AN ACT

To repeal sections 196.298 and 442.404, RSMo, and to enact in lieu thereof nine new sections relating to the use of private property.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 196.298 and 442.404, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 64.008, 65.710, 71.990, 89.500, 196.298, 260.295, 436.337, 442.404, and 535.012, to read as follows:

64.008. 1. As used in this section, the term "home-based work" means any lawful occupation performed by a resident within a residential home or accessory structure, which is clearly incidental and secondary to the use of the dwelling unit for residential purposes and does not change the residential character of the residential building or adversely affect the character of the surrounding neighborhood.

2. A zoning ordinance or regulation adopted pursuant to this chapter that regulates home-based work shall not:

   (1) Prohibit mail order or telephone sales for home-based work;

   (2) Prohibit service by appointment within the home or accessory structure;

   (3) Prohibit or require structural modifications to the home or accessory structure;

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.
3. A zoning ordinance or regulation adopted pursuant to this chapter that regulates home-based work shall not contain provisions that explicitly restrict or prohibit a particular occupation.

4. The application of this section does not supersede any deed restriction, covenant, or agreement restricting the use of land nor any master deed, by law or other document applicable to a common interest ownership community.

65.710. 1. As used in this section, the term "home-based work" means any lawful occupation performed by a resident within a residential home or accessory structure, which is clearly incidental and secondary to the use of the dwelling unit for residential purposes and does not change the residential character of the residential building or adversely affect the character of the surrounding neighborhood.

2. A zoning ordinance or regulation adopted pursuant to this chapter that regulates home-based work shall not:

   (1) Prohibit mail order or telephone sales for home-based work;

   (2) Prohibit service by appointment within the home or accessory structure;

   (3) Prohibit or require structural modifications to the home or accessory structure;

   (4) Restrict the hours of operation for home-based work; or

   (5) Restrict storage or the use of equipment that does not produce effects outside the home or accessory structure.
3. A zoning ordinance or regulation adopted pursuant to this chapter that regulates home-based work shall not contain provisions that explicitly restrict or prohibit a particular occupation.

4. The application of this section does not supersede any deed restriction, covenant, or agreement restricting the use of land nor any master deed, bylaw or other document applicable to a common interest ownership community.

71.990. 1. As used in this section, the following terms mean:

(1) "Goods", any merchandise, equipment, products, supplies, or materials;

(2) "Home-based business", any business operated in a residential dwelling that manufactures, provides, or sells goods or services and that is owned and operated by the owner or tenant of the residential dwelling.

2. Any person who resides in a residential dwelling may use the residential dwelling for a home-based business unless such use is restricted by:

(1) Any deed restriction, covenant, or agreement restricting the use of land; or

(2) Any master deed, bylaw, or other document applicable to a common-interest ownership community.

3. Except as prescribed under subsection 4 of this section, a political subdivision shall not prohibit the operation of a no-impact, home-based business or otherwise require a person to apply for, register for, or obtain any permit, license, variance, or other type of prior approval from the political subdivision to operate a no-impact, home-based business. For the purposes of this section, a home-based business qualifies as a no-impact, home-based business if:
(1) The total number of employees and clients on-site at one time does not exceed the occupancy limit for the residential dwelling; and

(2) The activities of the business:

(a) Are limited to the sale of lawful goods and services;

(b) May involve having more than one client on the property at one time;

(c) Do not generate on-street parking or cause a substantial increase in traffic through the residential area;

(d) Occur inside the residential dwelling or in the yard of the residential dwelling;

(e) Are not visible from the street; and

(f) Do not violate any narrowly tailored regulation established under subsection 4 of this section.

4. A political subdivision may establish reasonable regulations on a home-based business if the regulations are narrowly tailored for the purpose of:

(1) Protecting the public health and safety, including regulations related to fire and building codes, health and sanitation, transportation or traffic control, solid or hazardous waste, pollution, and noise control; or

(2) Ensuring that the business activity is compliant with state and federal law and paying applicable taxes.

5. No political subdivision shall require a person, as a condition of operating a home-based business, to:

(1) Rezone the property for commercial use;

(2) Obtain a home-based business license or other general business license; or

(3) Install or equip fire sprinklers in a single-family detached residential dwelling or any residential dwelling with no more than two dwelling units.
6. Whether a regulation complies with this section is a judicial question, and the political subdivision that enacts the regulation shall establish by clear and convincing evidence that the regulation complies with this section.

89.500. 1. As used in this section, the term "home-based work" means any lawful occupation performed by a resident within a residential home or accessory structure, which is clearly incidental and secondary to the use of the dwelling unit for residential purposes and does not change the residential character of the residential building or adversely affect the character of the surrounding neighborhood.

2. A zoning ordinance or regulation adopted pursuant to this chapter that regulates home-based work shall not:
   (1) Prohibit mail order or telephone sales for home-based work;
   (2) Prohibit service by appointment within the home or accessory structure;
   (3) Prohibit or require structural modifications to the home or accessory structure;
   (4) Restrict the hours of operation for home-based work; or
   (5) Restrict storage or the use of equipment that does not produce effects outside the home or accessory structure.

3. A zoning ordinance or regulation adopted pursuant to this chapter that regulates home-based work shall not contain provisions that explicitly restrict or prohibit a particular occupation.

