

Senate Engrossed House Bill

~~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 RESIDENTIAL PROPERTY IN A RESIDENTIAL AREA
12 IF ALL OF THE FOLLOWING APPLY:

13 (a) THE RESIDENTIAL PROPERTY IS THE PRIMARY RESIDENCE OF THE
14 PROPERTY OWNER, A TENANT WITH A LEASE TERM OF ONE YEAR OR LONGER OR A
15 TRUSTEE OF THE LIVING TRUST THAT OWNS THE RESIDENTIAL PROPERTY.

16 (b) THE MOBILE FOOD VENDOR OBTAINS WRITTEN PERMISSION FROM THE
17 PROPERTY OWNER. THE OWNER WHO PROVIDES THE WRITTEN PERMISSION MUST BE ON
18 THE PROPERTY WHILE THE MOBILE FOOD VENDOR IS OPERATING.

19 (c) THE MOBILE FOOD VENDOR DOES NOT SERVE MEMBERS OF THE GENERAL
20 PUBLIC.

21 (d) THE MOBILE FOOD VENDOR AND THE PROPERTY OWNER, THE SPOUSE OF
22 THE PROPERTY OWNER OR, IN THE CASE OF A LIVING TRUST, THE TRUSTEE ARE NOT
23 THE SAME PERSON.

24 (e) THE MOBILE FOOD VENDOR DOES NOT SERVE FOOD BETWEEN THE HOURS OF
25 10:00 P.M. AND 6:00 A.M.

26 (f) THE MOBILE FOOD VENDOR REMOVES THE FOOD WASTE, COOKING GREASE
27 AND OTHER TRASH FROM THE RESIDENTIAL PROPERTY IN COMPLIANCE WITH
28 APPLICABLE LAWS AND REGULATIONS.

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

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

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

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

42 3. Prohibit or restrict a mobile food vendor or mobile food unit
43 from using any legal parking space, including metered parking, except to
44 restrict the number of spaces, vehicle size and parking duration and the
45 ability to occupy sites with insufficient parking capacity as prescribed

1 by a local zoning ordinance of the city or town or as otherwise prohibited
2 by federal law.

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

8 5. REQUIRE A MOBILE FOOD VENDOR TO PAY MORE THAN \$150 ANNUALLY FOR
9 EACH FIXED LOCATION IF THE CITY OR TOWN ISSUES A LOCATION-BASED LICENSE OR
10 PERMIT TO THE MOBILE FOOD VENDOR.

11 6. REQUIRE A MOBILE FOOD VENDOR TO PAY MORE THAN \$150 ANNUALLY FOR
12 EACH MOBILE FOOD UNIT IF THE MOBILE FOOD VENDOR DOES NOT OPERATE THE
13 MOBILE FOOD UNIT AT A FIXED LOCATION.

14 C. IN ADDITION TO ANY FEES IMPOSED PURSUANT TO SUBSECTION B,
15 PARAGRAPHS 5 AND 6 OF THIS SECTION, A CITY OR TOWN MAY IMPOSE FEES ADOPTED
16 PURSUANT TO CHAPTER 4, ARTICLE 6.1 OF THIS TITLE.

17 ~~C.~~ D. A city or town with a population of more than fifty thousand
18 persons shall make available all applicable license applications in an
19 electronic format that is available online and may not require a mobile
20 food vendor to apply in person.

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

23 11-269.24. Mobile food vendors; mobile food units; operation;
24 insurance requirement prohibited; definitions

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

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

29 2. Restrict the operation of noisemaking devices during specific
30 times of day.

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

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

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

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

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

42 8. Prohibit or restrict a mobile food vendor from operating at a
43 public airport.

1 9. Require a mobile food vendor with a state license that is not
2 issued by that county to apply for a permit in order to conduct business
3 within the county. The county may charge a fee for the permit. The
4 permit shall be made available in an electronic format that is available
5 online. The ordinance or resolution may not require a mobile food vendor
6 with a state license to be inspected as a condition of receiving the
7 permit.

