTY HEALTH DEPARTMENT IN THE COUNTY WHERE THE MOBILE FOOD VENDOR'S COMMISSARY IS LOCATED THE LICENSING AND HEALTH AND SAFETY INSPECTION FOR STATE LICENSURE USING THE STATEWIDE INSPECTION STANDARDS ADOPTED PURSUANT TO THIS SECTION. THE LICENSING PROCESS SHALL REQUIRE RANDOM INSPECTIONS BY COUNTY HEALTH DEPARTMENTS AT NO ADDITIONAL COST EXCEPT AS PROVIDED IN SECTION 11-269.20. A MOBILE FOOD UNIT LICENSE ISSUED BY A COUNTY HEALTH DEPARTMENT PURSUANT TO THIS SECTION SHALL HAVE RECIPROCITY IN EACH COUNTY OF THIS STATE. A COUNTY HEALTH DEPARTMENT MAY ENFORCE THE STATEWIDE INSPECTION STANDARDS REGARDLESS OF WHERE THE LICENSE WAS ISSUED.

(d) REQUIRES ALL EMPLOYEES OF A MOBILE FOOD VENDOR TO HAVE A VALID FOOD HANDLER CARD OR A CERTIFICATE FROM AN ACCREDITED FOOD HANDLER TRAINING CLASS AS SPECIFIED IN RULE BY THE DEPARTMENT.

(e) REQUIRES THAT THE LICENSE BE DISPLAYED IN THE MOBILE FOOD VENDOR'S OPERATING LOCATION IN A CONSPICUOUS LOCATION FOR PUBLIC VIEW.

B. THE RULES ADOPTED PURSUANT TO THIS SECTION MAY NOT DO EITHER OF THE FOLLOWING:



1 regularly engage or continue in the restaurant business for the purpose of  
2 fund-raising.

3 4. Sales by a nonprofit organization that is exempt from taxation  
4 under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue  
5 code if the organization is associated with a major league baseball team  
6 or a national touring professional golfing association and no part of the  
7 organization's net earnings inures to the benefit of any private  
8 shareholder or individual.

9 5. Sales at a rodeo featuring primarily farm and ranch animals in  
10 this state by a nonprofit organization that is exempt from taxation under  
11 section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the  
12 internal revenue code ~~and~~ IF no part of the organization's net earnings  
13 inures to the benefit of any private shareholder or individual.

14 6. Sales by any nonprofit organization organized and operated  
15 exclusively for charitable purposes and recognized by the United States  
16 internal revenue service under section 501(c)(3) of the internal revenue  
17 code.

18 7. Sales to qualifying hospitals as defined in section 42-5001.

19 8. Sales to a qualifying health care organization as defined in  
20 section 42-5001 if the tangible personal property is used by the  
21 organization solely to provide health and medical related educational and  
22 charitable services.

23 9. Sales of food, drink and condiment for consumption within the  
24 premises of any prison, jail or other institution under the jurisdiction  
25 of the state department of corrections, the department of public safety,  
26 the department of juvenile corrections or a county sheriff.

27 10. Sales of articles of prepared or unprepared food, drink or  
28 condiment and accessory tangible personal property to a school district or  
29 charter school if the articles and accessory tangible personal property  
30 are served to persons for consumption on the premises of a public school  
31 in the school district or charter school during school hours.

32 11. Prepared food, drink or condiment donated by a restaurant to a  
33 nonprofit charitable organization that has qualified under section  
34 501(c)(3) of the internal revenue code and that regularly serves meals to  
35 the needy and indigent on a continuing basis at no cost.

36 12. Sales of articles of food and drink at low or reduced prices to  
37 eligible elderly, ~~disabled~~ or homeless persons **OR PERSONS WITH A**  
38 **DISABILITY** by a restaurant that contracts with the department of economic  
39 security and that is approved by the food and nutrition services of the  
40 United States department of agriculture pursuant to the supplemental  
41 nutrition assistance program established by the food and nutrition act of  
42 2008 (P.L. 110-246; 122 Stat. 1651; 7 United States Code sections 2011  
43 through 2036a), if the purchases of the articles of food and drink are  
44 made with the benefits issued pursuant to the supplemental nutrition  
45 assistance program.

