

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)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 9-485.01, Arizona Revised Statutes, is amended  
3 to read:  
4 9-485.01. Mobile food vendors; mobile food units; operation  
5 A. In relation to a mobile food vendor or mobile food unit, a city  
6 or town by ordinance or resolution may:  
7 1. EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH, prohibit or  
8 restrict a mobile food vendor from operating at a public airport or public  
9 transit facility, in an area zoned for residential use or within two  
10 hundred fifty feet of an area zoned for residential use. A MOBILE FOOD  
11 VENDOR MAY OPERATE ON PRIVATE PROPERTY IN A RESIDENTIAL AREA IF ALL OF THE  
12 FOLLOWING APPLY:  
13 (a) THE MOBILE FOOD VENDOR OBTAINS WRITTEN PERMISSION FROM THE  
14 PROPERTY OWNER.  
15 (b) THE MOBILE FOOD VENDOR DOES NOT SERVE MEMBERS OF THE GENERAL  
16 PUBLIC.  
17 (c) THE MOBILE FOOD VENDOR AND THE PROPERTY OWNER, THE SPOUSE OF  
18 THE PROPERTY OWNER OR, IN THE CASE OF A LIVING TRUST, THE TRUSTEE ARE NOT  
19 THE SAME PERSON.  
20 2. Continue to enact and enforce regulations and zoning codes on  
21 mobile food units or mobile food vendors that are not otherwise prohibited  
22 by law.  
23 B. In relation to a mobile food vendor or mobile food unit, a city  
24 or town may not:  
25 1. Require a mobile food vendor, property owner or lessee of a  
26 property to apply for and receive any special permit that is not required  
27 for other temporary or mobile vending businesses in the same zoning  
28 district.  
29 2. Require a mobile food vendor or mobile food unit to operate a  
30 specific distance from the perimeter of an existing commercial  
31 establishment or restaurant, except as required by applicable building,  
32 fire, street and sidewalk codes.  
33 3. Prohibit or restrict a mobile food vendor or mobile food unit  
34 from using any legal parking space, including metered parking, except to  
35 restrict the number of spaces, vehicle size and parking duration and the  
36 ability to occupy sites with insufficient parking capacity as prescribed  
37 by a local zoning ordinance of the city or town or as otherwise prohibited  
38 by federal law.  
39 4. Require a mobile food unit to be inspected by a city or town  
40 fire department before operation if the mobile food vendor provides  
41 evidence that the mobile food unit passed a fire inspection by another  
42 city or town fire department in this state within the preceding twelve  
43 months.  
44 5. REQUIRE A MOBILE FOOD VENDOR TO PAY MORE THAN \$50 IN TOTAL FEES  
45 PER YEAR TO OPERATE WITHIN THAT CITY OR TOWN.

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

7 11-269.24. Mobile food vendors; mobile food units; operation;  
8 insurance requirement prohibited; definitions

9 A. In relation to a mobile food vendor or mobile food unit, a  
10 county board of supervisors by ordinance or resolution may:

11 1. Impose operating hours only if they are the same as the  
12 operating hours imposed on restaurants in that county.

13 2. Restrict the operation of noisemaking devices during specific  
14 times of day.

15 3. Restrict or prohibit the operation of a mobile food unit in an  
16 area that is zoned as residential only.

17 4. Prohibit a mobile food unit that is operating on private  
18 property from blocking ingress to and egress from that property.

19 5. Prohibit a mobile food unit from blocking or inhibiting the use  
20 of a public sidewalk.

21 6. Prohibit a mobile food vendor or mobile food unit from blocking  
22 vehicular traffic on public streets and roads.

23 7. Require a mobile food vendor to obtain consent from a private  
24 property owner or lessee or the owner's or lessee's agent before beginning  
25 operation on that property.

26 8. Prohibit or restrict a mobile food vendor from operating at a  
27 public airport.

28 9. Require a mobile food vendor with a state license that is not  
29 issued by that county to apply for a permit in order to conduct business  
30 within the county. The county may charge a fee for the permit. The  
31 permit shall be made available in an electronic format that is available  
32 online. The ordinance or resolution may not require a mobile food vendor  
33 with a state license to be inspected as a condition of receiving the  
34 permit.

