

1 **SENATE FLOOR VERSION**

2 February 11, 2021

3 COMMITTEE SUBSTITUTE  
4 FOR

5 SENATE BILL NO. 316

By: Bergstrom

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

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

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

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

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

A. For purposes of this section:

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

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

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

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

11          b. the business activities are characterized by all of  
12 the following:

13            (1) are limited to the sale of lawful goods and  
14 services,

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

18            (3) occur inside the residential dwelling or in the  
19 yard, and

20            (4) are not visible from the street.

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

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

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

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

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

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

18       2. Ensuring that the business activity is:

- 19           a. compatible with residential use of the property and  
20           surrounding residential use,  
21           b. secondary to the use as a residential dwelling, or  
22           c. complying with state and federal law and paying  
23           applicable taxes; or  
24

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

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

7            1. Rezone the property for commercial use; or

8            2. Install or equip fire sprinklers in a single family detached  
9 residential dwelling or any residential dwelling with not more than  
10 two dwelling units.

11        F. The question of whether a regulation complies with this  
12 section shall be a judicial question, and the municipality that  
13 enacted the regulation shall establish by clear and convincing  
14 evidence that the regulation complies with this section.

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

16 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM  
17 February 11, 2021 - DO PASS AS AMENDED  
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