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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

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A N A C T

RELATING TO BUSINESSES AND PROFESSIONS -- HAWKERS AND PEDDLERS

Introduced By: Representatives Kennedy, O`Grady, Edwards, Marshall, and Ucci

Date Introduced: February 28, 2018

Referred To: House Corporations

(Department of Business Regulation)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 5-11-1.1 of the General Laws in Chapter 5-11 entitled "Hawkers  
2 and Peddlers" is hereby amended to read as follows:

3 **5-11-1.1. "Hawkers", "peddlers", and "door-to-door salespersons" defined --**  
4 **Authority to issue rules and regulations.**

5 (a) For purposes of this chapter:

6 (1) "Door-to-door salespersons" means persons who deliver goods, wares, or  
7 merchandise to customers for which payment has already been made or is to be made at the time  
8 of delivery;

9 (2) "Hawker" means any person selling or offering for sale any goods, wares, or  
10 merchandise, including any food or beverage, on any public street, highway, or public right of  
11 way in the state from a stationary location;

12 (3) "Peddler" means any person selling or offering for sale any goods, wares, or  
13 merchandise, including any food or beverage, from a vehicle, cart, or any other conveyance that  
14 is not stationary, but not including "food trucks" registered pursuant to § 5-11.1-1 et seq. and any  
15 regulations promulgated thereunder; and

16 (4) No "hawker" or "peddler" shall sell or offer for sale any single good, ware, or item  
17 having a retail value of more than three hundred dollars (\$300). However, this dollar limitation  
18 shall not apply to any non-profit corporation duly authorized to do business in Rhode Island. A  
19 non-profit corporation means a non-profit corporation that has applied under 26 U.S.C. §

1 501(c)(3) for approval as a § 501(c)(3) corporation with the Internal Revenue Service, or has been  
2 so approved.

3 (b) Persons selling farm or garden produce, including flowers, and persons selling works  
4 of art or crafts of their own making at an art or crafts show or exhibition are not hawkers or  
5 peddlers, provided, that:

6 (1) Cumberland. The town of Cumberland has the power to license and regulate persons  
7 selling farm or garden produce, including flowers, and persons selling works of art or crafts of  
8 their own making at an art or crafts show or exhibition;

9 (2) West Warwick. The town of West Warwick has the power to license and regulate  
10 persons selling farm or garden produce, including flowers, and persons selling works of art or  
11 crafts of their own making at an art or crafts show or exhibition;

12 (3) Bristol. The town of Bristol has the power to license and regulate persons selling farm  
13 or garden produce, including flowers, and persons selling works of art or crafts of their own  
14 making at an art or crafts show or exhibition;

15 (4) Warwick. The city of Warwick has the power to license and regulate persons selling  
16 farm or garden produce, including flowers, and persons selling works of art or crafts of their own  
17 making at an art or crafts show or exhibition;

18 (5) East Providence. The city of East Providence has the power to license and regulate  
19 persons selling farm or garden produce, including flowers; and

20 (6) Woonsocket. The city of Woonsocket has the power to license and regulate peddlers  
21 selling or offering flowers.

22 (c) "Food trucks" registered pursuant to § 5-11.1-1 et seq. and any regulations  
23 promulgated thereunder are not hawkers or peddlers and are explicitly exempted from this  
24 chapter.

25 SECTION 2. Title 5 of the General Laws entitled "BUSINESSES AND PROFESSIONS"  
26 is hereby amended by adding thereto the following chapter:

27 CHAPTER 11.1

28 STATE FOOD TRUCK REGISTRATION ACT

29 **5-11.1-1. Short title.**

30 This chapter shall be known and may be cited as the "State Food Truck Registration Act."

31 **5-11.1-2. Purpose.**

32 The intent of this chapter is to standardize the registration process for food trucks in the  
33 state by authorizing the department of business regulation to issue state food truck registrations.  
34 Furthermore, this chapter explicitly exempts food trucks from the provisions of chapter 11 of title

1 5 which applies to hawkers and peddlers.

2 **5-11.1-3. Definitions.**

3 (a) As used in this chapter, the following terms shall have the following meanings:

4 (1) "Department" means the department of business regulation.

5 (2) "Director" means the director of the department of business regulation.

6 (3) "Event permit" means a permit that a city or town issues to the organizer of a public  
7 food truck event located on public property.

8 (4) "Fire safety code" shall have the meaning set forth in § 23-28.1-5 and shall include  
9 any regulations promulgated thereunder.

10 (5) "Food truck" means a fully encased mobile food establishment on a motor vehicle or  
11 on a trailer that a motor vehicle pulls to transport and from which a food truck vendor, standing  
12 within the frame of the vehicle, prepares, cooks, sells, or serves food or beverages for immediate  
13 human consumption.

14 (6) "Food truck event" means an event where an individual has ordered or commissioned  
15 the operation of one or more food truck(s) at a private or public gathering.

16 (7) "Food truck operator" means a person or corporate entity who owns, manages, or  
17 controls, or who has the duty to manage or control, the operation of a food truck.