35 10. Prohibit or restrict a mobile food vendor from operating at a  
36 county public park.

37 B. In relation to a mobile food vendor or mobile food unit, a  
38 county board of supervisors may not:

39 1. Restrict how long a mobile food vendor or mobile food unit may  
40 operate at a private property location, except that a mobile food vendor  
41 may not operate at a private property location for more than ninety-six  
42 consecutive hours.

43 2. Require a mobile food vendor to operate a specific distance from  
44 the perimeter of an existing commercial establishment or restaurant,  
45 except as required for public safety purposes.

1           3. Prohibit or restrict a mobile food vendor from using any legal  
2 parking space, including metered parking, to the same extent as any other  
3 commercial vehicle.

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

8           5. Require a mobile food vendor to be fingerprinted.

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

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

15           D. For the purposes of this section:

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

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

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

25           36-1761. Mobile food vendors; mobile food units; rules;  
26 health and safety licensing standards

27           A. The director shall adopt rules that do all of the following:

28           1. Establish health and safety licensing standards for mobile food  
29 vendors and mobile food units that apply on a statewide basis. The  
30 licensing standards shall:

31           (a) Include three categories of mobile food units that are based on  
32 the type of food dispensed and the amount of handling and preparation  
33 required.

34           (b) Include general physical and operation requirements of a mobile  
35 food unit, including:

36           (i) Installation of compressors, generators and similar mechanical  
37 units that are not an integral part of the food preparation or storage  
38 equipment.

39           (ii) Necessary commissary or other servicing area agreements.

40           (iii) Vehicle and equipment cleaning requirements.

41           (iv) Waste disposal requirements during and after operation on  
42 public or private property, which may not include the size or dimensions  
43 of any required solid waste receptacle.

1 (c) ALLOW A MOBILE FOOD UNIT TO REQUEST AN EXEMPTION FROM THE  
2 COMMISSARY OR OTHER SERVICING AREA REQUIREMENTS IF THE MOBILE FOOD UNIT IS  
3 SUFFICIENTLY EQUIPPED TO MEET HEALTH AND SAFETY STANDARDS WITHOUT THE USE  
4 OF A COMMISSARY OR OTHER SERVICING AREA.

5 2. Establish statewide inspection standards that are based on  
6 objective factors for use by the county health departments.

7 3. Establish a licensing process for mobile food units that does  
8 all of the following:

9 (a) Requires a separate license for each mobile food unit.

10 (b) Requires a license to be renewed annually.

11 (c) Delegates to the county health department EITHER in the county  
12 where the mobile food vendor's commissary is located OR, IF A COMMISSARY  
13 IS NOT REQUIRED, IN THE COUNTY IN WHICH THE MOBILE FOOD VENDOR RESIDES the  
14 licensing and health and safety inspection for state licensure using the  
15 statewide inspection standards adopted pursuant to this section. The  
16 licensing process shall require random inspections by county health  
17 departments at no additional cost except as provided in section 11-269.24.  
18 A mobile food unit license issued by a county health department pursuant  
19 to this section shall have reciprocity in each county of this state. A  
20 county health department may enforce the statewide inspection standards  
21 regardless of where the license was issued.

22 (d) Requires all employees of a mobile food vendor to have a valid  
23 food handler card or a certificate from an accredited food handler  
24 training class as specified in rule by the department.

25 (e) Requires that the license be displayed in the mobile food  
26 vendor's operating location in a conspicuous location for public view.

27 B. The rules adopted pursuant to this section may not do ~~either~~ ANY  
28 of the following:

29 1. Require a mobile food vendor or mobile food unit to operate a  
30 specific distance from the perimeter of an existing commercial  
31 establishment or restaurant.

32 2. Address the operating hours of a mobile food unit.

33 3. REQUIRE GENERATORS TO BE PERMANENTLY AFFIXED TO THE MOBILE FOOD  
34 UNIT.

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

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