

# **WEST VIRGINIA LEGISLATURE**

**2024 REGULAR SESSION**

**ENGROSSED**

**Committee Substitute**

**for**

**House Bill 4943**

By Delegates Hornby, Chiarelli, Hardy, Cannon,

Foster, Young, Smith, Hite, and Foggin

[Originating in the Committee on Economic Development  
and Tourism; Reported on February 9, 2024]



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, §8-40-6 and §8-40-7, all relating  
3 to facilitating the creation of home based lawful occupations and businesses; providing for  
4 definitions; providing for permitted use; providing for prohibitions; creating reasonable  
5 regulations; providing for limited conditions; providing for review and making effective from  
6 passage.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 40. HOME BASED BUSINESSES.**

**§8-40-1. Definitions.**

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

2 "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 "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 Any deed restriction, covenant, or agreement restricting the use of land;

4 Any master deed, by-law, or other document applicable to a common interest ownership  
5 community.

**§8-40-3. Prohibition.**

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

**§8-40-4. Reasonable regulations.**

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

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

6 (2) Ensuring that the business activity is:

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

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

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

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

**§8-40-5. Limited conditions.**

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

3 (1) Rezone the property for commercial use;

4 (2) Install or equip fire sprinklers in a single-family detached residential dwelling or any  
5 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.