18 (8) "Food truck vendor" means a person who prepares, sells, cooks, or serves food or  
19 beverages from a food truck.

20 (9) "MFE" means a mobile food establishment as defined by regulations promulgated by  
21 RIDOH.

22 (10) "Municipal food truck permit" means a permit issued by a city or town to a food  
23 truck operator that possesses a current state food truck registration.

24 (11) "Registrant" means the holder of a "state food truck registration."

25 (12) "RIDOH" means the Rhode Island department of health.

26 (13) "State food truck registration" or "registration" means a registration issued by the  
27 department of business regulation which authorizes a food truck to operate in the state.

28 (14) "Temporary mass gathering" means:

29 (i) An actual or reasonably anticipated assembly of five hundred (500) or more people  
30 that continues, or reasonably can be expected to continue, for two (2) or more hours per day; or

31 (ii) An event that requires a more extensive review to protect public health and safety  
32 because the event's nature or conditions have the potential of generating environmental or health  
33 risks.

34 (iii) "Temporary mass gathering" includes, but is not limited to, "special events" as

1 defined in the food code regulations promulgated by RIDOH, festivals and concerts.

2 (iv) "Temporary mass gathering" shall not include an assembly of people at a location  
3 with permanent facilities designed for that specific assembly.

4 **5-11.1-4. Practices for which registration is required.**

5 Beginning on July 1, 2019, it shall be unlawful for any person to operate a food truck, as  
6 defined in this chapter, in this state without first receiving a registration from the department in  
7 accordance with this chapter.

8 **5-11.1-5. Registration applications and requirements.**

9 (a) An application for a state food truck registration shall be made to the department of  
10 business regulation on forms adopted by the department and accompanied by the required fee,  
11 which will be set by the department in regulations.

12 (b) The application shall, at a minimum, include the following information:

13 (1) The name and address of the applicant and, if the applicant is an entity, the name and  
14 address of at least one natural person who is in responsible charge of the operations on behalf of  
15 the applicant;

16 (2) Evidence of a current:

17 (i) Mobile food service license from RIDOH;

18 (ii) Fire safety permit;

19 (iii) State criminal background check (BCI) issued within one month of the date of  
20 application;

21 (iv) Motor vehicle registration as a commercial vehicle;

22 (v) Motor vehicle insurance as a commercial vehicle;

23 (vi) Evidence of financial responsibility that is acceptable to the department; and

24 (vii) Permit to make sales at retail from the Rhode Island division of taxation.

25 (3) Any other such information as the department shall require.

26 (c) If an applicant or registrant operates more than one food truck, the applicant or  
27 registrant shall submit a separate application for each food truck and pay a separate application  
28 fee per year for each food truck registered by the department.

29 (d) The fees for initial registration, renewal and late renewals shall be determined by the  
30 department and established by regulation.

31 (e) The department shall receive applications for initial registration and renewal and  
32 establish administrative procedures for processing applications and issuing and renewing  
33 registrations.

34 **5-11.1-6. Issuance and renewal of registration.**

1 (a) A registration issued by the department pursuant to this chapter shall be valid for one  
2 year from the date on which it was issued or for another period of time as determined by the  
3 department.

4 (b) Every food truck operator that desires to renew a registration for the next year shall  
5 apply for renewal upon a form furnished by the department, accompanied by a fee to be set by the  
6 department in regulations, and containing information that is required by the department.

7 (c) Renewal of a registration may be subject to the same provisions as the initial  
8 application.

9 **5-11.1-7. Authority to operate a food truck in any city or town.**

10 (a) To operate in any city or town, a food truck operator shall provide proof of having a  
11 state food truck registration to the city or town that the food truck wishes to operate in.

12 (b) If a food truck presents this registration, then a city or town shall not:

13 (1) Impose additional qualification requirements on the food truck operator before issuing  
14 a municipal food truck permit to operate within the city or town;

15 (2) Charge a fee for a municipal food truck permit, event permit or temporary mass  
16 gathering permit greater than the maximum fee set by the department and established by  
17 regulations;

18 (3) Issue a permit that expires on a date earlier or later than the day on which the state  
19 food truck registration expires; or

20 (4) Require additional municipal food truck permits or charge additional fees beyond the  
21 initial municipal food truck permit and fee for the operation of that same food truck in more than  
22 one location or on more than one day within the same city and town in the same calendar year.

23 (c) Nothing in this section prevents a city or town from:

24 (1) Requiring a food truck operator or event organizer to obtain an event permit, provided  
25 that the fee is not greater than the maximum set by the department in regulations;

26 (2) Denying, suspending or revoking a permit that the city or town has issued if the  
27 operation of the registrant within the city or town violates the city's or town's land use regulations,  
28 zoning, or other ordinances in relation to the operation of a food truck; or

29 (3) Requiring a separate temporary mass gathering permit, provided that the fee is not  
30 greater than the maximum set by the department in regulations.

31 **5-11.1-8. Municipal compliance.**

32 All cities and towns shall comply with the provisions of this chapter by July 1, 2019.

33 **5-11.1-9. Display of registration and municipal permits.**

34 (a) State food truck registrations must be affixed to the food truck in a conspicuous place.

