



# Mobile Food Units and Fire Permits

## A Report Summarizing Public Chapter 390, Acts of 2023, Relative to Fire Safety Requirements for Mobile Food Units in Tennessee

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**Table of Contents**

Table of Contents..... 1

Introduction..... 2

Summary..... 2

How Does This Legislation Affect Fire and Life Safety Code Enforcement?..... 4

What are the Responsibilities of the State Fire Marshal’s Office? ..... 4

Effective Date of the Act..... 4

Definitions ..... 5

Conclusion..... 5

Additional Resources ..... 6

    Public Chapter 390, Acts of 2023 ..... 6

    International Fire Code, 2021 edition..... 6

    NFPA / Codes & Standards / Resources / Standards in Action..... 6

    NFPA 10, Standard for Portable Fire Extinguishers, 2022 edition..... 6

    NFPA 70, National Electrical Code, as adopted by the State Fire Marshal..... 6

    NFPA 96, Standard for Ventilation Control and Fire Protection of Commercial  
    Cooking Operations, 2021 edition ..... 6

    Tennessee Department of Commerce and Insurance..... 7

    U.S. Department of Transportation..... 7

## Introduction

On April 21, 2023, the 113<sup>th</sup> Tennessee General Assembly passed HB 814/SB 907. Governor Bill Lee subsequently signed the legislation and on May 11, 2023, Public Chapter 390, Acts of 2023 (hereinafter “Act”), became effective. As enacted, the legislation amends Tennessee Code Annotated (hereinafter “T.C.A.”), Title 68, Chapter 102, Part 1, by adding language that:

1. Requires the state fire marshal to create a state fire permit that mobile food units may obtain annually to demonstrate fire safety and electrical code compliance to a municipality;
2. Requires a municipality to recognize the state fire permit in its jurisdiction; and
3. Prohibits a municipality from requiring a local fire permit if the mobile food unit holds a state fire permit.

Mobile Food Units (hereinafter “units”) have gained popularity in Tennessee and across the country over the past few years. The fire and life safety codes adopted by some municipalities relative to these units are relatively new. However, there are many municipalities that have not adopted them at all. The intent of this Act is to create a state fire permit that units may obtain annually. The creation of this permit potentially reduces the number of local permits that units doing business in multiple jurisdictions throughout Tennessee must obtain. Though the state fire permit is optional, where no local fire permit process exists, a jurisdiction may require the state permit to demonstrate fire safety and electrical code compliance.

## Summary

The Act requires the state fire marshal to create a state fire permit that a unit may choose to obtain annually to demonstrate fire safety and electrical code compliance to a municipality. The Act also provides that a municipality must recognize the permit in its jurisdiction and must not require a unit with a state fire permit to hold a local fire permit or pass a local fire inspection. Finally, the Act requires the state fire marshal to issue a permit if a unit meets the following standards, as applicable:

1. Cooking equipment that produces grease-laden vapors that may be a source of ignition of grease in the hood, grease removal device, or duct area is protected with fire-extinguishing equipment in accordance with National Fire Protection Association (NFPA) 96, or portable fire extinguishers are selected and installed in kitchen areas and comply with the NFPA 10, as adopted by reference by the state fire marshal;

2. The fire extinguishing systems, exhaust hoods, and exhaust systems have been regularly maintained at least every 6 months in accordance with NFPA 96;
3. The exhaust system is not contaminated with deposits of grease-laden vapors exceeding the amount permitted by NFPA 96;
4. Records for commercial kitchen hood cleanings are maintained in accordance with the International Fire Code, as adopted by the state fire marshal;
5. Solid fuel cooking appliances are protected by listed fire extinguishing equipment and comply with NFPA 96;
6. All electrical appliances, equipment, and wiring comply with the National Electric Code, as adopted by the state fire marshal; and
7. The main shutoff valve of each gas container is readily accessible, so that no fire hazards or defects have developed after the initial inspection.

The Act also authorizes the state fire marshal to charge a reasonable fee for the permit and to inspect the unit once per calendar year to ensure compliance with the standards above. The state fire marshal must provide written notice to the unit of code violations and order the unit to correct the violations within 30 days following the issuance of the written notice. If the code violations have not been corrected within the 30-day period, then the unit must discontinue service until the violations have been corrected. The state fire marshal or a municipality that has obtained the exemption authorized by § 68-120-101(b)(2) may conduct additional inspections if necessary to address code violations, or an observation of unlawful conditions in violation of the standards above. A unit failing to comply with such order is liable for the penalties provided in this chapter. The Act also creates an appeal process for a unit to appeal to the commissioner of the Tennessee Department of Commerce and Insurance and to the courts.

It is important to note that this Act does not:

1. Prevent a municipality from requiring a mobile food unit that does not hold a state fire permit to submit to local fire inspections and to obtain local fire permits; or
2. Require a unit to obtain a state fire permit.

