

**RHODE ISLAND GOVERNMENT REGISTER
PUBLIC NOTICE OF PROPOSED RULEMAKING**

**DEPARTMENT OF BUSINESS REGULATION (INCLUDES THE OFFICE OF THE
HEALTH INSURANCE COMMISSIONER)**

Title of Rule: State Registration of Mobile Food Establishments

Rule Identifier: 230-RICR-30-35-1

Rulemaking Action: Proposed Adoption

Important Dates:

Date of Public Notice: 01/24/2019

Hearing Date: 02/14/2019

End of Public Comment: 02/28/2019

Authority for this Rulemaking:

R.I. Gen. Laws § 5-11.1-5, 5-11.1-6, 5-11.1-7, 5-11.1-11, 5-11.1-14.

Summary of Rulemaking Action:

Pursuant to the enactment of R.I. Gen. Laws Chapter 5-11.1 in the 2018 legislative session (the "Act"), the Department is required to implement the state registration of Mobile Food Establishments in 2019. In order complete the implementation process, the Department is proposing this regulation which:

- Sets forth the application requirements for MFE registration in Rhode Island;
- Establishes procedures for the issuance and renewal of registrations;
- Clarifies that out-of-state MFEs are required to register prior to operating in RI;
- Requires municipalities to accept municipal permit applications electronically, email or other system;
- Clarifies and centralizes fire safety requirements with the Office of the State Fire Marshal;
- Sets fees late renewals and maximum fees for municipal permits and owners of multiple MFEs;
- Sets forth municipal reporting requirements; and
- Establishes procedures for enforcement actions involving MFEs, including a maximum civil penalty for violations of the Act or regulation.

The Department expects to have a system in place to accept state MFE registrations by July 1, 2019, the date required by R.I. Gen. Laws § 5-11.1-8 for compliance by municipalities. In an effort to not overburden businesses while regulations, fees and systems are being determined, the Department has proposed a grace period in the regulation until December 31, 2019, for the 1st year of operation. For those MFEs that obtain or renew a permit or license with any municipality prior to July 1, 2019, the MFE operator will not be required to do anything further for 2019. The Department is seeking comments on all aspects of the proposed regulation.

Additional Information and Comments:

All interested parties are invited to request additional information or submit written or oral comments concerning the proposed adoption until February 28, 2019 by contacting the appropriate party at the address listed below:

Jorge Bannister
Department of Business Regulation (includes the Office of the Health Insurance Commissioner)
1511 Pontiac Ave, Bldg. 69-1
Cranston, RI 02920
jorge.bannister@dbr.ri.gov

Public Hearing:

A public hearing, in accordance with R.I. Gen. Laws § 42-35-2.8, to consider the proposed adoption shall be held on February 14, 2019 at 1:00 pm at (Note: The hearing is being held at PUC, not DBR), Public Utilities Commission (PUC), Hearing Room A, 1st Floor, 89 Jefferson Blvd, Warwick, RI 02888 at which time and place all persons interested therein will be heard. The seating capacity of the room will be enforced and therefore the number of persons participating in the hearing may be limited at any given time by the hearing officer, in order to comply with safety and fire codes.

The place of the public hearing is accessible to individuals who are handicapped. If communication assistance (readers/interpreters/captioners) is needed, or any other accommodation to ensure equal participation, please call 401-462-9551 or RI Relay 711 at least three (3) business days prior to the meeting so arrangements can be made to provide such assistance at no cost to the person requesting.

Regulatory Analysis Summary and Supporting Documentation:

The standardization of MFE registration will simplify the process for MFEs, which are mostly small businesses, to operate in this state. The purpose of this program is to reduce the amount of time that a MFE operator spends waiting in line at state and local government offices for permits and inspections. Through the review of registration requirements, the Department will vet each MFE and by issuing a registration, affirming to all municipalities that the MFE is qualified to operate in this state.

This will be accomplished through this Act and proposed regulation by:

- Centralizing fire inspections with the Office of the State Fire Marshal, which is part of the Department. This will save time for MFEs that currently have to get inspected in each municipality where they apply for a permit.
- MFEs registered in multiple municipalities will save money on an annual basis due to the Department setting maximum municipal fees and event fees.
- Municipalities are prohibited by the Act from requiring additional application requirements for MFE municipal permits beyond proof of state registration with the Department and payment of applicable fee.
- The proposed regulation requires municipalities to accept applications in an electronic format, email or other system, in addition to the traditional paper application. Therefore, instead of waiting in line at City Hall, a MFE operator who has registered with the state can fill out the municipal application, send in a check or pay online, and should receive a municipal permit after review and approval by the relevant municipal authority.
- R.I. Gen. Laws § 5-11.1-5 sets the state registration fee at \$50 per MFE. The Department is authorized by R.I. Gen. Laws §§ 5-11.1-5, 5-11.1-6, 5-11.1-7, and 5-11.1-1 to set fees through regulation for late renewal, maximum fees for municipal permits, event permits and temporary mass gatherings, and a maximum amount for a civil penalty. The regulation will set a maximum municipal fee, currently suggested at \$75 a year per municipality. The regulation also sets a maximum fee, currently suggested at \$300, for a municipal event or a temporary mass gathering to be paid by the event organizer. These maximums will limit the overall cost for small businesses who have had to pay up to \$500 a year for a license in some municipalities.
- MFEs will only be subject to additional state fees if they fail to renew their registration prior to expiration time or are ordered to pay a civil penalty as the result of an enforcement action.
- An owner of multiple MFEs is required to register each MFE with the state but will only pay the \$50 registration fee for the first 5 MFEs registered in the same calendar year, after which point the fee will be waived.
- The public safety interests in ensuring that all MFEs are compliant with the fire code and food safety code is better protected by having statewide standards. Currently, the various municipal fire departments have not been enforcing all requirements of the fire code which could lead to dangerous situations given the variety and amount of flammable material on trucks with cooking apparatus.

- MFEs, unlike brick and mortar restaurants, can be difficult to locate if there is a report of a foodborne illness or other safety violation. The information required in the MFE registration application will enable the Department to locate where the MFE is stored when not in operation and/or search Social Media/Website information for the current location of MFE.

In the development of the proposed amendment consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

For full regulatory analysis or supporting documentation see agency contact person above.