

1 ENGROSSED SENATE
2 BILL NO. 316

By: Bergstrom of the Senate

3 and

4 McDugle of the House
5

6 An Act relating to home-based businesses; creating
7 the Oklahoma Home-based Business Fairness Act;
8 providing short title; defining terms; authorizing
9 use of residential home for certain businesses;
10 construing permitted use; limiting authority of
11 municipality; allowing municipal regulations for
12 certain purposes; prohibiting imposition of certain
13 conditions on home-based business; requiring certain
14 evidence for challenge to regulations; providing for
15 codification; and providing an effective date.

16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

17 SECTION 1. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 4300 of Title 59, unless there
19 is created a duplication in numbering, reads as follows:

20 This act shall be known and may be cited as the "Oklahoma Home-
21 based Business Fairness Act".

22 SECTION 2. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 4300.1 of Title 59, unless there
24 is created a duplication in numbering, reads as follows:

A. For purposes of this section:

1. "Goods" means any merchandise, equipment, products, supplies
or materials;

1 2. "Home-based business" means any business for the
2 manufacture, provision or sale of goods or services that is owned
3 and operated by the owner or tenant of the residential dwelling; and

4 3. "No-impact home-based business" means a home-based business
5 for which the following apply:

6 a. the total number of on-site employees and clients do
7 not exceed the municipal occupancy limit for the
8 residential property, and

9 b. the business activities are characterized by all of
10 the following:

11 (1) are limited to the sale of lawful goods and
12 services,

13 (2) do not generate on-street parking or a
14 substantial increase in traffic through the
15 residential area,

16 (3) occur inside the residential dwelling or in the
17 yard, and

18 (4) are not visible from the street.

19 B. The use of a residential dwelling for a home-based business
20 is a permitted use, except that this permission does not supersede
21 any of the following:

22 1. Any deed restriction, covenant or agreement restricting the
23 use of land including, but not limited to, a property lease
24 agreement; or

1 2. Any master deed or other document applicable to a common
2 interest ownership community including, but not limited to, a
3 homeowner association (HOA).

4 C. A municipality shall not prohibit a no-impact home-based
5 business or otherwise require a person to apply, register or obtain
6 any permit, license, variance or other type of prior approval from
7 the municipality to operate a no-impact home-based business.

8 D. A municipality may establish reasonable regulations for a
9 home-based business if the regulations are narrowly tailored for any
10 of the following purposes:

11 1. The protection of the public health and safety including
12 rules and regulations related to fire and building codes, health and
13 sanitation, transportation or traffic control, solid or hazardous
14 waste, pollution and noise control;

15 2. Ensuring that the business activity is:

- 16 a. compatible with residential use of the property and
- 17 surrounding residential use,
- 18 b. secondary to the use as a residential dwelling, or
- 19 c. complying with state and federal law and paying
- 20 applicable taxes; or

21 3. Limiting or prohibiting the use of a home-based business for
22 the purposes of selling illegal drugs, liquor, operating or
23 maintaining a structured sober living home, pornography, obscenity,
24 nude or topless dancing and other adult-oriented businesses.

1 E. A municipality shall not require a person as a condition of
2 operating a home-based business to:

3 1. Rezone the property for commercial use; or

4 2. Install or equip fire sprinklers in a single family detached
5 residential dwelling or any residential dwelling with not more than
6 two dwelling units.

7 F. The question of whether a regulation complies with this
8 section shall be a judicial question, and the municipality that
9 enacted the regulation shall establish by clear and convincing
10 evidence that the regulation complies with this section.

11 SECTION 3. This act shall become effective November 1, 2021.

12 Passed the Senate the 9th day of March, 2021.

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14 _____
15 Presiding Officer of the Senate

16 Passed the House of Representatives the ____ day of _____,
17 2021.

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19 _____
20 Presiding Officer of the House
21 of Representatives
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