4. The application of this section does not supersede any deed restriction, covenant, or agreement restricting the
As used in this section, the following terms shall mean:

1. "Baked good," includes cookies, cakes, breads, danish, donuts, pastries, pies, and other items that are prepared by baking the item in an oven. A baked good does not include a potentially hazardous food item as defined by department rule;

2. "Cottage food production operation", an individual operation out of the individual's home who:
   a. Produces a baked good, a canned jam or jelly, or a dried herb or herb mix for sale at the individual's home; and
   b. Has an annual gross income of fifty thousand dollars or less from the sale of food described in paragraph (a) of this subdivision; and
   c. Sells the food produced under paragraph (a) of this subdivision only directly to consumers;

3. "Department", the department of health and senior services;

4. "Home", a primary residence that contains a kitchen and appliances designed for common residential usage.

A cottage food production operation is not a food service establishment and shall not be subject to any health or food code laws or regulations of the state or department other than this section and rules promulgated thereunder for a cottage food production operation.

3. (1) A local health department shall not regulate the production of food at a cottage food production operation.
(2) Each local health department and the department shall maintain a record of a complaint made by a person against a cottage food production operation.

4. The department shall promulgate rules requiring a cottage food production operation to label all of the foods described in this section which the operation intends to sell to consumers. The label shall include the name and address of the cottage food production operation and a statement that the food is not inspected by the department or local health department.

5. A cottage food production operation shall not sell any foods described in this section through the internet unless both the cottage food production operation and the purchaser are located in this state.

6. Nothing in this section shall be construed to prohibit the authority of the department of health and senior services or local health departments to conduct an investigation of a food-borne disease or outbreak.

260.295. No building code adopted by a political subdivision shall prohibit the use of refrigerants that are approved for use under the provisions of 42 U.S.C. Section 7671k or the regulations promulgated thereunder, provided any related equipment is installed in accordance with the provisions of 42 U.S.C. Section 7671k or the regulations promulgated thereunder. Any provision of a building code that violates this section shall be null and void.

436.337. Notwithstanding any other provision of law to the contrary, no political subdivision shall require a property owner to have a home inspection conducted of a residential property regarding the sale of the property. This section shall not apply to any inspection requirement of new construction, occupancy permits, septic systems, or
fire protection district life safety programs enforced for
single family or multi-family dwelling occupancy changes.

442.404. 1. As used in this section, the following
terms shall mean:

(1) "Homeowners' association", a nonprofit corporation
or unincorporated association of homeowners created under a
declaration to own and operate portions of a planned
community or other residential subdivision that has the
power under the declaration to assess association members to
pay the costs and expenses incurred in the performance of
the association's obligations under the declaration or
tenants-in-common with respect to the ownership of common
ground or amenities of a planned community or other
residential subdivision. This term shall not include a
condominium unit owners' association as defined and provided
for in subdivision (3) of section 448.1-103 or a residential
cooperative;

(2) "Political signs", any fixed, ground-mounted
display in support of or in opposition to a person seeking
elected office or a ballot measure excluding any materials
that may be attached;

(3) "Solar panel or solar collector", a device used to
collect and convert solar energy into electricity or thermal
energy, including but not limited to photovoltaic cells or
panels, or solar thermal systems.

2. (1) No deed restrictions, covenants, or similar
binding agreements running with the land shall prohibit or
have the effect of prohibiting the display of political
signs.

[3.] (2) A homeowners' association has the authority
to adopt reasonable rules, subject to any applicable
statutes or ordinances, regarding the time, size, place, number, and manner of display of political signs.

[4.] (3) A homeowners' association may remove a political sign without liability if such sign is placed within the common ground, threatens the public health or safety, violates an applicable statute or ordinance, is accompanied by sound or music, or if any other materials are attached to the political sign. Subject to the foregoing, a homeowners' association shall not remove a political sign from the property of a homeowner or impose any fine or penalty upon the homeowner unless it has given such homeowner three days after providing written notice to the homeowner, which notice shall specifically identify the rule and the nature of the violation.

3. (1) No deed restrictions, covenants, or similar binding agreements running with the land shall limit or prohibit, or have the effect of limiting or prohibiting, the installation of solar panels or solar collectors on the rooftop of any property or structure.

   (2) A homeowners' association may adopt reasonable rules, subject to any applicable statutes or ordinances, regarding the placement of solar panels or solar collectors to the extent that those rules do not prevent the installation of the device, impair the functioning of the device, restrict the use of the device, or adversely affect the cost or efficiency of the device.

   (3) The provisions of this subsection shall apply only with regard to rooftops that are owned, controlled, and maintained by the owner of the individual property or structure.

4. (1) No deed restrictions, covenants, or similar binding agreements running with the land shall prohibit or
have the effect of prohibiting the display of sale signs on
the property of a homeowner or property owner including, but
not limited to, any yard on the property, or nearby street
corners.

(2) A homeowners' association has the authority to
adopt reasonable rules, subject to any applicable statutes
or ordinances, regarding the time, size, place, number, and
manner of display of sale signs.

(3) A homeowners' association may remove a sale sign
without liability if such sign is placed within the common
ground, threatens the public health or safety, violates an
applicable statute or ordinance, is accompanied by sound or
music, or if any other materials are attached to the sale
sign. Subject to the foregoing, a homeowners' association
shall not remove a sale sign from the property of a
homeowner or property owner or impose any fine or penalty
upon the homeowner or property owner unless it has given
such homeowner or property owner three business days after
the homeowner or property owner receives written notice from
the homeowners' association, which notice shall specifically
identify the rule and the nature of the alleged violation.

535.012. No county, municipality, or other political
subdivision shall impose or enforce a moratorium on eviction
proceedings unless specifically authorized by state law.