House Engrossed

technical correction, tax debt, enforcement
(now: mobile food vendor; operation; rules)

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HOUSE BILL 2094

AN ACT

AMENDING SECTIONS 9-485.01, 11-269.24 AND 36-1761, ARIZONA REVISED STATUTES; RELATING TO MOBILE FOOD VENDING.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 9-485.01, Arizona Revised Statutes, is amended to read:

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

A. In relation to a mobile food vendor or mobile food unit, a city or town by ordinance or resolution may:

1. EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH, prohibit or restrict a mobile food vendor from operating at a public airport or public transit facility, in an area zoned for residential use or within two hundred fifty feet of an area zoned for residential use. A MOBILE FOOD VENDOR MAY OPERATE ON PRIVATE PROPERTY IN A RESIDENTIAL AREA IF ALL OF THE FOLLOWING APPLY:
   (a) THE MOBILE FOOD VENDOR OBTAINS WRITTEN PERMISSION FROM THE PROPERTY OWNER.
   (b) THE MOBILE FOOD VENDOR DOES NOT SERVE MEMBERS OF THE GENERAL PUBLIC.
   (c) THE MOBILE FOOD VENDOR AND THE PROPERTY OWNER, THE SPOUSE OF THE PROPERTY OWNER OR, IN THE CASE OF A LIVING TRUST, THE TRUSTEE ARE NOT THE SAME PERSON.

2. Continue to enact and enforce regulations and zoning codes on mobile food units or mobile food vendors that are not otherwise prohibited by law.

B. In relation to a mobile food vendor or mobile food unit, a city or town may not:

1. Require a mobile food vendor, property owner or lessee of a property to apply for and receive any special permit that is not required for other temporary or mobile vending businesses in the same zoning district.

2. Require a mobile food vendor or mobile food unit to operate a specific distance from the perimeter of an existing commercial establishment or restaurant, except as required by applicable building, fire, street and sidewalk codes.

3. Prohibit or restrict a mobile food vendor or mobile food unit from using any legal parking space, including metered parking, except to restrict the number of spaces, vehicle size and parking duration and the ability to occupy sites with insufficient parking capacity as prescribed by a local zoning ordinance of the city or town or as otherwise prohibited by federal law.

4. Require a mobile food unit to be inspected by a city or town fire department before operation if the mobile food vendor provides evidence that the mobile food unit passed a fire inspection by another city or town fire department in this state within the preceding twelve months.

5. REQUIRE A MOBILE FOOD VENDOR TO PAY MORE THAN $50 IN TOTAL FEES PER YEAR TO OPERATE WITHIN THAT CITY OR TOWN.
C. A city or town with a population of more than fifty thousand persons shall make available all applicable license applications in an electronic format that is available online and may not require a mobile food vendor to apply in person.

Sec. 2. Section 11-269.24, Arizona Revised Statutes, is amended to read:

11-269.24. Mobile food vendors; mobile food units; operation; insurance requirement prohibited; definitions

A. In relation to a mobile food vendor or mobile food unit, a county board of supervisors by ordinance or resolution may:
1. Impose operating hours only if they are the same as the operating hours imposed on restaurants in that county.
2. Restrict the operation of noisemaking devices during specific times of day.
3. Restrict or prohibit the operation of a mobile food unit in an area that is zoned as residential only.
4. Prohibit a mobile food unit that is operating on private property from blocking ingress to and egress from that property.
5. Prohibit a mobile food unit from blocking or inhibiting the use of a public sidewalk.
6. Prohibit a mobile food vendor or mobile food unit from blocking vehicular traffic on public streets and roads.
7. Require a mobile food vendor to obtain consent from a private property owner or lessee or the owner's or lessee's agent before beginning operation on that property.
8. Prohibit or restrict a mobile food vendor from operating at a public airport.
9. Require a mobile food vendor with a state license that is not issued by that county to apply for a permit in order to conduct business within the county. The county may charge a fee for the permit. The permit shall be made available in an electronic format that is available online. The ordinance or resolution may not require a mobile food vendor with a state license to be inspected as a condition of receiving the permit.
10. Prohibit or restrict a mobile food vendor from operating at a county public park.

B. In relation to a mobile food vendor or mobile food unit, a county board of supervisors may not:
1. Restrict how long a mobile food vendor or mobile food unit may operate at a private property location, except that a mobile food vendor may not operate at a private property location for more than ninety-six consecutive hours.
2. Require a mobile food vendor to operate a specific distance from the perimeter of an existing commercial establishment or restaurant, except as required for public safety purposes.
3. Prohibit or restrict a mobile food vendor from using any legal parking space, including metered parking, to the same extent as any other commercial vehicle.

4. Require a mobile food vendor to maintain an insurance policy that names the county as an additional insured unless the mobile food vendor is attending an event sponsored by that county or is operating on public property.

5. Require a mobile food vendor to be fingerprinted.

6. REQUIRE GENERATORS TO BE PERMANENTLY AFFIXED TO THE MOBILE FOOD UNIT.

C. A county with a population of more than five hundred thousand persons shall make available a business license application in an electronic format that is available online and may not require a mobile food vendor to apply in person.

D. For the purposes of this section:

1. "Mobile food unit" means a food establishment that is licensed by this state, that is readily movable and that dispenses food or beverages for immediate service and consumption and other incidental retail items from any vehicle as defined in section 28-101.

2. "Mobile food vendor" means any person who owns, controls, manages or leases a mobile food unit or contracts with a person to prepare foods and vend from, drive or operate a mobile food unit.

Sec. 3. Section 36-1761, Arizona Revised Statutes, is amended to read:

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: vendors and mobile food units that apply on a statewide basis. The licensing standards shall:

1. Establish health and safety licensing standards for mobile food units based on the type of food dispensed and the amount of handling and preparation required.

2. 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 requirements.

   (iv) Waste disposal requirements during and after operation on public or private property, which may not include the size or dimensions of any required solid waste receptacle.
(c) ALLOW A MOBILE FOOD UNIT TO REQUEST AN EXEMPTION FROM THE COMMISSARY OR OTHER SERVICING AREA REQUIREMENTS IF THE MOBILE FOOD UNIT IS SUFFICIENTLY EQUIPPED TO MEET HEALTH AND SAFETY STANDARDS WITHOUT THE USE OF A COMMISSARY OR OTHER SERVICING AREA.

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 EITHER in the county where the mobile food vendor's commissary is located OR, IF A COMMISSARY IS NOT REQUIRED, IN THE COUNTY IN WHICH THE MOBILE FOOD VENDOR RESIDES 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 11-269.24. 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 ANY of the following:
   1. Require a mobile food vendor or mobile food unit to operate a specific distance from the perimeter of an existing commercial establishment or restaurant.
   2. Address the operating hours of a mobile food unit.
   3. REQUIRE GENERATORS TO BE PERMANENTLY AFFIXED TO THE MOBILE FOOD UNIT.

C. Except as otherwise specified in this chapter, the director may adopt rules that are substantively the same as the regulations that are in place on August 3, 2018 in Maricopa county regarding mobile food establishments.

D. This section does not preclude a city, town or county from requiring a mobile food vendor to be licensed if the licensing system includes a background check or identification and fingerprinting of the owner of the mobile food vending operation FINGERPRINT CLEARANCE CARD.