

SECOND REGULAR SESSION

[PERFECTED]

HOUSE BILL NO. 2593

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE LOVASCO.

5321H.01P

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 196.298 and 442.404, RSMo, and to enact in lieu thereof six new sections relating to the use of private property.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 196.298 and 442.404, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 71.990, 196.298, 260.295, 436.337, 442.404, and 535.012, to read as follows:

71.990. 1. As used in this section, the following terms mean:

(1) "Goods", any merchandise, equipment, products, supplies, or materials;

(2) "Home-based business", any business operated in a residential dwelling that manufactures, provides, or sells goods or services and that is owned and operated by the owner or tenant of the residential dwelling.

2. Any person who resides in a residential dwelling may use the residential dwelling for a home-based business unless such use is restricted by:

(1) Any deed restriction, covenant, or agreement restricting the use of land; or

(2) Any master deed, bylaw, or other document applicable to a common-interest ownership community.

3. Except as prescribed under subsection 4 of this section, a political subdivision shall not prohibit the operation of a no-impact, home-based business or otherwise require a person to apply for, register for, or obtain any permit, license, variance, or other type of prior approval from the political subdivision to operate a no-impact,

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 **home-based business. For the purposes of this section, a home-based business qualifies**
16 **as a no-impact, home-based business if:**

17 **(1) The total number of employees and clients on-site at one time does not exceed**
18 **the occupancy limit for the residential dwelling; and**

19 **(2) The activities of the business:**

20 **(a) Are limited to the sale of lawful goods and services;**

21 **(b) May involve having more than one client on the property at one time;**

22 **(c) Do not generate on-street parking or cause a substantial increase in traffic**
23 **through the residential area;**

24 **(d) Occur inside the residential dwelling or in the yard of the residential**
25 **dwelling;**

26 **(e) Are not visible from the street; and**

27 **(f) Do not violate any narrowly tailored regulation established under subsection**
28 **4 of this section.**

29 **4. A political subdivision may establish reasonable regulations on a home-based**
30 **business if the regulations are narrowly tailored for the purpose of:**

31 **(1) Protecting the public health and safety, including regulations related to fire**
32 **and building codes, health and sanitation, transportation or traffic control, solid or**
33 **hazardous waste, pollution, and noise control; or**

34 **(2) Ensuring that the business activity is compliant with state and federal law**
35 **and paying applicable taxes.**

36 **5. No political subdivision shall require a person, as a condition of operating a**
37 **home-based business, to:**

38 **(1) Rezone the property for commercial use;**

39 **(2) Obtain a home-based business license or other general business license; or**

40 **(3) Install or equip fire sprinklers in a single-family detached residential**
41 **dwelling or any residential dwelling with no more than two dwelling units.**

42 **6. Whether a regulation complies with this section is a judicial question, and the**
43 **political subdivision that enacts the regulation shall establish by clear and convincing**
44 **evidence that the regulation complies with this section.**

196.298. 1. As used in this section, the following terms shall mean:

2 **(1) "Baked good", includes cookies, cakes, breads, danish, donuts, pastries, pies, and**
3 **other items that are prepared by baking the item in an oven. A baked good does not include a**
4 **potentially hazardous food item as defined by department rule;**

5 **(2) "Cottage food production operation", an individual operation out of the**
6 **individual's home who:**

7 (a) Produces a baked good, a canned jam or jelly, or a dried herb or herb mix for sale
8 at the individual's home; **and**

9 (b) ~~[Has an annual gross income of fifty thousand dollars or less from the sale of food~~
10 ~~described in paragraph (a) of this subdivision; and~~

11 ~~(c)]~~ Sells the food produced under paragraph (a) of this subdivision only directly to
12 consumers;

13 (3) "Department", the department of health and senior services;

14 (4) "Home", a primary residence that contains a kitchen and appliances designed for
15 common residential usage.

16 2. A cottage food production operation is not a food service establishment and shall
17 not be subject to any health or food code laws or regulations of the state or department other
18 than this section and rules promulgated thereunder for a cottage food production operation.

19 3. (1) A local health department shall not regulate the production of food at a cottage
20 food production operation.

21 (2) Each local health department and the department shall maintain a record of a
22 complaint made by a person against a cottage food production operation.