1           **(b) When the food truck is doing business in a city or town that issues permits, the permit**  
2 **must also be affixed to the food truck in a conspicuous place.**

3           **5-11.1-10. Food truck safety standards.**

4           **(a) Food trucks shall comply with RIDOH's statutes, rules, regulations and policies**  
5 **relating to food safety.**

6           **(b) Food trucks shall comply with the fire safety code.**

7           **5-11.1-11. Grounds for denial, suspension or revocation of a state food truck**  
8 **registration.**

9           **(a) Upon receipt of a written complaint, the request of RIDOH or the state fire marshal,**  
10 **or upon its own initiative, the department may place on probation, suspend, revoke or refuse to**  
11 **issue or renew a state food truck registration or may levy an administrative penalty or any**  
12 **combination of actions, for any one or more of the following causes:**

13           **(1) Providing incorrect, misleading, incomplete or materially untrue information in the**  
14 **registration application;**

15           **(2) Violating any statutes, rules, regulations, ordinances or policies applicable to the safe**  
16 **operation of a food truck, specifically including the fire safety code and those set forth by the**  
17 **department, RIDOH, and the state fire marshal;**

18           **(3) Obtaining or attempting to obtain a registration through misrepresentation or fraud;**

19           **(4) Having admitted to or been found to have committed any food safety or fire safety**  
20 **violation;**

21           **(5) Using fraudulent, coercive, or dishonest practices or demonstrating incompetence,**  
22 **untrustworthiness or financial irresponsibility in this state or in another place;**

23           **(6) Having a registration, or its equivalent, denied, suspended or revoked in any other**  
24 **state, province, district or territory or administrative action under this section;**

25           **(7) Operating a food truck without a current and valid registration;**

26           **(8) Having its mobile food service license or fire safety permit denied, suspended or**  
27 **revoked; or**

28           **(9) Having a substantive complaint of food poisoning substantiated by the department**  
29 **procedures.**

30           **(b) In the event that the action by the department is to non-renew or to deny an**  
31 **application for a registration, the department shall notify the applicant or registrant and advise, in**  
32 **writing, the reason for the denial or non-renewal of the registration. The applicant or registrant**  
33 **may make written demand upon the department within thirty (30) days for a hearing. The hearing**  
34 **shall be conducted pursuant to the administrative procedures act, chapter 35 of title 42.**

1 (c) In addition to or in lieu of any applicable denial, suspension or revocation of a  
2 registration, a person may, after hearing, be subject to an administrative penalty not to exceed the  
3 maximum set forth by regulation.

4 (d) The department shall retain the authority to enforce the provisions of and impose any  
5 penalty or remedy authorized by this chapter and this title against any person or entity who is in  
6 violation of this chapter or this title even if the person or entity's registration has been surrendered  
7 or has lapsed by operation of the law.

8 **5-11.1-12. Order to cease and desist.**

9 (a) If the department has reason to believe that any person, firm, corporation or  
10 association is conducting any activities requiring registration in this chapter without obtaining a  
11 registration, or who after the denial, suspension or revocation of a registration conducts any  
12 activities requiring registration under this chapter, the department may issue its order to that  
13 person, firm, corporation or association commanding them to appear before the department at a  
14 hearing to be held no sooner than ten (10) days nor later than twenty (20) days after issuance of  
15 that order to show cause why the department should not issue an order to that person or entity to  
16 cease and desist from the violation of the provisions of this chapter.

17 (b) All hearings shall be governed by the administrative procedures act, chapter 35 of title  
18 42 and by the department's rules of procedure for administrative hearings.

19 **5-11.1-13. Responsibility of registrant for acts of agents/employees.**

20 If a registrant is a firm or corporation, it is sufficient cause for the suspension or  
21 revocation of a registration that any officer, director, manager or trustee of the firm or entity or  
22 any member or partner, in the case of a partnership, has been found by the department to have  
23 engaged in any act or omission that would be cause for denying, suspending, or revoking a  
24 registration to that party as an individual. Each registrant shall be responsible for the acts of any  
25 person working on their food truck or any person acting as the agent for that registrant, and for  
26 the acts of any chef or other employee acting as the agent for that registrant.

27 **5-11.1-14. Rulemaking authority.**

28 The department is authorized to promulgate rules and regulations for the implementation  
29 of this chapter and the registration of food trucks in the state.

30 **5-11.1-15. Revenue.**

31 All fees collected by the department of business regulation from applicants for state food  
32 truck registrations shall be placed in restricted-receipt accounts to support the state's food truck  
33 registration program, including, but not limited to, payment of expenses incurred by the  
34 department of business regulation for the administration of the program.

1 SECTION 3. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO BUSINESSES AND PROFESSIONS -- HAWKERS AND PEDDLERS

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1           This act would provide for the consolidation of food truck registration within the  
2 department of business regulation to streamline the registration process and reduce the burden on  
3 small businesses.

4           This act would take effect upon passage.

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