



Ursillo, Teitz & Ritch, Ltd.

Counsellors At Law

2 Williams Street
(at South Main Street)
Providence, Rhode Island 02903-2918

Michael A. Ursillo *
Andrew M. Teitz, AICP *[†]
Scott A. Ritch *[†]

Troy L. Costa[†]
Amy H. Goins *[†]
Peter F. Skwirz *[†]
Gina A. DiCenso *[†] (Of Counsel)
Admitted in RI*, MA[†], NY[‡]

Tel (401) 331-2222
Fax (401) 751-5257
amygoins@utrllaw.com

MEMORANDUM

TO: Honorable East Greenwich Town Council

FROM: Amy H. Goins, Assistant Solicitor

DATE: March 19, 2019

SUBJECT: Food Trucks Legislation

Legislation enacted in 2018 regarding mobile food establishments (commonly referred to as food trucks) establishes requirements for a statewide registration system, authorizes the Town to adopt a local permitting ordinance, and defines the scope of additional regulation that the Town may choose to adopt. A copy of the law is attached for your review, as well as proposed regulations from the Department of Business Regulation. Although the law took effect on January 1, 2019, municipal compliance with the law is not required until July 1, 2019. For our purposes, the basic premise of the law is that the Town is now empowered to issue permits for food trucks, although the Town does not have unfettered authority to establish criteria for the issuance of those permits. The Town's permit is more or less a corollary to the statewide registration, with several important exceptions: the Town may restrict the operation of food trucks with respect to (1) number of permits granted; (2) location of operation; (3) hours of operation; and (4) noise.

Enclosures

S:\East Greenwich\Ordinances & legislation\Memo re Food Trucks- EG.docx

CHAPTER 080
2018 -- S 2502 SUBSTITUTE B
Enacted 06/28/2018

A N A C T
RELATING TO BUSINESSES AND PROFESSIONS -- HAWKERS AND PEDDLERS

Introduced By: Senators Euer, Jabour, Goldin, Satchell, and Quezada

Date Introduced: March 01, 2018

It is enacted by the General Assembly as follows:

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

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

(a) For purposes of this chapter:

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

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

(3) "Peddler" means any person selling or offering for sale any goods, wares, or merchandise, ~~including any food or beverage~~, from a vehicle, cart, or any other conveyance that is not stationary, ~~subject to § 5-11-1.1 subsection(c)~~; and

(4) No "hawker" or "peddler" shall sell or offer for sale any single good, ware, or item having a retail value of more than three hundred dollars (\$300). However, this dollar limitation shall not apply to any non-profit corporation duly authorized to do business in Rhode Island. A non-profit corporation means a non-profit corporation that has applied under 26 U.S.C. § 501(c)(3) for approval as a § 501(c)(3) corporation with the Internal Revenue Service, or has been so approved.

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

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

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

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

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

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

(6) Woonsocket. The city of Woonsocket has the power to license and regulate peddlers

selling or offering flowers.

(c) "Mobile food establishments" registered pursuant to chapter 11.1 of title 5, and any regulations promulgated thereunder, are not hawkers or peddlers and are explicitly exempted from this chapter.

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

CHAPTER 11.1

STATE MOBILE FOOD ESTABLISHMENT REGISTRATION ACT

5-11.1-1. Short title.

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

5-11.1-2. Purpose.

The intent of this chapter is to standardize the registration process for mobile food establishments in the state by authorizing the department of business regulation to issue state mobile food establishment registrations. Furthermore, this chapter explicitly exempts the selling of food or beverages from the provisions of chapter 11 of title 5 which applies to hawkers and peddlers.

5-11.1-3. Definitions.