23 4. The department shall promulgate rules requiring a cottage food production
24 operation to label all of the foods described in this section which the operation intends to sell
25 to consumers. The label shall include the name and address of the cottage food production
26 operation and a statement that the food is not inspected by the department or local health
27 department.

28 5. A cottage food production operation shall not sell any foods described in this
29 section through the internet **unless both the cottage food production operation and the**
30 **purchaser are located in this state.**

31 6. Nothing in this section shall be construed to prohibit the authority of the
32 department of health and senior services or local health departments to conduct an
33 investigation of a food-borne disease or outbreak.

260.295. No building code adopted by a political subdivision shall prohibit the
2 **use of refrigerants that are approved for use under the provisions of 42 U.S.C. Section**
3 **7671k or the regulations promulgated thereunder, provided any related equipment is**
4 **installed in accordance with the provisions of 42 U.S.C. Section 7671k or the regulations**
5 **promulgated thereunder. Any provision of a building code that violates this section**
6 **shall be null and void.**

436.337. Notwithstanding any other provision of law, no political subdivision
2 **shall require a property owner to have a home inspection conducted of a residential**
3 **property regarding the sale of the property. This provision shall not apply to any**
4 **inspection requirement of new construction or occupancy permits.**

442.404. 1. As used in this section, the following terms shall mean:

2 (1) "Homeowners' association", a nonprofit corporation or unincorporated association
3 of homeowners created under a declaration to own and operate portions of a planned
4 community or other residential subdivision that has the power under the declaration to assess
5 association members to pay the costs and expenses incurred in the performance of the
6 association's obligations under the declaration or tenants-in-common with respect to the
7 ownership of common ground or amenities of a planned community or other residential
8 subdivision. This term shall not include a condominium unit owners' association as defined
9 and provided for in subdivision (3) of section 448.1-103 or a residential cooperative;

10 (2) "Political signs", any fixed, ground-mounted display in support of or in opposition
11 to a person seeking elected office or a ballot measure excluding any materials that may be
12 attached.

13 2. (1) No deed restrictions, covenants, or similar binding agreements running with
14 the land shall prohibit or have the effect of prohibiting the display of political signs.

15 [3-] (2) A homeowners' association has the authority to adopt reasonable rules,
16 subject to any applicable statutes or ordinances, regarding the time, size, place, number, and
17 manner of display of political signs.

18 [4-] (3) A homeowners' association may remove a political sign without liability if
19 such sign is placed within the common ground, threatens the public health or safety, violates
20 an applicable statute or ordinance, is accompanied by sound or music, or if any other
21 materials are attached to the political sign. Subject to the foregoing, a homeowners'
22 association shall not remove a political sign from the property of a homeowner or impose any
23 fine or penalty upon the homeowner unless it has given such homeowner three days after
24 providing written notice to the homeowner, which notice shall specifically identify the rule
25 and the nature of the violation.

26 3. (1) **No deed restrictions, covenants, or similar binding agreements running**
27 **with the land shall prohibit or have the effect of prohibiting the display of sale signs on**
28 **the property of a homeowner or property owner including, but not limited to, any yard**
29 **on the property, or nearby street corners.**

30 (2) **A homeowners' association has the authority to adopt reasonable rules,**
31 **subject to any applicable statutes or ordinances, regarding the time, size, place, number,**
32 **and manner of display of sale signs.**

33 (3) **A homeowners' association may remove a sale sign without liability if such**
34 **sign is placed within the common ground, threatens the public health or safety, violates**
35 **an applicable statute or ordinance, is accompanied by sound or music, or if any other**
36 **materials are attached to the sale sign. Subject to the foregoing, a homeowners'**
37 **association shall not remove a sale sign from the property of a homeowner or property**

38 owner or impose any fine or penalty upon the homeowner or property owner unless it
39 has given such homeowner or property owner three business days after the homeowner
40 or property owner receives written notice from the homeowners' association, which
41 notice shall specifically identify the rule and the nature of the alleged violation.

535.012. No county, municipality, or other political subdivision shall impose or
2 enforce a moratorium on eviction proceedings unless specifically authorized by state
3 law.

✓