

BILL ANALYSIS

Senate Research Center
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S.B. 149
By: Springer
Business & Commerce
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

This bill has a clear purpose: to encourage the free flow of intra-state commerce within this great state of Texas.

Concerned parties in Texas, including many small businesses, have expressed that a patchwork of dissimilar local government ordinances, rules, and regulations has impaired the free flow of statewide commerce and resulted in regulatory barriers and inefficient regulatory burdens on specific commercial activity conducted in more than one municipality.

Regulation that frustrates the free flow of intra-state commerce is problematic because it raises consumers' costs and impedes job creation. Chaotic local regulation also limits the expansion of the tax base and thus reduces funding for necessary services. In short, it impairs liberty.

The bill seeks to address these concerns by prohibiting municipalities from adopting or enforcing regulatory requirements on the purchase or sale of goods or services by a person who engages in such commercial activity in more than one municipality, subject to certain exceptions to preserve municipalities' authority to regulate inherently local concerns.

As proposed, S.B. 149 amends current law relating to the authority of a municipality to regulate statewide commerce.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 51, Local Government Code, by adding Section 51.004, as follows:

Sec. 51.004. REGULATION OF UNIQUE LOCAL CONCERNS AUTHORIZED; REGULATION OF STATEWIDE COMMERCE PROHIBITED. (a) Defines "citizens' physical safety," "commercial activity," "regulation of local land use," and "uniquely local concern."

(b) Prohibits a municipality, notwithstanding any other law and except as provided by Subsection (c), from adopting or enforcing an ordinance, regulation, or other measure that imposes a restriction, condition, or regulation on commercial activity. Provides that the prohibited action under this subsection impairs the free flow of commerce across the state and is inconsistent with the general law of this state.

(c) Authorizes a municipality to adopt and enforce an ordinance, regulation, or other measure that:

(1) is essential to directly regulating a uniquely local concern that the governing body of the municipality determines cannot be of similar

concern in another municipality because of the uniqueness of the local concern;

(2) is essential to necessary regulation of local land use;

(3) is essential to protecting citizens' physical safety;

(4) is expressly authorized to be adopted by a state statute; or

(5) requires nondiscrimination in the provision of employment or service to any person on the basis of any state or federally protected class.

(d) Requires a municipality acting under Subsection (c)(1) to contemporaneously adopt a detailed written statement describing the uniquely local concern and the basis for the municipality's determination that the concern cannot be of similar concern in another municipality.

(e) Provides that for purposes of Subsection (c)(4), a state statute that provides the statute does not preempt or affect municipal regulatory authority is prohibited from being construed to expressly authorize an ordinance, regulation, or other measure.

SECTION 2. Effective date: September 1, 2023.