

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 316

By: Bergstrom

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5  
6 AS INTRODUCED

7 An Act relating to home-based businesses; defining  
8 terms; authorizing use of residential home for  
9 certain businesses; construing permitted use;  
10 limiting authority of municipality; allowing  
11 municipal regulations for certain purposes;  
12 prohibiting imposition of certain conditions on home-  
13 based business; requiring certain evidence for  
14 challenge to regulations; providing for codification;  
15 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 A. For purposes of this section:

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

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

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

3 a. the total number of on-site employees and clients do  
4 not exceed the municipal occupancy limit for the  
5 residential property, and

6 b. the business activities are characterized by all of  
7 the following:

8 (1) are limited to the sale of lawful goods and  
9 services,

10 (2) do not generate on-street parking or a  
11 substantial increase in traffic through the  
12 residential area,

13 (3) occur inside the residential dwelling or in the  
14 yard, and

15 (4) are not visible from the street.

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

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

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

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

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

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

12 2. Ensuring that the business activity is:

13 a. compatible with residential use of the property and  
14 surrounding residential use,

15 b. secondary to the use as a residential dwelling, or

16 c. complying with state and federal law and paying  
17 applicable taxes; or

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

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

24 1. Rezone the property for commercial use; or

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

4           F. The question whether a regulation complies with this section  
5 shall be a judicial question, and the municipality that enacted the  
6 regulation shall establish by clear and convincing evidence that the  
7 regulation complies with this section.

8           SECTION 2. This act shall become effective November 1, 2021.

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