

ASSEMBLY, No. 1573

STATE OF NEW JERSEY 217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

Sponsored by:

Assemblyman JAY WEBBER

District 26 (Essex, Morris and Passaic)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

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Co-Sponsored by:

**Assemblywoman Handlin, Assemblymen DiMaio, Space and
Assemblywoman Phoebus**

SYNOPSIS

“Home-Based Jobs Creation Act”; classifies certain home businesses as accessory uses needing no use variances in residential zone; authorizes municipalities to limit or exclude certain warehousing, manufacturing, or retailing activities.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 3/15/2016)

1 AN ACT concerning municipal land use and supplementing chapter
2 55D of Title 40 of the New Jersey Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. This act shall be known and may be cited as the “Home-
8 Based Jobs Creation Act.”

9

10 2. The Legislature finds and declares:

11 a. Corporate restructuring and the rise of telecommunications
12 have led to an increase in the number of individuals working out of
13 their homes. According to the Small Business Administration
14 Office of Advocacy, small businesses represent 99.7% of all
15 employers. Home-based businesses make up about 53% of all small
16 businesses. A national survey found that as many as 40 million
17 people work at least part time at home, with about 8,000 businesses
18 of this nature starting daily. In these economically challenging
19 times, the need for home-based businesses can be expected to
20 increase;

21 b. In New Jersey alone, 7,000 family home businesses are
22 started each month. Over the past decade, New Jersey gained over
23 a quarter million new home-based, service-oriented businesses.
24 Two-thirds of all families having home businesses have school-aged
25 children at home. Entrepreneurial owners have an average income
26 of \$65,000;

27 c. Many of these family home businesses are operating in
28 violation of outmoded local ordinances. Many zoning ordinances
29 permit family home businesses of recognized professionals, such as
30 doctors, lawyers, and accountants, but prohibit other for-profit
31 family home businesses under certain circumstances;

32 d. Most zoning ordinances enacted in the 1960s and 1970s
33 were based on good intentions and focused on the protection of
34 residential neighborhoods from the negative effects of industry; this
35 occurred at a time when more than 75% of the working public then
36 pursued businesses outside of the home;

37 e. One-third of all men and women who are downsized from their
38 jobs start their own home businesses, which they thereafter work for
39 one, two or more years, or until the economy improves. With the
40 impact that current financial downsizing and the national economic
41 downturn is having on New Jersey employment, it is important to
42 provide a safe-haven for the temporarily unemployed, to enable them
43 to provide for their own financial stability and to lessen the load on
44 government to provide for them;

45 f. About 25% of newly started home businesses grow to the point
46 where they will become employers and move the business out of the
47 home;

1 g. The nation's changing economic structure and technological
2 development have catalyzed the development of family home
3 businesses. According to the Partnership for Work at Home, over
4 90% of such businesses do not create the traffic, pollution, noise, or
5 the safety problems of other industries. New approaches in zoning
6 are needed to ensure that this very important segment of the
7 economy, which may lay the groundwork for the expansion of
8 companies that later grow to "Fortune 100" or "Fortune 500"
9 levels, and which generates many jobs and increased revenues to
10 the State economy, is provided the opportunity for growth. Such
11 growth cannot occur unless the Legislature ensures that family
12 home businesses that fall within certain prescribed criteria are
13 permitted as accessory uses in residential zones of municipalities;
14 and

15 h. This act is intended to establish State guidelines for
16 municipalities to follow in their treatment of family home
17 businesses, in order to carefully balance the interests of family
18 home businesses with the needs of the residential area in which they
19 operate.

20

21 3. For the purposes of this act:

22 "Family home business" means any activity operated for
23 pecuniary gain in, or directed from, a residential dwelling or unit by
24 one or more family members residing within that dwelling or unit.

