



ARIZONA HOUSE OF REPRESENTATIVES

Fifty-sixth Legislature
Second Regular Session

House: RA DPA 5-0-0-1

HB 2328: mobile food vendors; operation; rules

Sponsor: Representative Payne, LD 27

House Engrossed

Overview

Authorizes *mobile food vendors* to operate on private property in a residential area with restrictions and details regulatory requirements by cities, towns and counties.

History

Statute allows a city or town, by resolution or ordinance, to restrict *mobile food vendors* from operating at public airports, public transit facilities, areas zoned for residential use or within 250 feet of properties zoned for residential use. A city or town may enact and enforce regulations and zoning codes on mobile food units and mobile food vendors if not prohibited by law.

A city or town is prohibited from all of the following as it relates to mobile food vendors and mobile food units:

- 1) requiring mobile food vendors to apply for a special permit that is not required for other temporary or mobile vending businesses in the same zoning district;
- 2) requiring mobile food vendors to operate a specific distance from commercial establishments or restaurants, unless building, fire, street and sidewalk codes are applicable;
- 3) prohibiting mobile food vendors from using a legal parking space, including metered parking, except to restrict the number of spaces, vehicle size, parking duration and occupying sites with insufficient parking capacity as set by local zoning ordinances or federal law; and
- 4) requiring mobile food units to be inspected by the fire department before operation if the unit passed another fire inspection in another city or town within the past 12 months. ([A.R.S. § 9-485.01](#))

A mobile food unit's individual state license is designated into one of three classifications or categories, depending on the food dispensed and the way it is handled. The classifications and categories are:

- 1) Type 1 mobile food units, which dispense commercially processed food, individually packaged foods and frozen foods that require time and temperature control for safety;
- 2) Type 2 mobile food units, which dispense food that requires limited handling and preparation; and
- 3) Type 3 mobile food units, which prepare, cook, hold and serve food. ([A.A.C. R9-8-110](#)).

A similar bill was introduced in the 56th Legislature, 1st Regular Session and was vetoed by the Governor (HB 2094 now: mobile food vendor; operation; rules).

Provisions

1. Permits a *mobile food vendor* to operate on private residential property of the property owner, the tenant with a minimum one-year lease or a trustee of a living trust, if the vendor receives written permission and:
 - a) the property owner remains on-site while the vendor operates;
 - b) the vendor does not serve the general public;
 - c) the vendor is not the property owner, the spouse or trustee of the property owner.
(Sec. 1)
2. Prohibits a vendor from operating between the hours of 10:00 p.m. and 6:00 a.m. (Sec. 1)
3. Directs the vendor to remove trash and other items from the residential property. (Sec. 1)
4. Requires the mobile food vendor to park on-site at the residential property, unless otherwise allowed by ordinance. (Sec. 1)
5. Limits the fees a city or town may charge a vendor at:
 - a) not more than \$150 annually to operate at a fixed location if the city or town issues a location-based license or permit to the vendor;
 - b) not more than \$150 annually for each mobile food unit if the vendor does not operate the mobile food unit at a fixed location. (Sec. 1)
6. Permits a city or town to additionally charge fees related to municipal zoning. (Sec. 1)
7. Prohibits a county board of supervisors or the state Department of Health Services (DHS) from requiring generators to be permanently affixed to the mobile food unit. (Sec. 2, 3)
8. Instructs the director of DHS to adopt rules for licensing standards that allow a mobile food unit to request an exemption from the commissary or other servicing area requirements if the mobile food unit is already sufficiently equipped to meet the health and safety standards without a commissary or other servicing area. (Sec. 3)
9. Allows DHS to designate licensing inspections for a mobile food unit without a commissary or servicing area agreement to the county health department where the vendor resides. (Sec. 3)
10. Clarifies that a city, town or county is not precluded from requiring licensure for a mobile food vendor if the licensing system requires a fingerprint clearance card issued by the Arizona Department of Public Safety. (Sec. 3)
11. Makes technical and conforming changes. (Sec. 1, 3)

<input type="checkbox"/> Prop 105 (45 votes)	<input type="checkbox"/> Prop 108 (40 votes)	<input type="checkbox"/> Emergency (40 votes)	<input type="checkbox"/> Fiscal Note
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