1 C. The tax imposed on the restaurant classification pursuant to  
2 this section does not apply to the gross proceeds of sales or gross income  
3 from tangible personal property sold to a commercial airline consisting of  
4 food, beverages and condiments and accessories used for serving the food  
5 and beverages, if those items are to be provided without additional charge  
6 to passengers for consumption in flight. For the purposes of this  
7 subsection, "commercial airline" means a person holding a federal  
8 certificate of public convenience and necessity or foreign air carrier  
9 permit for air transportation to transport persons, property or United  
10 States mail in intrastate, interstate or foreign commerce.

11 D. The department shall separately account for revenues collected  
12 under the restaurant classification for the purposes of section 42-5029,  
13 subsection D, paragraph 4, subdivision (b).

14 E. For THE purposes of section 42-5032.01, the department shall  
15 separately account for revenues collected under the restaurant  
16 classification from businesses operating restaurants, dining rooms,  
17 lunchrooms, lunch stands, soda fountains, catering services or similar  
18 establishments:

19 1. On the premises of a multipurpose facility that is owned or  
20 operated by the tourism and sports authority pursuant to title 5, chapter  
21 8 for consumption on or off the premises.

22 2. At professional football contests that are held in a stadium  
23 located on the campus of an institution under the jurisdiction of the  
24 Arizona board of regents.

25 Sec. 6. Section 42-5102, Arizona Revised Statutes, is amended to  
26 read:

27 42-5102. Tax exemption for sales of food; nonexempt sales

28 A. Except for the gross proceeds of sales or gross income from the  
29 sale of food for consumption on the premises, the taxes imposed by this  
30 chapter do not apply to the gross proceeds of sales or gross income from  
31 sales of food by any of the following:

32 1. A retailer who conducts an eligible grocery business.

33 2. A retailer who conducts a business whose primary business is not  
34 the sale of food but who sells food which is displayed, packaged and sold  
35 in a similar manner as an eligible grocery business.

36 3. A retailer who sells food and does not provide or make available  
37 any facilities for the consumption of food on the premises.

38 4. A retailer who conducts a delicatessen business either from a  
39 counter which is separate from the place and cash register where taxable  
40 sales are made or from a counter which has two cash registers which are  
41 used to record taxable and tax exempt sales or a retailer who conducts a  
42 delicatessen business and who uses a cash register which has at least two  
43 tax computing keys which are used to record taxable and tax exempt sales.

44 5. A retailer who is a street or sidewalk vendor and who uses a  
45 pushcart, ~~mobile facility, motor vehicle or other such conveyance.~~

1           6. Vending machines and other types of automatic retailers.

2           B. The taxes imposed by this chapter do not apply to the gross  
3 proceeds of sales or gross income from sales of food by a state university  
4 or community college or its designee on its campuses to students using a  
5 validated meal ticket or to patients purchasing or consuming food at the  
6 Arizona health sciences center.

7           C. The taxes imposed by this chapter do not apply to the gross  
8 proceeds of sales or gross income from sales of food by a retailer to:

9           1. A regularly organized private or parochial school that offers an  
10 educational program for grade twelve or under which may be attended in  
11 substitution for a public school pursuant to section 15-802.

12           2. A child care facility that is licensed under section 36-882 or a  
13 child care group home certified under section 36-897.01.

14           3. A facility which provides on a regular basis care and  
15 supervision of persons who, because of age or a mental or physical  
16 condition, are incapable of caring for themselves and where they are  
17 unaccompanied by their custodians or guardians for periods of less than  
18 twenty-four hours a day.

19           4. An organization which is tax exempt under section 501(c)(3) of  
20 the internal revenue code and which provides the articles to persons with  
21 a nominal charge or without a monetary charge.

22           5. A prison, jail or other institution under the jurisdiction of  
23 the state department of corrections, the department of public safety, the  
24 department of juvenile corrections or a county sheriff for consumption on  
25 the premises.

