

230-RICR-30-35-1

TITLE 230 – DEPARTMENT OF BUSINESS REGULATION

CHAPTER 30 – COMMERCIAL LICENSING

SUBCHAPTER 35 – MOBILE FOOD ESTABLISHMENTS

PART 1 – State Registration of Mobile Food Establishments

1.1 Authority

This Part is promulgated pursuant to the authority granted in R.I. Gen. Laws §§ 5-11.1-5, 5-11.1-6, 5-11.1-7, 5-11.1-11, 5-11.1-14.

1.2 Purpose

The purpose of this Part is to establish standards and procedures for the registration of Mobile Food Establishments, and to generally assist the Department in carrying out the administration and enforcement of State Mobile Food Establishment Registration Act, R.I. Gen. Laws Chapter 5-11.1, so that the public interest may be effectively served.

1.3 Definitions

A. In addition to the terms defined in R.I. Gen. Laws § 5-11.1-3, for this Part, the following terms shall have the following meanings:

1. “Act” means the State Mobile Food Establishment Registration Act, R.I. Gen. Laws § 5-11.1-1 *et seq.*
2. “Department” means the Department of Business Regulation.
3. “Director” means the Director of the Department of Business Regulation or his or her designee.
4. “DMV” means the Rhode Island Division of Motor Vehicles.
5. “Fire Marshal” means the Rhode Island Office of the State Fire Marshal.
6. “MFE” means a Mobile Food Establishment, as defined in R.I. Gen. Laws § 5-11.1-3(5).

7. “Municipal permit” means a Mobile Food Establishment Permit as defined in R.I. Gen. Laws § 5-11.1-3.
8. “Registrant” means the holder of a State Mobile Food Establishment Registration.
9. “RIDOH” means the Rhode Island Department of Health.
10. “State mobile food establishment registration” or “Registration” means a registration issued by the Department which authorizes a mobile food establishment to operate in the state.

1.4 Registration Requirement

In accordance with R.I. Gen. Laws § 5-11.1-4, MFEs are required to register with the Department. However, there will be an initial grace period to register with the Department for those MFEs that have already renewed their municipal permits with the applicable municipalities in 2019. This grace period will end on December 31, 2019. Thereafter, all MFE's must first obtain Registration from the Department before a municipality can issue a municipal permit to the MFE.

1.5 Applications for Registration

- A. Prior to submitting a MFE application to the Department, Applicants must first obtain the following, copies of which must be submitted to the Department with the application for registration.
 1. Mobile Food Service License from RIDOH:
 - a. All Applicants must obtain a Mobile Food Service License from the Rhode Island Department of Health, Center for Food Protection, keep it current and renew it each year.
 - b. This requirement applies to out-of-state MFEs as well, even if they possess a similar permit/license from another state.
 2. Compliant Fire Safety Inspection Report from the Fire Marshal:
 - a. All Applicants planning to conduct mobile and temporary cooking operations in the State of Rhode Island must be inspected annually by the Fire Marshal, obtain a compliant Fire Safety inspection report, keep it current and renew it each year.
 3. Motor Vehicle Registration:

- a. All MFE vehicles, including but not limited to trucks, trailers and any other vehicle that by state law needs to be registered with the DMV must annually submit a copy of their current motor vehicle registration.
- b. Out-of-state applicants must submit a copy of their current motor vehicle registration from the state in which their vehicles are registered.
- c. Any applicant planning to operate a MFE from a watercraft must submit a copy of their current vessel registration issued by the Rhode Island Department of Environmental Management, Office of Boating Registration & Licenses. Vessels with out-of-state registration must annually submit a copy of their current vessel registration from the state in which their vessel is registered.

4. Motor Vehicle Insurance

- a. All applicants required to register their vehicle under state law with the DMV must provide proof of motor vehicle insurance.

5. Permit to Make Sales at Retail

- a. All operators must obtain and keep current a Permit to Make Sales at Retail from the Rhode Island Division of Taxation.

B. Every applicant for MFE registration shall submit a complete application to the Department along with all required documentation set forth in R.I. Gen. Laws § 5-11.1-5 and § 1.5 of this Part and the applicable fee, which is nonrefundable.

C. Registrations will be issued to each individual MFE. If an Applicant owns multiple MFEs, each MFE must be separately registered with the Department.

- 1. Applicants who own multiple MFEs will only be charged for the first five (5) registrations, up to a total of \$250. Once meeting that threshold, subsequent registrations in the same calendar year by that same applicant will be free.

D. In addition to the information required by R.I. Gen. Laws § 5-11.1-5, the application must also include:

- 1. If the applicant is a business entity, all trade names and fictitious names used by the MFE;
- 2. The current email address and phone number of the operator of the MFE;

3. A completed taxpayer status affidavit;
4. Address where MFE is located when not operating; and
5. Any identifiable information regarding presence on the internet, including but not limited to website address and social media identifiers for Facebook, Twitter, and/or Instagram.

