

HOUSE BILL NO. HB0128

Food trucks.

Sponsored by: Representative(s) Lindholm, Hunt, Kirkbride, Laursen, Pelkey, Walters and Zwonitzer and Senator(s) Boner and Driskill

A BILL

for

1 AN ACT relating to public health and safety; providing for
2 the regulation of food trucks and food truck events as
3 specified; requiring reciprocity for licensure as
4 specified; requiring rulemaking to establish fire safety
5 standards for food trucks; and providing for effective
6 dates.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10 **Section 1.** W.S. 35-7-2201 through 35-7-2203 are
11 created to read:

12

13

ARTICLE 22

14

FOOD TRUCKS

15

1 **35-7-2201. Definitions.**

2

3 (a) As used in this article:

4

5 (i) "Event permit" means a permit that a
6 political subdivision issues to the organizer of a public
7 food truck event located on public property;

8

9 (ii) "Food truck" means a fully encased food
10 establishment on a motor vehicle or trailer that is pulled
11 by a motor vehicle from which a food truck vendor, from
12 within the frame of the vehicle or trailer, prepares,
13 cooks, sells or serves food or beverages for immediate
14 human consumption. "Food truck" does not include a
15 pushcart or an ice cream truck;

16

17 (iii) "Food truck event" means an event where a
18 person has ordered or commissioned the operation of a food
19 truck at a private or public gathering;

20

21 (iv) "Food truck operator" means a person who
22 owns a food truck or who manages or controls the operation
23 of a food truck;

1

2 (v) "Food truck vendor" means a person who
3 prepares, sells, cooks or serves food or beverages from a
4 food truck;

5

6 (vi) "Political subdivision" means a city, town
7 or county of the state.

8

9 **35-7-2202. Licensing; reciprocity; controlling**
10 **authority.**

11

12 (a) No person shall operate a food truck without a
13 license issued by a political subdivision in accordance
14 with this article.

15

16 (b) A political subdivision shall issue a license for
17 the operation of a food truck within the corporate
18 boundaries of a city or town or in an unincorporated area
19 within a county to any person who furnishes satisfactory
20 evidence of the following:

21

1 (i) A current license from the department of
2 agriculture or any local health department if required
3 pursuant to W.S. 35-7-124;

4
5 (ii) A sales tax license from the department of
6 revenue if required pursuant to W.S. 39-15-106;

7
8 (iii) Compliance with reasonable fire safety
9 standards for food trucks established pursuant to W.S.
10 35-9-107(a) (ix) if required by the political subdivision;

11
12 (iv) Compliance with other applicable federal
13 and state laws or regulations governing the operation of a
14 food truck if required by the political subdivision;

15
16 (v) General liability insurance that provides at
17 least one millions dollars (\$1,000,000.00) for coverage.

18
19 (c) A political subdivision shall issue a reciprocal
20 license for the operation of a food truck within the
21 corporate boundaries of a city or town or in an
22 unincorporated area within a county to a food truck
23 operator who presents a current license from another

1 political subdivision. The issuing political subdivision
2 shall accept as satisfactory evidence any documentation
3 accepted by the other political subdivision to fulfill the
4 requirements specified under subsection (b) of this
5 section. A license issued under this subsection shall
6 expire on the same date on which the license issued by the
7 other political subdivision expires.

8

9 (d) Any license issued by a political subdivision to
10 a food truck operator shall be subject to the following:

11

12 (i) The license shall authorize a food truck
13 operator to operate a food truck within the corporate
14 boundaries of a city or town or in an unincorporated area
15 within a county, including on public rights-of-way, public
16 parking lots and private property with the express
17 permission from the private property owner;

18

19 (ii) The license shall be valid for one (1)
20 year, except as provided in subsection (c) of this section;

21

22 (iii) A political subdivision may subject the
23 license to reasonable time, place and manner restrictions

1 only as necessary to provide for the public health and
2 safety of any public or private place;

3

4 (iv) The license fee shall be established in an
5 amount to ensure that, to the extent practicable, the total
6 revenue generated from the fees collected approximates the
7 direct and indirect costs of regulating food truck
8 operation under this article and in no event shall the
9 license fee exceed one hundred dollars (\$100.00);

10

11 (v) As a condition for licensure, no food truck
12 operator or food truck vendor shall be required to submit
13 to or offer proof of a criminal background check;

14

15 (vi) No political subdivision shall prohibit or
16 require consent for the operation of a food truck in any
17 location because of the location's proximity to an existing
18 food establishment or other business.