26           D. Notwithstanding subsection A of this section, the taxes imposed  
27 by this chapter do not apply to the gross proceeds of sales or gross  
28 income from sales of low or reduced cost articles of food or drink to  
29 eligible elderly, ~~disabled~~ or homeless persons **OR PERSONS WITH A**  
30 **DISABILITY** by a business subject to tax under section 42-5074 that  
31 contracts with the department of economic security and that is approved by  
32 the food and nutrition service of the United States department of  
33 agriculture pursuant to the supplemental nutrition assistance program  
34 established by the food and nutrition act of 2008 (P.L. 110-246; 122 Stat.  
35 1651; 7 United States Code sections 2011 through 2036a), if the purchases  
36 are made with the benefits issued pursuant to the supplemental nutrition  
37 assistance program.

38           Sec. 7. Title 42, chapter 6, article 1, Arizona Revised Statutes,  
39 is amended by adding section 42-6015, to read:

40           42-6015. Mobile food vendors: definitions

41           A. A CITY, TOWN OR OTHER TAXING JURISDICTION MAY LEVY A TRANSACTION  
42 PRIVILEGE, SALES, USE, FRANCHISE OR OTHER SIMILAR TAX OR FEE AS PROVIDED  
43 BY THE MODEL CITY TAX CODE ON A PERSON ENGAGING IN BUSINESS AS A MOBILE  
44 FOOD VENDOR SUBJECT TO THE RESTAURANT CLASSIFICATION PURSUANT TO SECTION  
45 42-5074 FOR SALES OF FOOD OR BEVERAGES FOR IMMEDIATE SERVICE AND

1 CONSUMPTION AND THE RETAIL CLASSIFICATION PURSUANT TO SECTION 42-5061 FOR  
2 SALES OF INCIDENTAL RETAIL ITEMS IF THE ADOPTED TAX:

3 1. APPLIES ONLY WITH RESPECT TO TRANSACTIONS THAT OCCUR WITHIN THE  
4 JURISDICTIONAL BOUNDARIES OF THE CITY, TOWN OR TAXING JURISDICTION.

5 2. IS ADMINISTERED IN A MANNER THAT IS CONSISTENT WITH THE  
6 TREATMENT OF RESTAURANTS OR SIMILAR ESTABLISHMENTS WHERE FOOD OR BEVERAGES  
7 ARE PREPARED AND SERVED FOR CONSUMPTION ON OR OFF THE PREMISES.

8 3. IS ADMINISTERED, COLLECTED AND ENFORCED BY THE DEPARTMENT AND  
9 REMITTED TO THE CITY, TOWN OR OTHER TAXING JURISDICTION IN A UNIFORM  
10 MANNER.

11 B. THE TAXPAYER SHALL MAINTAIN RECORDS THAT SHOW SEPARATELY THE  
12 TAXABLE RECEIPTS FROM TRANSACTIONS IN THE RESPECTIVE CITIES, TOWNS OR  
13 OTHER TAXING JURISDICTIONS IN WHICH THE TAXPAYER CONDUCTS BUSINESS. IF  
14 THE TAXPAYER FAILS TO COMPLY WITH THIS SUBSECTION, THE DEPARTMENT SHALL  
15 COLLECT THE TAX BASED ON THE TAXPAYER'S TOTAL RECEIPTS, APPLYING THE  
16 HIGHEST TAX RATE LEVIED BY ANY CITY, TOWN OR OTHER TAXING JURISDICTION.

17 C. FOR THE PURPOSES OF THIS SECTION:

18 1. "MOBILE FOOD UNIT" MEANS A FOOD ESTABLISHMENT THAT IS LICENSED  
19 BY THIS STATE, THAT IS READILY MOVABLE AND THAT DISPENSES FOOD OR  
20 BEVERAGES FOR IMMEDIATE SERVICE AND CONSUMPTION AND OTHER INCIDENTAL  
21 RETAIL ITEMS FROM ANY VEHICLE.

22 2. "MOBILE FOOD VENDOR" MEANS ANY PERSON WHO OWNS, CONTROLS,  
23 MANAGES OR LEASES A MOBILE FOOD UNIT OR CONTRACTS WITH A PERSON TO PREPARE  
24 FOODS AND VEND FROM, DRIVE OR OPERATE A MOBILE FOOD UNIT.

25 Sec. 8. Rulemaking; exemption

26 For the purposes of title 36, chapter 15, Arizona Revised Statutes,  
27 as added by this act, the department of health services is exempt from the  
28 rulemaking requirements of title 41, chapter 6, Arizona Revised Statutes,  
29 for one year after the effective date of this act.