E. All application requirements must be maintained and kept current for the duration of the Registration.

1.6 Registrations

A. Issuance of Registration

1. Upon review and finding of the application to be satisfactory, the Department shall issue a Registration.

B. Incomplete or Deficient Applications

1. If the application is not approved as submitted, the Department shall provide the Applicant with a deficiency notice.
2. If the missing materials are not submitted to the Department within thirty (30) days of the date of the deficiency notice, the application shall be considered withdrawn.

C. Term of Registration

1. The term of Registration shall be one (1) year from the date on which it was issued.
2. The expiration date of the Registration shall appear on the Registration. It is the obligation of the Registrant to timely renew its Registration.

D. Renewal of Registrations

1. Renewal applications must be received by the Department prior to the expiration of the MFE Registration.
2. Every MFE registered pursuant to R.I. Gen. Laws Chapter 5-11.1 which desires to renew its Registration shall apply for the renewal of the Registration upon a form to be furnished by the Department. Any renewal of a Registration shall be subject to the same provisions and requirements covering issuance, suspension, and revocation of any Registration as originally issued.

E. Display of Registrations

1. The Registration must be prominently displayed where it can be seen by the consumer, in close proximity to the point of service.

F. Expired Registrations

1. Applications for the restoration of an expired Registration may be renewed upon submission of a complete renewal application and payment of a reinstatement fee of seventy-five dollars (\$75), in addition to the required renewal fee.
2. Any MFE seeking to reinstate a Registration after expiration must affirm by affidavit that the MFE has not engaged in any unregistered activity since the expiration of the Registration.
3. If an MFE has engaged in unregistered activity pursuant to R.I. Gen. Laws § 5-11.1-11, it may be subject to discipline and denial of its request for reinstatement.

G. Change of Address

1. Written notice shall be given to the Department within fourteen (14) days of any change in a Registrant's mailing address, location of MFE when not operating, email address, phone number, controlling person, or any other change in contact information reported on the most recent application.

H. Transfer of Registration Prohibited

1. A Registration shall be granted only to the applicant.
2. A Registration is not subject to transfer, sale, assignment or leasing to another person, MFE or entity without prior application to, and approval from the Department.
3. A change in ownership requires approval from the Department in order to maintain the Registration.
 - a. The current owner must notify the Department at least fourteen (14) days prior to the sale of the business.
 - b. The proposed new owner must complete a Registration application and meet all the requirements of R.I. Gen. Laws Chapter 5-11.1 and this Part.

I. Dissolution of MFE

1. When a Registrant dissolves a firm or otherwise ceases operation, the Registrant must notify the Department within three (3) business days of ceasing operations.

1.7 Out of State MFEs

- A. Out of state MFEs may qualify for Registration in Rhode Island by submitting a complete application to the Department along with all of the required documentation set forth in R.I. Gen. Laws § 5-11.1-5 and § 1.5 of this Part.

1. Each MFE operating in Rhode Island must receive approval to operate from RIDOH. RIDOH will not recognize out-of-state food safety permits.
2. Each MFE operating in Rhode Island must receive approval to operate from the Fire Marshal. The Fire Marshal will not accept out-of-state fire safety permits or compliant inspection reports.

1.8 Permits

- A. Municipal Permits

1. Each municipality must designate a contact person for MFE permits. That person's name, position, phone number and email address must be provided to the Department within thirty (30) days of the effective date of this Part. Any change in this designation must be reported to the Department within five (5) business days.
2. Each municipality must accept applications for Municipal Permits by email or other electronic means.
3. After receiving a Registration from the Department, each MFE must then apply for a business permit to operate in each individual municipality they wish to conduct business in and, if required by the municipality, pay a permit fee, as set by the municipality, of not more than the maximum fee set forth in § 1.11(B) of this Part.
4. Municipalities must comply with R.I. Gen. Laws § 5-11.1-7 when issuing permits to MFEs.
5. When operating in each municipal jurisdiction, the applicable business permit issued by each municipality must be prominently displayed where it can be seen by the consumer, in close proximity to the point of service.
6. Any person or entity desiring to hold a MFE event on municipal property must obtain an Event Permit/Temporary Mass Gathering Permit from the

municipality prior to holding the event and pay a fee of not more than the maximum fee set forth in § 1.11(B) of this Part.

B. Special Use Permits for Use of State-Owned Property

1. This Registration does not grant permission for any person or entity to hold an event on state property. Any person or entity desiring to hold a MFE Event on state owned property must first obtain permission from the state agency or authority possessing jurisdiction over the property where the event would be located and pay all applicable fees.

C. Event and Temporary Mass Gathering Permits

1. The issuer of any Event or Temporary Mass Gatherings Permits must require the organizer/sponsor of the event to leave space large enough to allow access for fire trucks and/or rescues to quickly reach all food trucks in the case of an emergency or accident in compliance with the Rhode Island Fire Safety Code, 450-RICR-00-00-1 through 10.