25 Notwithstanding any municipal ordinance to the contrary, upon
26 the effective date of P.L. , c. (C.) (pending before the
27 Legislature as this bill), a family home business shall be an
28 accessory use, not requiring a use variance pursuant to section 57 of
29 P.L.1975, c.291 (C.40:55D-70), which is permitted in all residential
30 zones of any municipality provided that:

31 a. the activity is compatible with the residential use of the
32 property and surrounding residential uses;

33 b. the activity employs no employees other than family
34 members residing in the dwelling or unit; however, a municipality,
35 at its option, may permit the activity to employ employees other
36 than family members, pursuant to ordinance;

37 c. the volume of invitees or guests who visit the residential
38 dwelling or unit is not in excess of what is customary for residential
39 use in the neighborhood;

40 d. there is no outside appearance of a family home business
41 including, but not limited to, parking, signs, or lights;

42 e. the volume of deliveries or truck and other vehicular traffic
43 is not in excess of what is normally associated with residential use
44 in the neighborhood;

45 f. the activity uses no equipment or process that creates noise,
46 vibration, glare, fumes, odors, or electrical or electronic
47 interference, including interference with radio or television
48 reception, detectable by any neighbors;

1 g. the activity does not generate any solid waste or sewage
2 discharge, in volume or type, that is not normally associated with
3 residential use in the neighborhood; and

4 h. the activity does not involve any illegal activity.

5 In the case of a dwelling unit that is part of a common interest
6 ownership community, which is a community in which at least
7 some of the property is owned in common by all of the residents,
8 the provisions of this section shall not be deemed to supersede any
9 deed restriction, covenant, agreement, master deed, by-laws, or
10 other documents that prohibit a family home business within a
11 dwelling unit.

12 A municipality shall not be required to amend or modify an
13 existing ordinance pertaining to family home businesses so long as
14 no portion of the ordinance is in conflict with the provisions of
15 P.L. , c. (C.) (pending before the Legislature as this bill).

16
17 4. In accordance with the purposes of this act, a municipality
18 may establish, pursuant to ordinance:

19 a. standards that will apply in residential districts concerning
20 the customary volume of invitees or guests;

21 b. standards for the volume of delivery or truck traffic that will
22 be deemed acceptable in residential districts.

23 Any standards established pursuant to this section shall apply to
24 all residences within the district.

25
26 5. A municipality pursuant to ordinance, may establish
27 limitations for, or prohibit entirely, any family home businesses,
28 including but not limited to those involving manufacturing,
29 warehousing, retailing, or providing services, that it deems would
30 be incompatible with the residential zones in which they are
31 located. The types of activities or services prohibited or limited
32 shall be set forth in detail in the ordinance.

33
34 6. The provisions of this act shall not be construed as limiting
35 in any manner the powers of a municipality to protect the health,
36 safety and welfare of its residents, including the investigation and
37 elimination of nuisances.

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39 7. This act shall take effect on the first day of the sixth month
40 next following enactment.

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43 STATEMENT

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45 This bill would permit a family home business to exist in a
46 residential zone as an accessory use and not require a use variance
47 pursuant to section 57 of P.L.1975, c.291 (C.40:55D-70), provided
48 that the following conditions are met:

- 1 (1) the activity is compatible with the residential use of the
2 property and surrounding residential uses;
- 3 (2) the activity employs no employees other than family
4 members residing in the dwelling or unit unless otherwise provided
5 by ordinance;
- 6 (3) the volume of invitees or guests who visit the residential
7 dwelling or unit is not in excess of what is customary for residential
8 use in the neighborhood;
- 9 (4) there is no outside appearance of a family home business
10 including, but not limited to, parking, signs or lights;
- 11 (5) the volume of deliveries or truck and other vehicular traffic
12 is not in excess of what is normally associated with residential use
13 in the neighborhood;
- 14 (6) the activity uses no equipment or process that creates noise,
15 vibration, glare, fumes, odors, or electrical or electronic
16 interference, including interference with radio or television
17 reception, detectable by any neighbors;
- 18 (7) the activity does not generate any solid waste or sewage
19 discharge, in volume or type, which is not normally associated with
20 residential use in the neighborhood; and
- 21 (8) the activity does not involve any illegal activity.

22 In addition, the bill also provides that:

- 23 • the bylaws or deed restrictions pertaining to any common
24 interest ownership community will not be deemed to be
25 superseded by the bill's provisions;
- 26 • a municipality shall not be required to amend an existing
27 ordinance pertaining to family home businesses provided
28 that the ordinance does not contradict the provisions of the
29 bill;
- 30 • a municipality, by ordinance, may establish standards that
31 will apply in residential districts concerning the customary
32 volume of invitees or guests and standards for the volume of
33 delivery or truck traffic that will be deemed acceptable in
34 residential districts; and
- 35 • a municipality will retain the power to regulate those certain
36 warehousing, retailing, and manufacturing activities and
37 services it wishes to limit or prohibit in residential zones.