

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 SENATE BILL 46

By: Bergstrom

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6 AS INTRODUCED

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.

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

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

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

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

29 A. For purposes of this section:

1 1. "Goods" means any merchandise, equipment, products,
2 supplies, 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 does
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:
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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

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, 2023.

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