1.9 Fire Safety Requirements

A. MFE's are required to have a compliant fire safety inspection report from the Fire Marshal to operate in this state and qualify for a Registration.

B. Fire Safety inspections will be performed by the Fire Marshal.

1. Annual renewal inspections will only be conducted by appointment.
2. Request for an inspection must be made at least seven (7) business days in advance.

C. If a fire safety violation is found at the time of the inspection, a fee of one hundred dollars (\$100) will be charged by the Fire Marshal. If no violations are found, no fee will be charged in accordance with R.I. Gen. Laws § 23-28.2-27.

D. A Fire Safety Permit is required if the MFE is equipped with any of the following:

1. A gasoline, diesel or electric generator,
2. Propane or compressed natural gas,
3. Commercial cooking equipment, and/or
4. A fire suppression system.

- E. First-time applicants for Fire Safety Permit under R.I. Gen. Laws Chapter 5-11.1 must submit structural and operating plans to the Office of the Fire Marshal for review and approval. Upon approval, an inspection will be scheduled.

1.10 Reporting Foodborne Illness to RIDOH

An MFE shall immediately discontinue operations and notify RIDOH if an imminent health hazard exists in accordance with § 8-404.11 of the FDA Food Code (2013).

1.11 Fees and Charges

- A. MFE Registration fees are payable to the “General Treasurer, State of Rhode Island” and are non-refundable.

B. Fees:

<u>Initial Registration Fee</u>	<u>\$ 50</u>
<u>Renewal Registration Fee</u>	<u>\$ 50</u>
<u>Maximum fee for single owner of multiple MFEs in any calendar year</u>	<u>\$250</u>
<u>Reinstatement Fee for Late Renewal</u>	<u>\$ 75</u>
<u>Maximum Annual Municipal Permit Fee</u>	<u>\$ 75</u>
<u>Maximum Municipal Event/Temporary Mass Gather Permit Fee paid by Organizer of Event</u>	<u>\$ 300</u>
<u>Certificate of Good Standing Fee</u>	<u>\$ 25</u>

1.12 Enforcement Actions

- A. Complaints. The Department shall have authority to investigate all complaints against MFEs for violations of R.I. Gen. Laws Chapter 5-11.1 or this Part. In furtherance thereof, the Department shall notify the MFE in writing or by email of the Department's receipt of a complaint, enclosing a copy thereof. The MFE shall within twenty (20) days from the date of the Department's notice, file with the

Department a written response to the complaint. The Department shall review the response and submit a copy thereof to the complainant for further response, if necessary. Upon receipt of all responses, the Department will then evaluate the complaint and responses thereto and the matter will be handled in compliance with the Department's applicable procedures and regulations for such matters. The Department may, upon its own motion, with or without a complaint, notice a hearing for the purposes of further investigating whether to sanction a Registrant or other person or entity

B. All hearings and enforcement actions shall be conducted in accordance with the Administrative Procedures Act, R.I. Gen. Laws § 42-35-1 *et seq.*, and the Department's Rules of Procedure for Administrative Hearings, Part 10-00-2 of this Title.

C. It is sufficient cause for denial, suspension or revocation of an MFE Registration if an owner, controlling person, principal or employee of an MFE has been found by the Department to be responsible for any act or omission that would be cause for denying, suspending, or revoking a Registration.

1.13 Penalties for Violations

Any MFE who fails to comply with the provisions of this Part or the provisions of R.I. Gen. Laws Chapter 5-11.1, may be subject to a civil penalty not to exceed two thousand dollars (\$2,000) for each offense.

1.14 Reporting of Disciplinary Actions/Permit Suspensions

A. Any Registrant whose mobile food service license or fire safety permit is denied, suspended or revoked must notify the Department in writing of such action within one (1) business day of the denial, suspension or revocation.

B. Any Registrant whose municipal mobile food establishment permit is disciplined by any municipal authority in this state shall notify the Department in writing and provide documentation of such discipline within three (3) business days of the initiation of such disciplinary action.

C. Any Registrant whose out-of-state municipal, county or state level permit/registration to operate is disciplined shall notify the Department in writing and provide documentation of such discipline within three (3) business days of the initiation of such disciplinary action.

1.15 Municipality Reporting Requirement

- A. Each municipality issuing permits pursuant to R.I. Gen. Laws Chapter 5-11.1 and this Part shall annually, on or before the first day in December, and at any other times required by the Department, make a report to the Department that includes the following information:
1. The number of permits granted by them during the last calendar year;
 2. Information on all permit holders including names and addresses of the permit holders, a description of the type of MFE (food truck, food cart, ice cream/lemonade truck or cart, etc.), and the amount of money paid for permits;
 3. A list of all fees charged for any permits; and
 4. Any other information required by the Department.