

To: Senate Committee on Commerce
From: Spencer Duncan, Government Affairs Director
Date: March 12, 2025
RE: HB 2343 – No Impact Home Business Act
Opponent – Verbal Testimony

Thank you to the Chair and members of the Committee for an opportunity to provide testimony.

While the League appreciates the term “no impact,” the reality is that the preemption language of HB 2343 will impact communities. Cities constantly balance the rights of a homeowner who desires a neighborhood of quiet living, leisure, and safety versus the rights of a business owner trying to earn a living. The underlying intentions of HB 2343 are important but leave out considerations historically entrusted to local elected officials.

Here are issues cities deal with that will become problems for neighborhoods with HB 2343:

- An entire yard (front and/or back) could be covered with concrete or gravel and turned into a parking lot, making it a car sales lot, storage/workspace for a mechanics shop or parking in which traffic is constantly parked for a business within the home.
- A building could be erected in a yard in which individuals could work all hours of the night on businesses related to mechanics, construction, large-scale printing or other industrial work in which noise and light are constant during overnight hours.
- It does not exclude the sale of cars, commercial equipment, building materials or other sizeable products that would be stocked around the home, and in the backyard.
- This would allow a home to have a garage sale every day, in their yard, or other flea market type operations.
- The provisions of HB 2343 do not supersede deed restrictions or covenants. Residential subdivisions with covenants will be protected, but residential land without such covenants will not. This unduly impacts lower income and middle-class neighborhoods.
- There are no time restrictions so activity could occur 24 hours a day, with no limits.
- This does not allow regulations on the sale of fireworks.
- The bill does not allow for regulations relating to home-based daycare programs.
- Section 5 does not provide for a city to adopt regulations that protect the character of a neighborhood. Does this mean local governments cannot restrict the size of a building used for storage? What is the impact of this on historic neighborhoods which have worked to keep historic designations, yet have no restrictive covenants?
- Section 8 is legislatively unclear where it states, “*The question of whether a regulation of a municipality complies with this act shall be a judicial question...*” With respect, it is a Legislative question not a judicial one as this body is enacting the law and should not be left ambiguous to let a court decide eventual outcomes.

- Section 5 and Section 7 contradict one another. Section 5 says a city can adopt and apply fire codes if deemed necessary. However, Section 7 expressly states a city cannot do an inspection or enact any requirements. Which is it?
- Fire codes are not just about protecting the structure housing equipment which can create extreme heat and electrical issues. It is also about protecting homes next door which can catch fire when the home next to them has a blaze.
- The bill applies to any residential dwelling. How does this impact multi-family housing units and duplexes, where there are no established covenants, but families live close to one another?
- The bill does not address the issue of short-term rentals.
- HB 2343 creates a categorical exemption for no-impact, home-based businesses from permit and licensing requirements. Under the Equal Protection clauses of the U.S. and Kansas Constitutions, this may create law that treats groups differently. The committee should consider whether exempting home-based businesses while requiring similar non-home-based businesses to obtain permits and licenses creates an unfair distinction that could be challenged under Equal Protection principles.

Individuals residing in a residential neighborhood expect some limits on activities to allow enjoyment of their property. This is not government tyranny; this is local governments responding to the collective preferences of a city's residents. Additionally, zoning and other regulations serve to protect the property values of residents.

If there are specific businesses or industry categories facing obstacles regarding operating out of a home, then tackle the specific challenges as they exist. Blanket legislation that creates ambiguity, undercuts local authority, and creates problems for other homeowners, does not seem a best practice.

The League raises these concerns in conjunction with the fact that cities in Kansas have Constitutional Home Rule Authority under Section 12, Article 5. Kansas Home Rule has meaningful value to cities and the state. This legislation is in clear contradiction with that constitutional provision.

Thank you for your consideration. Please let me know if we can provide additional information.



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