

##**Food Truck Protection Act of 2022**

**Whereas, the cities of the Great State of Dixie, big and small, are full of eager people who want to work in the food industry*

**Whereas, the people of the this Great State should have the opportunity to make a living selling food out of food trucks, within the reasonable standard of the law*

**Whereas, we must maximize the ability for Dixians to operate uninhibited, while still being reasonably safe.*

****Therefore, be it enacted by the Dixie State Assembly****

****Section 1: Title of the Act****

(A) This act shall be known, for its short title, as the Food Truck Protection Act of 2022

****Section 2. Findings and Declaration****

(A) The Act's purposes are to, legalize mobile food vending across the state, promote agriculture and expand economic development, foster opportunities for small businesses and stimulate innovation, increase consumer access to desired local foods, simplify and standardize mobile food vending regulations, and protect public health and safety by ensuring mobile food vendors follow clear, narrowly tailored regulations that address demonstrable health and safety risks.

(B) The Dixie State Assembly finds the following:

- a. Mobile food vending provides opportunities for employment, entrepreneurship and upward mobility;

- b. Mobile food vendors make significant contributions to local economies;
- c. Consumers desire foods produced by mobile food vendors;
- d. Mobile food vending contributes to a safe and dynamic public space;
- e. Public health and safety are best ensured by local authorities regulating mobile food vending proportionally to its risks; and
- f. It is a matter of statewide concern to create a uniform approach to regulating mobile food vendors and to remove unnecessary barriers to mobile food vending.

****Section 4. Definitions.****

(A) For purposes of this Act:

- a. "Applicant" means a person applying to the Department to conduct business as a mobile food vendor.
- b. "Customer" means any person with whom a mobile food vendor conducts business, or any person who stops to contemplate conducting business with a mobile food vendor.
- c. "Department" means Dixie State Board of Health, under the jurisdiction of the Dixie Department of State.
- d. "Food vending vehicle" means any motorized vehicle used to sell food and beverages by a mobile food vendor.
- e. "Local authority" means any local government, including any town, city, charter city, or county.
- f. "Mobile food vendor" means any person who dispenses food or beverages from a food vending vehicle for immediate service and/or consumption.
- g. "Person" means any individual, group of individuals, firm, partnership, company, corporation, trustee, association, or any public or private entity and includes the individual or entity's employees or agents.
- h. "Prepackaged food" means any commercially labeled and processed food that is prepackaged to prevent direct human contact with the food product upon distribution from the manufacturer, a food facility, or other approved source.
- i. "Private property" means all property that is not public property.
- j. "Public property" means any property owned by the state or local authority and includes all rights-of-way except public sidewalks and rights-of-way in state parks or locally-owned parks.

- k. "Sell" means to transfer or exchange for value, to expose, display or offer for sale or exchange, or to procure, store or have in one's possession or control for the purpose of selling.

****Section 5. The permitting of mobile food operation****

(A) No person may operate as a mobile food vendor in this state without obtaining a mobile food vending license from the Department. A separate mobile food vending license shall be required for every food vending vehicle used by a mobile food vendor.

(B) No local authority may bar a mobile food vendor from lawfully operating in its jurisdiction if the vendor holds a mobile food vending license and is in compliance with all other state laws and local laws not in conflict with this Act.

****Section 6. Process to acquire a license for mobile food operation****

(A) The Department shall prepare a written application for a statewide mobile food vending license. The Department shall make the mobile food vending license application available to applicants in person and on the Department's website.

(B) Application requirements. The Department shall require an applicant to provide the following information, under oath, before issuing a license:

- a. The applicant's name, address, and telephone number;
- b. The name, address, and telephone number of any associated entities or organizations that the applicant is representing and copies of documents verifying that relationship;
- c. The applicant's primary residences and/or business addresses for the last five years;
- d. The nature of the food or beverages that the applicant will sell for the purpose of the Department establishing the applicant's food type classification; and
- e. Whether the applicant was denied a license to operate as a mobile food vendor or whether the applicant had a mobile food vending license suspended or revoked in any state or local jurisdiction and, if so, the reasons for the denial, suspension or revocation.