As used in this chapter, the following terms shall have the following meanings:

- (1) "Department" means the department of business regulation.
- (2) "Director" means the director of the department of business regulation.
- (3) "Event permit" means a permit that a city or town issues to the organizer of a public mobile food establishment event located on public property.
- (4) "Fire safety code" shall have the meaning set forth in chapter 28.1 of title 23 and shall include any regulations promulgated thereunder.
- (5) "Mobile food establishment" means a food service operation that is operated from a movable motor-driven or propelled vehicle, portable structure, or watercraft that can change location. Mobile food establishments specifically includes, but is not limited to, food trucks, food carts, ice-cream trucks/carts, and lemonade trucks/carts.
- (6) "Mobile food establishment event" means an event where an individual has ordered or commissioned the operation of one or more mobile food establishments at a private or public gathering.
- (7) "Mobile food establishment operator" or "operator" means a person or corporate entity who **or that** owns, manages, or controls, or who **or that** has the duty to manage or control; the operation of a mobile food establishment.
- (8) "Mobile food establishment vendor" or "vendor" means a person who prepares, sells, cooks, or serves food or beverages from a mobile food establishment.
- (9) "Municipal mobile food establishment permit" means a permit issued by a city or town to a mobile food establishment operator that possesses a current state mobile food establishment registration.
- (10) "Registrant" means the holder of a "state mobile food establishment registration."
- (11) "RIDOH" means the Rhode Island department of health.
- (12) "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.
- (13) "Temporary mass gathering":
 - (i) Means an actual or reasonably anticipated assembly of five hundred (500) or more people that continues, or reasonably can be expected to continue, for two (2) or more hours per day; or an event that requires a more extensive review to protect public health and safety because the event's nature or conditions have the potential of generating environmental or health risks.

(ii) Includes, but is not limited to, "special events" as defined in the food code regulations promulgated by RIDOH, and festivals and concerts.

(iii) Shall not include an assembly of people at a location with permanent facilities designed for that specific assembly.

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

Beginning on July 1, 2019, it shall be unlawful for any person or entity to operate a mobile food establishment in this state without first receiving a registration from the department and any applicable municipal permit(s) in accordance with this chapter.

5-11.1-5. Registration applications and requirements.

(a) An application for a state mobile food establishment registration shall be made to the department on forms adopted by the department and accompanied by the required fee of fifty dollars (\$50.00).

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

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

(2) Evidence of a current:

(i) Mobile food service license from RIDOH;

(ii) Fire safety permit, if applicable;

(iii) Motor vehicle registration, if applicable;

(iv) Motor vehicle insurance, if applicable;

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

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

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

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

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

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

(f) All application requirements must be maintained and kept current for the duration of the Registration.

(g) The department may work with the state fire marshal to establish fees for fire safety permit inspections by regulation.

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

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

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

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

5-11.1-7. Authority to operate a mobile food establishment in any city or town.

(a) To operate in any city or town, a mobile food establishment operator shall provide

proof of having a state mobile food establishment registration to the city or town that the mobile food establishment wishes to operate in.

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

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

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

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

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

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

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

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

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

(d) Cities and towns will retain the authority to restrict the operation of mobile food establishments in their city or town by ordinance with respect to:

(1) Number of permits granted;

(2) Location of operation;

(3) Hours of operation; and

(4) Noise.

5-11.1-8. Municipal compliance.

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

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

(a) State mobile food establishment registrations must be affixed to the mobile food establishment in a conspicuous place.

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

5-11.1-10. Mobile food establishment safety standards.

(a) Mobile food establishments shall comply with RIDOH's statutes, rules, regulations, and policies relating to food safety.

(b) Mobile food establishments shall comply with the fire safety code, if applicable.

5-11.1-11. Grounds for denial, suspension or revocation of a state mobile food establishment registration.

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

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

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

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

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

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

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

(7) Operating a mobile food establishment without a current and valid registration;

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

(9) Having a substantive complaint of foodborne illness or food-related illness; or

(10) A mobile food establishment operator, vendor, or principal thereof having been convicted of or plead nolo contendere to a felony that is relevant to that person's suitability for a mobile food establishment registration.

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

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

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

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

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

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

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

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

5-11.1-14. Rulemaking authority.

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

SECTION 3. This act shall take effect on January 1, 2019.

=====

LC004926/SUB B

=====

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.