

So You Want to Start a New York Food Truck Business?

by Gary S. Young on September 2, 2013

Food trucks, a/k/a mini-restaurants on wheels, have become popular business ventures for food service entrepreneurs. However, before venturing into this line of business, one would be well advised to first carefully consider the risks, legalities and expenses unique to the mobile food industry (in addition to the ones that typically challenge all restaurants).

Food trucks offer an attractive lower start-up cost for the small business owner because they require modest start-up staffing, equipment and overhead expenses. For example, buying the truck, which can cost upwards of \$100,000 to purchase and fit up, may be the easiest part of getting started.

The bigger obstacles will be securing the proper permits and licenses to operate. In New York City, presently a mecca for restaurants on wheels, the process is both complicated and costly. Below are just some of the requirements for mobile food vendors:

- For starters, two permits are required: a Mobile Food Vendor License (issued by the Department of Health and Mental Hygiene (DOHMH)) for the owner and a Mobile Food Vending Unit Permit for the truck. The Vendor License is simply a matter of completing some paperwork and attending a few classes, such as the Food Protection Course for Mobile Vendors, which trains individuals in food protection practices (selling unsafe food carries strict liability to the vendor).
- Obtaining the Food Vending Unit Permit for the truck (with inspection decal) is much more difficult, as the city stopped issuing new permits many years ago. Currently, permits are only distributed via periodic lotteries, and Veterans are eligible for certain exceptions and enjoy priority status in the permit lotteries. There are five permit classifications for food trucks based on how food is prepared and served: Class A and B cover units where foods are cooked, sliced, or mixed while Class C, D and E permits are issued to non-processing units.
- Food trucks must also meet certain configuration and equipment requirements depending on the type of food sold and how it is prepared. For example, a food truck where meat is cooked must have a sink that is used only for washing hands while a unit selling only prepackaged food is not required to have a separate sink.
- Food trucks and pushcarts **must** be serviced and stored in overnight facilities, known as Commissaries, which operate under DOHMH permits. Commissaries charge rent for overnight parking and for access to after-hour resources such as clean water and refrigeration.
- Once the food truck is up and running, the owner must pass regular inspections and comply with limits on where the food truck may operate, as New York City codes make certain streets and other areas off-limits. Accordingly, it is an

absolute “must” to consult the list supplied by the Street Vendor Project before selecting a place to do business. Further, the unspoken law of the streets dictates that “newbies” may not operate in a location already occupied by someone else. “As possession is nine-tenths of the law,” extra-legal difficulties almost certainly will be encountered from such rival vendors.

Despite such obstacles, food truck operations have become profitable business ventures for many. However, as in all businesses, risks and the rewards must be carefully considered.

If you have any questions about starting a food truck business or would like to discuss the legal issues involved, please contact me, Gary Young, or the Scarinci Hollenbeck attorney with whom you work.