



## Legislation Text

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### *Department of Finance*

Reference: Business License Fee Update

**To:** Mayor Gregory Mills and Members of City Council

**Through:** Michael Martinez, City Manager

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**Date Prepared:** May 10, 2022

### **PURPOSE**

To provide City Council with recommended updates to the business and sales tax license fees in order to comply with Senate Bill 22-032

### **STRATEGIC FOCUS AREAS**

- Strong Regional Relationships and Partnerships
- Financially Responsible

### **BACKGROUND**

After the South Dakota v. Wayfair Supreme Court case decision in June 2018, taxing jurisdictions across the United States have enacted legislation to clarify when marketplace facilitators and remote sellers without a physical presence in the taxing jurisdiction must collect and remit that jurisdiction's sales tax.

Colorado has approximately 70 self-collecting home rule municipalities that are responsible for the adoption and administration of their sales and use tax codes in addition to enforcement and conducting audits. The City of Brighton, along with several other home rule municipalities, has adopted an ordinance clarifying when marketplace facilitators and remote sellers need to collect and remit City of Brighton Sales Tax. This ordinance became effective in January 2021.

The City of Brighton also participates in the Colorado Sales and Use Tax System (SUTS), which was developed and launched in June 2020 in order to simplify sales tax filing and remittance. This system allows businesses to file and pay sales and use tax for all participating jurisdictions all in one platform.

While the SUTS system has allowed businesses to file in one place for participating jurisdictions, many find themselves having to obtain licenses with multiple jurisdictions. These licenses vary in cost and in some cases, the license fee itself may be more than what is owed in sales tax to a jurisdiction.

### **SENATE BILL 22-032**

This senate bill is meant to further streamline the imposition, collection and administration of sales and use taxes imposed by local taxing jurisdiction on retail sales made by remote sellers.

On or after July 1, 2022 local taxing jurisdictions are prohibited from charging a fee for a local general business license to

a retailer that has a state standard retail license, makes retail sales within the local taxing jurisdictions and does not have a physical presence within the local taxing jurisdiction.

On and after July 1, 2023, a local taxing jurisdiction is prohibited from requiring such a retailer to apply separately to the local taxing jurisdiction for a general business license.

### **CITY OF BRIGHTON CURRENT BUSINESS LICENSE FEE**

In accordance with the Municipal Code, license fees are set by Council via the annual fee resolution and can be changed by Council from time to time.

The current license fee for a Business and sales tax license is \$60 initial fee for mobile vendors and \$10 initial license fee for all other business types. There is no fee for renewal of an active license.

Depending on the type of business, the business may need to pay other fees in addition to the business and sales tax license fee. These fees can include, but are not limited to, liquor license fees, contractor license fees, conditional use permits fees, as well as fees related to required permits.

### **CRITERIA BY WHICH COUNCIL MUST CONSIDER THE ITEM**

The primary driver of this change is compliance with Senate Bill 22-032, which is required by the State for all Home Rule Municipalities. Additionally, the financial impact on the City is minimal.

### **FINANCIAL IMPACT**

The City issued 575 business licenses in 2021, the vast majority of which went to remote or online sellers. With the cost of most licenses at \$10, the drop in license fee revenue is expected to be minimal at less than \$6,000 per year. In addition, the elimination of this fee will result in less staff time spent on collecting and process license fees.

### **BUSINESS IMPACT**

All businesses will still be required to obtain a City of Brighton Business License in accordance with the City's Municipal Code. Staff will be able to focus on ensuring that license applicants meet all rules and regulations. Eliminating the license fee will make it easier and cheaper for remote sellers to comply with sales tax collection rules.

### **STAFF RECOMMENDATION**

In order to comply with Senate Bill 22-032 staff recommends that the business and sales tax license fee be eliminated for all businesses. Licenses will still be required in accordance with the Municipal Code and staff will ensure that license applicants are meeting all rules and regulations.

Other fees that may apply for a particular business will not change.

In order to comply with the SB 22-032 requirements effective July 1, 2022, proposes an updated fee resolution be brought to Council on consent on a future agenda, prior to June 30, 2022. Additional updates to the City's Municipal Code surrounding business licensing will need to be discussed prior to July 1, 2023 in order to comply with additional requirements in place at that time.

### **ATTACHMENTS**

Powerpoint Presentation