19

20 (e) Nothing in this section shall prohibit a
21 political subdivision from:

22

1 (i) Enforcing the zoning or other ordinances of
2 the political subdivision in relation to the operation of a
3 food truck to the extent those regulations do not violate
4 this article;

5
6 (ii) Conducting routine safety inspections;

7
8 (iii) Regulating the temporary operation of a
9 food truck at an event or parade;

10
11 (iv) Revoking or suspending a license that the
12 political subdivision has issued to a food truck operator
13 if the operation of the food truck within the corporate
14 boundaries of a city or town or in an unincorporated area
15 within a county violates the terms of the license.

16
17 (f) Notwithstanding any other provision of law, the
18 operation of a food truck in this state is governed
19 exclusively by this article and any laws consistent with
20 this article. Except as provided by this article, no
21 political subdivision shall charge a fee or require a
22 license for the operation of a food truck or otherwise
23 subject a food truck operator or a food truck vendor to

1 other requirements that are inconsistent with, are more
2 restrictive than or exceed the requirements of this
3 article.

4

5 **35-7-2203. Food truck events; applicability.**

6

7 (a) A food truck operator shall not be required to
8 obtain from a political subdivision an event permit to
9 operate a food truck at a food truck event that takes place
10 on private property within the corporate boundaries of a
11 city or town or in an unincorporated area within a county,
12 regardless of whether the event is open or closed to the
13 public, except as provided in subsection (d) of this
14 section.

15

16 (b) A food truck operator that has obtained a license
17 from a political subdivision shall not be required to
18 obtain an additional license from another political
19 subdivision to operate a food truck at a food truck event
20 that takes place on private property within the corporate
21 boundaries of a city or town or in an unincorporated area
22 within a county and which is not open to the public.

23

1 (c) If a political subdivision requires an event
2 permit for a food truck event that takes place on public
3 property within the corporate boundaries of a city or town
4 or in an unincorporated area within a county, the organizer
5 of the food truck event may obtain the event permit on
6 behalf of the food trucks that service the event.

7

8 (d) Nothing in this section shall prohibit a
9 political subdivision, the department of agriculture or a
10 local health department from requiring an event permit or
11 other license for a temporary assembly of five thousand
12 (5,000) or more people that continues, or reasonably can be
13 expected to continue, for four (4) or more hours per day or
14 for an event in which the nature or conditions of the event
15 have the potential of generating environmental or health
16 risks. This subsection does not apply to an assembly of
17 people at a location with permanent facilities designed for
18 that specific assembly.

19

20 **Section 2.** W.S. 35-9-107(a) by creating a new
21 paragraph (ix) and 35-9-121(a) by creating a new paragraph
22 (vi) are amended to read:

23

1 **35-9-107. Duties and powers of state fire marshal.**

2

3 (a) The state fire marshal shall:

4

5 (ix) Adopt regulations to establish reasonable
6 fire safety standards for food trucks as defined in W.S.
7 35-7-2201(a)(ii).

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9 **35-9-121. Local enforcement.**

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11 (a) The state fire marshal shall delegate complete
12 authority to municipalities and counties which apply to
13 enforce and interpret local or state fire, building,
14 existing building standards or electrical safety standards
15 which meet the requirements of this section. The state
16 fire marshal shall notify the governing body of the
17 municipality or county of the minimum standards and
18 requirements of this act and W.S. 16-6-501 and 16-6-502 and
19 transfer jurisdiction and authority by letter. Except as
20 provided in W.S. 35-9-119(a)(i) and subsection (b) of this
21 section, nothing in this section affects the authority of
22 the state fire marshal or chief electrical inspector
23 regarding state owned or leased buildings. Local

1 enforcement authority under this subsection shall be
2 subject to the following requirements and certification of
3 inspectors:

4

5 (vi) A municipality or county that has been
6 granted local enforcement authority under this subsection
7 shall not adopt or enforce any fire safety standards for
8 food trucks that exceed the standards established by the
9 council under W.S. 35-9-106(a)(v).

10

11 **Section 3.** The state fire marshal shall adopt
12 regulations to establish reasonable fire safety standards
13 for food trucks as required by this act on or before July
14 1, 2018.

15

16 **Section 4.**

17

18 (a) Except as provided in subsection (b) of this
19 section, this act is effective July 1, 2018.

20

1 (b) Section 3 of this act is effective immediately
2 upon completion of all acts necessary for a bill to become
3 law as provided by Article 4, Section 8 of the Wyoming
4 Constitution.

5

6

(END)