

Amendment - 1st Reading/2nd House-blue - Requested by: Pete Elverum - (H) Local Government

- 2025

69th Legislature 2025

Drafter: Toni Henneman,

SB0418.001.001

SENATE BILL NO. 418

INTRODUCED BY E. BOLDMAN

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO HOME-BASED BUSINESSES; ALLOWING FOR THE OPERATION OF HOME-BASED BUSINESSES; PROHIBITING LOCAL GOVERNMENT POWER TO PROHIBIT HOME-BASED BUSINESSES; ALLOWING REASONABLE MUNICIPAL REGULATIONS; PROVIDING DEFINITIONS; AND AMENDING SECTIONS 7-1-111, 7-21-4204, 76-2-304, AND 76-2-309, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-1-111, MCA, is amended to read:

"7-1-111. Powers denied. A local government unit with self-government powers is prohibited from exercising the following:

(1) any power that applies to or affects any private or civil relationship, except as an incident to the exercise of an independent self-government power;

(2) any power that applies to or affects the provisions of 7-33-4128 or Title 39, except that subject to those provisions, it may exercise any power of a public employer with regard to its employees;

(3) any power that applies to or affects the public school system, except that a local unit may impose an assessment reasonably related to the cost of any service or special benefit provided by the unit and shall exercise any power that it is required by law to exercise regarding the public school system;

(4) any power that prohibits the grant or denial of a certificate of compliance or a certificate of public convenience and necessity pursuant to Title 69, chapter 12;

(5) any power that establishes a rate or price otherwise determined by a state agency;

(6) any power that applies to or affects any determination of the department of environmental quality with regard to any mining plan, permit, or contract;

(7) any power that applies to or affects any determination by the department of environmental

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- 1 (25) any power to prohibit the sale of alternative nicotine products or vapor products as provided in
2 16-11-313(1);
- 3 (26) any power to control the amount of rent charged for private residential or commercial property.
4 Private residential property does not include property in which the local government unit has a property interest
5 or in which the local government unit has an interest through a housing authority.
- 6 (27) any power to require additional licensing when the state is the original issuer of the license;
- 7 (28) any power to prohibit or impede the connection or reconnection of an electric, natural gas,
8 propane, or other energy or utility service provided by a public utility, municipal utility, cooperative utility, or
9 other energy or fuel provider;
- 10 (29) any power to prohibit the purchase or use of any fuel derived from petroleum, including but not
11 limited to methane, propane, gasoline, and diesel fuel, or the installation or use of any vehicles, vessels, tools,
12 or commercial and residential appliances that burn or transport petroleum fuels; ~~or~~
- 13 (30) any power to require that buildings be constructed to have solar panels or wiring, batteries, or
14 other equipment for solar panels or electric vehicles; ~~;~~ or
- 15 (31) any power to prohibit the use of a residential dwelling for a home-based business pursuant to
16 7-21-4204."

17

18 **Section 2.** Section 7-21-4204, MCA, is amended to read:

19 **"7-21-4204. Regulation of location of businesses, factories, and steam boilers -- exception for**
20 **no-impact home-based businesses.** (1) The city or town council has power:

21 ~~(1)(a)~~ to regulate the location of slaughterhouses, breweries, distilleries, livery stables, foundries,
22 blacksmith shops, planing mills, soap factories, and tanneries within the city or town and to prohibit any
23 offensive and unwholesome establishments within the city or town limits or within 3 miles ~~thereof~~ of the city or
24 town limits; and

25 ~~(2)(b)~~ to regulate the location of steam boilers.

26 (2) A municipality may not prohibit a no-impact home-based business as defined in this section or
27 otherwise require a person to apply, register, or obtain a permit, license, variance, or other type of prior

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1 approval from the municipality to operate a no-impact home-based business.

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

4 (a) the protection of the public health and safety, including rules and regulations related to fire and
5 building codes, health and sanitation, transportation and traffic control, solid and hazardous waste, and
6 pollution and noise control;

7 (b) ensuring that the business activity is:

8 (i) compatible with residential use of the property and surrounding residential use;

9 (ii) secondary to the use as a residential dwelling; and

10 (iii) complying with state and federal law and paying applicable taxes.

11 (c) limiting or prohibiting the use of a home-based business as defined in this section for the
12 purposes of selling illegal drugs, selling liquor, operating or maintaining a structured sober living home, or
13 conducting business related to pornography, obscenity, nude or topless dancing, and other adult-oriented
14 businesses.

15 (4) As used in this section, the following definitions apply:

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

18 (b) "No-impact home-based business" means a home-based business for which all of the following
19 apply:

20 (i) the total number of onsite employees and clients does not exceed the municipal occupancy
21 limit for the residential property; and

22 (ii) the business activities are characterized by all of the following:

23 (A) the business activities are limited to the sale of lawful goods and services;

24 (B) the business activities do not generate on-street parking or a substantial increase in traffic
25 through the residential area;

26 (C) the business activities occur inside the residential dwelling or in the yard; and

27 (D) the business activities are not visible from the street; and

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(e) the business activities do not create noise or odors that are offensive to the senses or interfere with the comfortable enjoyment of life or property."

Section 3. Section 76-2-304, MCA, is amended to read:

"76-2-304. Criteria and guidelines for zoning regulations. (1) Zoning regulations must be:

(a) made in accordance with a growth policy; and

(b) designed to:

(i) secure safety from fire and other dangers;

(ii) promote public health, public safety, and the general welfare; and

(iii) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

(2) In the adoption of zoning regulations, the municipal governing body shall consider:

(a) reasonable provision of adequate light and air;

(b) the effect on motorized and nonmotorized transportation systems;

(c) promotion of compatible urban growth;

(d) the character of the district and its peculiar suitability for particular uses; and

(e) conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

(3) The use of a residential dwelling for a home-based business as defined in 7-21-4204 is a permitted use, except that this permission does not supersede any of the following:

(a) any deed restriction, covenant, or agreement restricting the use of land; and

(b) any master deed, bylaw, or other document applicable to a common interest ownership community.

(4) A municipality may not require a person as a condition of operating a home-based business to:

(a) rezone the property for commercial use; or

(b) install or equip fire sprinklers in a detached single-family residence or any residential dwelling with no more than two dwelling units pursuant to 50-60-203.