

**TESTIMONY OR PRESENTATION INFORMATION
FOR
LOCAL GOVERNMENT COMMITTEE**

Please send all testimony or presentations in pdf format 24 hours in advance of the scheduled meeting to Debra.Heideman@house.ks.gov

Name of Conferee/Presenter **Spencer Duncan** _____

Agency represented **League of Kansas Municipalities** _____

Bill # **2704** _____

Proponent

X
Opponent

Neutral

Will your testimony be given:

**X Oral In
Person**

Oral Via WebEx

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If you are presenting testimony via WebEx, you will need to be sent an invitation to join the meeting. Please provide your email address.

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Name of your presentation _____

Do you need Audio/Video Equipment for your presentation? Please list.

Thank you,

Debra Heideman, Local Government

Committee Assistant

Room 149-S, 785-296-7681

To: House Local Government Committee
From: Spencer Duncan, Government Affairs Director
Date: February 19, 2024
RE: HB 2704 – No Impact Home Business Act
In Opposition – Verbal Testimony

Thank you, Chairman Berquist and members of the Local Government Committee, for the opportunity to testify on HB 2704.

While we appreciate the bill contains the term “no impact,” the reality is that preemption in HB 2704 guarantees more commercial activity will be allowed, and occur, in neighborhoods.

There is a constant balancing of rights cities undertake between a homeowner who desires a neighborhood of quiet daily living, leisure, and safety versus the rights of a neighborhood business owner trying to earn a living. The underlying intentions of HB 2704 may be good, but it leaves out many considerations and opens numerous unintended consequences.

- When someone puts a small garage in the backyard, has two employees work on cars from Midnight to 6 a.m., where they use electric equipment and lights while stopping and starting cars, is that within their right or are they creating a problem for the neighborhood? HB 2704 indicates a city must support the home garage business.
- It is not clear what businesses this is intended to support. It does not exclude the sale of cars, commercial equipment, building materials or other sizable items. These items, if surrounding a property, negatively impact surrounding homes.
- Lawful goods, as defined in the bill, can include self-storage facilities, towing services, and long-term storage of large vehicles and commercial equipment. For surrounding homes, these businesses can create harm.
- Many cities have permitting requirements and ordinances in place regarding the size of driveways. Does this invalidate those? If someone wants to concrete the entire yard so they can use it as a parking lot, to keep cars off the street, is that acceptable? What is the impact of that on surrounding home values?
- The provisions of the law do not supersede deed restrictions or restrictive covenants. Residential subdivisions with covenants will be protected, but residential land without such covenants will not be protected. This significantly impacts lower income and middle-class neighborhoods.

- Section 5, paragraph (a) 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 that will be used for storage or as part of a business in a backyard? What is the impact of this on historic neighborhoods which have worked to keep historic designations, yet do not have restrictive covenants?
- Section 8 (lines 23-26) 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 the eventual outcomes.

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 actually exist. Blanket legislation that creates ambiguity, undercuts local authority, and creates problems for other homeowners, does not seem a best practice.

These issues do also fall under Constitutional Home Rule, while local zoning has long been considered a local issue. Article 12, Section 5 of the Kansas Constitution state: *“Powers and authority granted cities pursuant to this section shall be liberally construed for the purpose of giving to cities the largest measure of self-government.”* HB 2704 conflicts with this Constitutional provision and authority.

With these points in mind, we urge you to support Constitutional Home Rule and Kansas homeowners by not moving forward HB 2704.

Thank you for your time and consideration. Please let me know if we can provide any additional information that might prove helpful.



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