- f. Requirements for each food vending vehicle. In addition to the written application, the Department shall require an applicant to provide the following information for each food vending vehicle:
- g. A list of all vehicle license numbers, vehicle descriptions, vehicle identification numbers, and vehicle registration for the food vending vehicle(s) in this state;
- h. Proof of vehicle insurance for the food vending vehicle(s); and
- i. Requests for information. The applicant shall complete the application and submit additional information required by the Department as allowed by this section. The applicant may submit one application for all vehicles which require a license. Failure to submit a complete application may result in denial of a license.
- j. Health inspection. Within 30 days of receiving a complete application, the Department, or a local authority acting under a collaborative agreement pursuant to Section 8, shall conduct a health inspection of the applicant's food vending vehicle prior to issuing a mobile food vending license. The purpose of the inspection is to ensure the applicant's food vending vehicle is safe for preparing, handling and selling food and the applicant follows the Dixie State Health Code.
- k. The Department may establish a reasonable schedule and classification of fees not to exceed two hundred dollars (\$200) for a mobile food vending license or for a license renewal. The Department may also establish an inspection fee that covers the average cost of conducting health inspections for the vendor and charge that fee in conjunction with the fee for a mobile food vending license or renewal.
- l. The Department shall prepare a guide for applicants. The guide shall include instructions for applying for, obtaining, maintaining, and renewing a mobile food vending license and shall describe the standards used to inspect food vending vehicles. The guide shall be made available to applicants at the Department's office and on the Department's website.

(C) The Department shall issue a mobile food vending license to the applicant upon receipt of a complete application and the applicant's food vending vehicle(s) passing an initial inspection. Licenses shall be valid for one year.

(D) If a mobile food vendor transfers its mobile food vending business assets, the recipient of the assets shall, before operating in this state, apply for and obtain a new mobile food vending license.

(E) Licenses shall be renewed every half year. The Department shall send notice to the licensee. The licensee shall submit the renewal annually, prior to the license's expiration

date. A licensee may continue mobile food vending operations while an application for renewal is pending with the Department.

(F) It shall be unlawful for any person to intentionally provide false information or to intentionally omit requested information on an application for a license governed by this Act.

****Section 7. Mobile Food Vending Operations.****

(A) Mobile food vendors shall follow all state and local laws governing operations in the jurisdiction where the vendor operates, including without limitation all fire codes, zoning codes, occupational tax codes, and any other applicable state or local code provisions not in conflict with this Act.

(B) A mobile food vendor may operate in the following locations:

- a. A mobile food vendor may operate on public property, so long as the vending vehicle is not parked within twenty (20) feet of an intersection. A mobile food vendor may operate from legal parking spaces, including metered spaces upon payment of appropriate fees, on the public right of way. When operating on public property, a mobile food vendor is subject to the same parking rules and restrictions as a commercial vehicle.
- b. A mobile food vendor may operate on private property under the following circumstances:
 - i. The property is in an Industrial, Commercial or Institutional Zoning District, and the vendor has permission of the property owner and/or his or her designee.
 - ii. No interference with pedestrians or vehicles. A mobile food vendor shall not interfere with or obstruct the passage of pedestrians or vehicles along any street, sidewalk or parkway.

(C) When operating, a mobile food vendor shall:

- a. Maintain a food vending vehicle in good operating order and visual appearance, including removing any obscene imagery and graffiti.
- b. Provide a waste receptacle for customers which is clearly marked and request its use by customers;

- c. Pick up, remove and dispose of all refuse within twenty-five feet of the vendor's operating area at the conclusion of service;
- d. Submit to and pass any required health inspections pursuant to the procedures in Section 8; and
- e. Display its mobile food vendor license and inspection certificate in a conspicuous location in its service window for public view.

(D) The Department may promulgate administrative rules regulating mobile food vendors to implement this Act. Any rule adopted by the Department must be narrowly tailored to address a demonstrable health or safety risk.

- a. Rules adopted pursuant to this section may not:
 - i. Require a mobile food vendor to operate a specific distance from the perimeter of an existing commercial establishment or restaurant;
 - ii. Require a mobile food vendor to obtain licenses or permits for the vendor's employees;
 - iii. Require a mobile food vendor to enter into any agreement with a commercial establishment or restaurant;
 - iv. Address the operating hours of a mobile food vendor;
 - v. Require a mobile food vendor that sells only prepackaged food to have a handwashing sink in the vendor's food vending vehicle;
 - vi. Require a mobile food vendor to associate with a commissary if the vendor carries the equipment necessary to comply with the Dixie State Health Code;
 - vii. Limit the number of mobile food vendor licenses issued;
 - viii. Require a mobile food vendor to obtain any additional permits from a local authority, unless the mobile food vendor seeks to operate in a local, public park;
 - ix. Require a mobile food vendor to be fingerprinted;
 - x. Require a mobile food vendor to install a GPS tracking device on the vendor's vehicle;
 - xi. Require a mobile food vendor to stay in constant motion except for when serving customers;
 - xii. Require a mobile food vendor to maintain insurance that names a local authority as an additional insured unless the vendor is attending an event sponsored by the local authority; and
 - xiii. Require a mobile food vendor to submit to inspections beyond health inspections conducted by the Department or by a local authority under a

collaborative agreement, unless the Department is investigating a reported foodborne illness.

