

HB 3157 -- MOBILE FOOD VENDORS

SPONSOR: Jones (12)

This bill preempts local ordinances, resolutions, rules, or regulations concerning the licensing or permitting of mobile food vendors or the operation of mobile food units.

A person is prohibited from operating as a mobile food vendor in this State unless the person holds a mobile food vendor license issued by the Department of Health and Senior Services. A separate license is required for each mobile food unit operated, each license is valid throughout the State and authorizes operation in any jurisdiction, subject to compliance with State law.

The bill specifies what information is required to be contained in an application for licensure, and the bill requires the Department to develop a guide on mobile food vendor licensing procedures, which guide will be available at the Department's office and on its website. The bill additionally specifies what must be included in the guide.

Within 14 days after the date the Department receives a completed application, the Department or a local authority acting under a collaborative agreement must conduct a health inspection of each of the applicant's mobile food units listed on the application. The bill prohibits the Department from issuing a license to operate any mobile food unit that does not pass a health inspection.

The Department will issue a license to an applicant who submits a complete application, pays any required fee, and meets licensing requirements, and whose unit passes a health inspection. A license issued under this provision expires on the first anniversary of the date of issuance, and before expiration of a license, the Department is required to send notice of the expiration to the mobile food vendor. A licensed vendor may continue to operate while the application for license renewal is pending.

This license is not transferable and does not authorize the activities of any person other than the individual holding the license. However, the sale of one mobile food unit identified in a vendor license, when replaced by another mobile food unit, does not invalidate the license or require the issuance of a new license. A license holder who replaces one unit with another

must provide to the Department certain required information for the replacement unit and ensure that the replacement unit is inspected.

The Department may charge a fee for each mobile food vendor license application submitted and each license issued or renewed. Additionally, the Department may charge a fee for a health inspection of an applicant's mobile food unit, but shall charge a fee for ongoing, randomized inspections that are conducted on each mobile food vendor based on the vendor's classification and previous health inspection results.

The bill requires the establishment by rule of classifications of mobile food vendors:

(1) Type I for a vendor dispensing prepackaged foods, who does not dispense beverages requiring time or temperature control for safety, and who poses a low risk of harm to the public;

(2) Type II for a vendor who dispenses food requiring limited handling and preparation; and

(3) Type III for a vendor who prepares, cooks, holds, and serves food from a mobile food unit.

If a vendor requires possible reclassification, the vendor must notify the Department of the nature of the food or beverages to be sold. The Department then may conduct a health inspection and reclassify the vendor if needed.

The bill allows the Department to enter into a collaborative agreement with a local authority to conduct health inspections, provided the Department reimburses the local authority for the cost of conducting a health inspection.

The bill requires vendors to make available to the Department a list of all locations at which the vendor intends to operate, to the best of the vendor's knowledge.

The Department may investigate a mobile food vendor if there is reasonable suspicion to believe the vendor is violating the law or upon receipt of a health or safety complaint. The vendor is required to cooperate during the investigation; failure to do so may result in suspension or revocation of a license.

The Department may refuse to issue or renew a mobile food vendor license for one or any combination of causes stated in the bill,

and must notify the applicant in writing of the reasons for the refusal. The Department must advise the applicant of the right to file a complaint with the Administrative Hearing Commission. After the filing of the complaint, the proceedings must be conducted in accordance with current law.

The Department may apply to the Commission for an emergency suspension or restriction of a mobile food vendor license if the Department has reasonable cause to believe the license holder's operations pose an imminent threat to public health and safety. The bill specifies the procedure that must be followed, including the submission of supporting affidavits and records, time frames for reviewing the filed complaint, and the process of the evidentiary hearing.

The Department may adopt rules to implement the provisions of this bill. The bill specifies what rules shall not be adopted, including, but not limited to, limiting the number of mobile food vendor licenses to be issued, addressing hours of operation, and requiring a mobile food unit to be in constant motion except when serving customers.