

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Committee Substitute

for

House Bill 2451

By Delegates Hornby, Horst, Chiarelli, Willis, Kyle,

Green, Brooks, Crouse, and Maynor

[Originating in the Committee on Energy and Public Works,

Reported on March 13, 2025]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
2 designated §8-40-1, §8-40-2, §8-40-3, §8-40-4, §8-40-5, and §8-40-6, relating to
3 facilitating the creation of home based businesses; providing for definitions; providing for
4 permitted use; providing for prohibitions; creating reasonable regulations; providing for
5 limited conditions; and providing for review.

Be it enacted by the Legislature of West Virginia:

ARTICLE 40. HOME BASED BUSINESSES.

§8-40-1. Definitions.

1 (a) "Goods" means any merchandise, equipment, products, supplies, or materials.

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

4 (c) "No-impact home-based business" means a home-based business for which all of the
5 following apply:

6 (1) The total number of on-site employees and clients do not exceed the municipal
7 occupancy capacity.

8 (2) The business activities are characterized by all of the following:

9 (A) Are limited to the sale of lawful goods and services;

10 (B) Do not generate on-street parking or a substantial increase in traffic through the
11 residential area;

12 (C) Occur inside the residential dwelling or in the yard;

13 (D) Are not visible from the street.

§8-40-2. Permitted use.

1 The use of a residential dwelling for a home-based business is a permitted use, except that
2 this permission does not supersede any of the following:

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

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

§8-40-3. Prohibition.

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

§8-40-4. Reasonable regulations.

A municipality may establish reasonable regulations on a home-based business if the regulations are narrowly tailored for any of the following purposes:

(1) The protection of the public health and safety, as defined in this code, including rules and regulations related to fire and building codes, health and sanitation, transportation, or traffic control, solid or hazardous waste, pollution, and noise control.

(2) Ensuring that the business activity is:

(A) Compatible with residential use of the property and surrounding residential use;

(B) Secondary to the use as a residential dwelling;

(C) Complying with state and federal law and paying applicable taxes.

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

§8-40-5. Limited conditions.

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

(1) Rezone the property for commercial use;

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

§8-40-6. Review.

- 1 The question whether a regulation complies with this article shall be a judicial question,
- 2 and the municipality that enacted the regulation shall establish by clear and convincing evidence
- 3 that the regulation complies with this article.

NOTE: The purpose of this bill is to facilitate creation of home-based businesses, with certain conditions.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.