## **How Does This Legislation Affect Fire and Life Safety Code Enforcement?**

A municipality must recognize a state fire permit in its jurisdiction and must not require a unit with a state fire permit to hold a local fire permit or pass a local fire inspection. A municipality that has obtained the exemption authorized by § 68-120-101(b)(2) may conduct additional inspections if necessary to address code violations, or an observation of unlawful conditions in violation of the standards referenced in this Act.

Any unit that does not hold a state fire permit may be required to obtain a local fire permit in accordance with locally adopted codes and ordinances.

Also, a municipality may regulate access, separation, and distance requirements based on applicable fire and life safety code provisions that limit where units may park for operation within the jurisdiction regardless of whether the units hold a state fire permit.

This Act does not impact business license requirements for mobile food units nor the authorization provided in T.C.A. § 53-8-123 to regulate mobile food units by zoning, location, or business hours.

## **What are the Responsibilities of the State Fire Marshal's Office?**

According to the Act, the State Fire Marshal's Office is responsible for the following:

1. Creating and administering a state fire permit that a unit may choose to annually obtain to demonstrate fire safety and electrical code compliance to local governments.
2. Providing written notice to the unit of code violations identified in the unit and ordering the unit to correct the violations within a thirty-day period following the issuance of the notice.
3. Issuing a state fire permit if a unit meets the applicable standards.

## **Effective Date of the Act**

The Act was signed into law by Governor Bill Lee on May 11, 2023, and became effective at that time. The state fire marshal is developing the associated permitting process. Until the process is complete and the subsequent rules are effective, the State Fire Marshal's Office will receive applications and perform inspections without a fee requirement.

## Definitions

As used in the Act:

- “Mobile food unit” means a food service establishment designed to be readily moveable;
- “NFPA 10” means the National Fire Protection Association publication entitled “Standard for Portable Fire Extinguishers,” 2022 edition or a subsequent edition that has been adopted by the state fire marshal by rule; and
- “NFPA 96” means the National Fire Protection Association publication entitled “Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations,” 2021 edition or a subsequent edition that has been adopted by the state fire marshal by rule.

## Conclusion

With the passage of Public Chapter 390, Acts of 2023, and the creation of the state fire permit, unit owners now have a streamlined option for demonstrating fire safety and electrical code compliance to each municipality in which the unit operates. While not all owners will obtain a state fire permit, many will, and municipal staff must be prepared with an appropriate response when presented with a state fire permit. While this report reviews the language in the public chapter and the practical impact that it has on municipal operations, it is likely that other questions related to the public chapter will arise. Staff should consult with the city or town attorney with any questions or a MTAS consultant listed below.

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## Additional Resources

### Public Chapter 390, Acts of 2023

Hyperlink: <https://publications.tnsosfiles.com/acts/113/pub/pc0390.pdf>.

### International Fire Code, 2021 edition

The International Code Council (ICC) provides free, read-only access to its codes. Mobile food preparation vehicles equipped with appliances that produce smoke or grease-laden vapors are regulated in IFC Section 319. Use this link to gain access: <https://codes.iccsafe.org/content/IFC2021P2>.

### NFPA / Codes & Standards / Resources / Standards in Action

The National Fire Protection Association (NFPA) provides resources to provide more information about the codes and standards that are relevant to fire and life safety:  
<https://www.nfpa.org/Codes-and-Standards/Resources/Standards-in-action/Food-truck-safety>.

### NFPA 10, Standard for Portable Fire Extinguishers, 2022 edition

The National Fire Protection Association (NFPA) provides free, read-only access to its standards. Use this link to gain access:  
<https://www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-standards/detail?code=10>.

### NFPA 70, National Electrical Code, as adopted by the State Fire Marshal

The National Fire Protection Association (NFPA) provides free, read-only access to its standards. Use this link to gain access:  
<https://www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-standards/detail?code=70>.

### NFPA 96, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, 2021 edition

The National Fire Protection Association (NFPA) provides free, read-only access to its standards. Use this link to gain access:  
<https://www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-standards/detail?code=96>.

## Tennessee Department of Commerce and Insurance

The application for the state fire permit can be obtained from the State Fire Marshal's Office at this link:

[https://www.tn.gov/content/dam/tn/commerce/documents/fire\\_prevention/forms/MobileFoodUnit.pdf](https://www.tn.gov/content/dam/tn/commerce/documents/fire_prevention/forms/MobileFoodUnit.pdf)

The permit is optional and serves only as proof of a fire code inspection. It does not serve as an inspection for the United States Department of Transportation, Tennessee Department of Transportation, Tennessee Department of Health, or any locally required non-fire code inspection.

## U.S. Department of Transportation

The Pipeline and Hazardous Materials Safety Administration provides guidance on how to check manufacturing and requalification dates, and visually inspect a cylinder commonly used in the food truck industry, to ensure it is safe for use. Cylinders containing flammable gases must conform to proper packaging, qualification, and maintenance, and use requirements of the HMR. Free posters are available at:

[https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/docs/Propane\\_Cylinder\\_Safety\\_Flyer\\_0.pdf](https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/docs/Propane_Cylinder_Safety_Flyer_0.pdf)





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