

By: Schofield

H.B. No. 71

A BILL TO BE ENTITLED

AN ACT

relating to compensation for damages caused by governmental actions that close or effectively close businesses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle A, Title 10, Government Code, is amended by adding Chapter 2010 to read as follows:

CHAPTER 2010. GOVERNMENTAL ACTIONS THAT CLOSE BUSINESSES

Sec. 2010.001. DEFINITION. In this chapter:

(1) "Governmental action" means an order, ordinance, or other regulation by a governmental entity, including an executive or local order issued under Chapter 418 during a declared state of disaster.

(2) "Governmental entity" means the state or a political subdivision of the state.

Sec. 2010.002. COMPENSATION FOR GOVERNMENTAL ACTION. (a) Except as provided by Subsection (b), a business owner is entitled to compensation from a governmental entity for losses caused to the owner's business by a governmental action taken by the governmental entity that:

(1) closes a business permanently or temporarily; or

(2) effectively closes a business by:

(A) limiting the business's operations to the extent that the business owner cannot effectively maintain the business; or

1 (B) ordering customers not to patronize the
2 business.

3 (b) A business owner is not entitled to compensation under
4 Subsection (a) if the governmental entity can demonstrate that the
5 primary reason for the governmental action was:

6 (1) a judicial finding that the business:

7 (A) was a nuisance under Chapter 125, Civil
8 Practice and Remedies Code, Chapter 341 or 343, Health and Safety
9 Code, or common law; or

10 (B) violated other law; or

11 (2) a finding that the business or owner failed to:

12 (A) acquire or maintain a license required by the
13 governmental entity for the business;

14 (B) file or maintain records required by the
15 secretary of state; or

16 (C) pay taxes.

17 Sec. 2010.003. ACTION AGAINST GOVERNMENTAL ENTITY. (a) A
18 business owner may bring an action against a governmental entity
19 for compensation for damages caused to the business by a
20 governmental action described by Section 2010.002.

21 (b) An action under this chapter may be brought in a
22 district court in any county in which the business is located.

23 Sec. 2010.004. WAIVER OF GOVERNMENTAL IMMUNITY; PERMISSION
24 TO SUE. (a) Sovereign and governmental immunity to suit and from
25 liability is waived and abolished to the extent of liability
26 created by this chapter.

27 (b) This section does not authorize a person to execute a

1 judgment against property of the governmental entity.

2 SECTION 2. The changes in law made by this Act apply only to
3 a governmental action taken on or after the effective date of this
4 Act.

5 SECTION 3. This Act takes effect on the 91st day after the
6 last day of the legislative session.