8 10. Prohibit or restrict a mobile food vendor from operating at a
9 county public park.

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

12 1. Restrict how long a mobile food vendor or mobile food unit may
13 operate at a private property location, except that a mobile food vendor
14 may not operate at a private property location for more than ninety-six
15 consecutive hours.

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

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

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

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

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

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

33 D. For the purposes of this section:

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

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

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

43 36-1761. Mobile food vendors; mobile food units; rules;
44 health and safety licensing standards

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

- 1 1. Establish health and safety licensing standards for mobile food
2 vendors and mobile food units that apply on a statewide basis. The
3 licensing standards shall:
- 4 (a) Include three categories of mobile food units that are based on
5 the type of food dispensed and the amount of handling and preparation
6 required.
- 7 (b) Include general physical and operation requirements of a mobile
8 food unit, including:
- 9 (i) Installation of compressors, generators and similar mechanical
10 units that are not an integral part of the food preparation or storage
11 equipment.
- 12 (ii) Necessary commissary or other servicing area agreements.
- 13 (iii) Vehicle and equipment cleaning requirements.
- 14 (iv) Waste disposal requirements during and after operation on
15 public or private property, which may not include the size or dimensions
16 of any required solid waste receptacle.
- 17 (c) ALLOW A MOBILE FOOD UNIT TO REQUEST AN EXEMPTION FROM THE
18 COMMISSARY OR OTHER SERVICING AREA REQUIREMENTS IF THE MOBILE FOOD UNIT IS
19 SUFFICIENTLY EQUIPPED TO MEET HEALTH AND SAFETY STANDARDS WITHOUT THE USE
20 OF A COMMISSARY OR OTHER SERVICING AREA.
- 21 2. Establish statewide inspection standards that are based on
22 objective factors for use by the county health departments.
- 23 3. Establish a licensing process for mobile food units that does
24 all of the following:
- 25 (a) Requires a separate license for each mobile food unit.
- 26 (b) Requires a license to be renewed annually.
- 27 (c) Delegates to the county health department EITHER in the county
28 where the mobile food vendor's commissary is located OR, IF A COMMISSARY
29 IS NOT REQUIRED, IN THE COUNTY IN WHICH THE MOBILE FOOD VENDOR RESIDES the
30 licensing and health and safety inspection for state licensure using the
31 statewide inspection standards adopted pursuant to this section. The
32 licensing process shall require random inspections by county health
33 departments at no additional cost except as provided in section 11-269.24.
34 A mobile food unit license issued by a county health department pursuant
35 to this section shall have reciprocity in each county of this state. A
36 county health department may enforce the statewide inspection standards
37 regardless of where the license was issued.
- 38 (d) Requires all employees of a mobile food vendor to have a valid
39 food handler card or a certificate from an accredited food handler
40 training class as specified in rule by the department.
- 41 (e) Requires that the license be displayed in the mobile food
42 vendor's operating location in a conspicuous location for public view.

1 B. The rules adopted pursuant to this section may not do ~~either~~ ANY
2 of the following:
3 1. Require a mobile food vendor or mobile food unit to operate a
4 specific distance from the perimeter of an existing commercial
5 establishment or restaurant.
6 2. Address the operating hours of a mobile food unit.
7 3. REQUIRE GENERATORS TO BE PERMANENTLY AFFIXED TO THE MOBILE FOOD
8 UNIT.
9 C. Except as otherwise specified in this chapter, the director may
10 adopt rules that are substantively the same as the regulations that are in
11 place on August 3, 2018 in Maricopa county regarding mobile food
12 establishments.
13 D. This section does not preclude a city, town or county from
14 requiring a mobile food vendor to be licensed if the licensing system
15 includes a background check or identification and fingerprinting of the
16 owner of the mobile food vending operation OR A FINGERPRINT CLEARANCE CARD
17 ISSUED BY THE DEPARTMENT OF PUBLIC SAFETY.