****Section 8. Food safety and Health inspectors****

(A) Mobile food vendors shall follow the Dixie State Health Code.

(B) Food safety certification. At all times, at least one person working in a food vending vehicle must hold a current food safety certification.

(C) Mobile food vendor classifications. Upon receipt of a complete license application, the Department shall classify a mobile food vendor into one of the following classifications for the purpose of conducting inspections, which shall be handled in accordance with the Dixie Department of State.

- a. Mobile Food Type I Vendor. A vendor who dispenses prepackaged foods and/or non-time/temperature control for safety (non-TCS) beverages or poses a low risk of harm to the public shall be classified as a Mobile Food Type I Vendor.
- b. Mobile Food Type II Vendor. A vendor who dispenses food that requires limited handling and preparation shall be classified as a Mobile Food Type II Vendor.
- c. Mobile Food Type III Vendor. A vendor who prepares, cooks, holds and serves food from the food vending vehicle shall be classified as a Mobile Food Type III Vendor.

****Section 9. Regulation by Local Authority****

(A) A local authority may regulate state-licensed mobile food vendors in accordance with this Act. In relation to the operations of a state-licensed mobile food vendor, a local authority may:

- a. Restrict the operation of noise making devices during specific times of day;
- b. Restrict a mobile food vendor from operating in a public park or require a special permit and payment of fees to operate in a public park;
- c. Prohibit a mobile food vendor that is operating on private property from blocking ingress or egress from that property;

- d. Investigate reports of foodborne illnesses and report a mobile food vendor's suspected violation(s) of this Act to the Department and recommend the Department suspend or revoke a mobile food vending license; and
- e. Cite mobile food vendors and issue penalties for violations of local law not inconsistent with this Act.

(B) In relation to the operations of a state-licensed mobile food vendor, a local authority may not:

- a. Prohibit or restrict a mobile food vendor from operating in a lawful manner provided for in this Act;
- b. Address the operating hours of a mobile food vendor;
- c. Require a mobile food vendor to receive any special permit from the local authority in addition to a state mobile food vending license or permit to operate as a commercial vehicle, unless the mobile food vendor seeks to operate in a local, public park;
- d. Require a mobile food vendor to obtain licenses or permits for the vendor's employees;
- e. Require a food vending vehicle to receive a fire inspection if the vehicle can demonstrate that it has passed a state or local fire inspection within the previous year;
- f. Restrict the duration of time a mobile food vendor may operate on private property in Industrial, Commercial or Institutional Zoning Districts;
- g. Require a mobile food vendor to operate a specific distance from restaurants or commercial establishments;
- h. Require a mobile food vendor to enter into any agreement with a commercial establishment or restaurant;
- i. Regulate the equipment requirements for a food vending vehicle;
- j. Require a mobile food vendor to associate with a commissary;
- k. Require a mobile food vendor to stay in constant motion except for when serving customers;
- l. Require a mobile food vendor to maintain an insurance policy that names the local authority as an additional insured unless the vendor is attending an event sponsored by the local authority; and
- m. Require a mobile food vendor to submit to inspections beyond health inspections conducted under a collaborative agreement with the Department, unless the local authority is investigating a reported foodborne illness.

n. Require collective bargaining for employees of food trucks.

****Section 10. Investigation****

(A) The Department or a local authority may investigate a mobile food vendor upon reasonable suspicion the vendor is violating the law or upon receipt of a health or safety complaint. Any complaint shall be recorded in the state's mobile food vending database. The local authority shall report suspected violations of state law to the Department and may recommend the Department suspend or revoke a mobile food vending license.

(B) The mobile food vendor shall cooperate with the Department or local authority during an investigation. Failure to cooperate with the Department or local authority may result in suspension or revocation of a license. Nothing in this Act shall be construed to impede the Department or local authority in any investigation of a reported foodborne illness.

****Section 11. Effective Date****

(A) Should this act be passed through the Assembly, and signed into law by the Governor, unless otherwise specified in the act, the provisions shall go into effect in sixty days.

****Section 12. Severability Clause****

(A) If any part of this Act shall be held to be illegal, invalid, unenforceable, or unconstitutional, such decision shall not affect the validity of any other part of this Act which is operable without the offending part.

(B) The legislature hereby declares that it would have passed each part, and each provision, section, subsection, sentence, clause, phrase or word thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, phrase, word, provision or application be declared illegal, invalid, unenforceable, or unconstitutional.