

By: Burrows

H.B. No. 2127

A BILL TO BE ENTITLED

AN ACT

relating to state preemption of certain municipal and county regulation.

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

SECTION 1. This Act shall be known as the Texas Regulatory Consistency Act.

SECTION 2. The legislature finds that:

(1) the State of Texas has historically been the exclusive regulator of many aspects of commerce and trade in this state;

(2) in recent years, several local jurisdictions have sought to establish their own regulations of commerce that are different than the state's regulations; and

(3) the local regulations have led to a patchwork of regulations across this state that provide inconsistency.

SECTION 3. The purpose of this Act is to provide regulatory consistency across this state and return the historic exclusive regulatory powers to the state where those powers belong.

SECTION 4. Chapter 1, Agriculture Code, is amended by adding Section 1.004 to read as follows:

Sec. 1.004. FIELD PREEMPTION. The provisions of this code preclude municipalities or counties from adopting or enforcing an ordinance, order, rule, or policy in a field occupied by a provision of this code unless explicitly authorized by statute. A municipal

1 or county ordinance, order, rule, or policy that violates this  
2 section is void and unenforceable.

3 SECTION 5. Title 5, Civil Practice and Remedies Code, is  
4 amended by adding Chapter 102A to read as follows:

5 CHAPTER 102A. MUNICIPAL AND COUNTY LIABILITY FOR PREEMPTED  
6 REGULATION

7 Sec. 102A.001. LIABILITY FOR CERTAIN PREEMPTED REGULATION.

8 Any person, including a taxpayer, adversely affected by a municipal  
9 or county ordinance, order, rule, or policy adopted or enforced by a  
10 municipality, county, municipal official or county official acting  
11 in their official capacity in violation of any of the following  
12 provisions has standing to bring and may bring an action against the  
13 municipality, county or official:

- 14 (1) Section 1.004, Agriculture Code;  
15 (2) Section 1.004, Finance Code;  
16 (3) Section 30.005, Insurance Code;  
17 (4) Section 1.005, Labor Code;  
18 (5) Section 1.003, Natural Resources Code; or  
19 (6) Section 1.004, Occupations Code.

20 Sec. 102A.002. REMEDIES. A claimant is entitled to recover  
21 in an action brought under this chapter:

- 22 (1) declaratory and injunctive relief; and  
23 (2) costs and reasonable attorney's fees.

24 Sec. 102A.003. IMMUNITY WAIVER AND PROHIBITED DEFENSES.

25 (a) Governmental immunity, official immunity, and qualified  
26 immunity, as applicable, are waived to the extent of liability  
27 created by this chapter.

1       (b) Official and qualified immunity may not be asserted as a  
2 defense in an action brought under this chapter.

3       Sec. 102A.004. VENUE. Notwithstanding any other law,  
4 including Chapter 15, a claimant may bring an action under this  
5 chapter in any county in this state. If the action is brought in a  
6 venue authorized by this section, the action may not be transferred  
7 to a different venue without the written consent of all parties.

8       Section 102A.005. PERSON. For purposes of this section  
9 "person" means an individual, corporation, business trust, estate,  
10 trust, partnership, limited liability company, association, joint  
11 venture, government, governmental subdivision, agency or  
12 instrumentality, public corporation, or any legal or commercial  
13 entity, or protected series or registered series of a for-profit  
14 entity.

15       SECTION 6. Chapter 1, Finance Code, is amended by adding  
16 Section 1.004 to read as follows:

17       Sec. 1.004. FIELD PREEMPTION. The provisions of this code  
18 preclude municipalities and counties from adopting or enforcing an  
19 ordinance, order, rule, or policy in a field occupied by a provision  
20 of this code unless explicitly authorized by statute. A municipal  
21 or county ordinance, order, rule, or policy that violates this  
22 section is void and unenforceable.

23       SECTION 7. Chapter 30, Insurance Code, is amended by adding  
24 Section 30.005 to read as follows:

25       Sec. 30.005. FIELD PREEMPTION. The provisions of this code  
26 preclude municipalities and counties from adopting or enforcing an  
27 ordinance, order, rule, or policy in a field occupied by a provision

1 of this code unless explicitly authorized by statute. A municipal  
2 or county ordinance, order, rule, or policy that violates this  
3 section is void and unenforceable.

4 SECTION 8. Chapter 1, Labor Code, is amended by adding  
5 Section 1.005 to read as follows:

6 Sec. 1.005. FIELD PREEMPTION. The provisions of this code  
7 preclude municipalities and counties from adopting or enforcing an  
8 ordinance, order, rule, or policy in a field occupied by a provision  
9 of this code unless explicitly authorized by statute. A municipal  
10 or county ordinance, order, rule, or policy that violates this  
11 section is void and unenforceable.

12 SECTION 9. Chapter 1, Natural Resources Code, is amended by  
13 adding Section 1.003 to read as follows:

14 Sec. 1.003. FIELD PREEMPTION. The provisions of this code  
15 preclude municipalities and counties from adopting or enforcing an  
16 ordinance, order, rule, or policy in a field occupied by a provision  
17 of this code unless explicitly authorized by statute. A municipal  
18 or county ordinance, order, rule, or policy that violates this  
19 section is void and unenforceable.

20 SECTION 10. Chapter 1, Occupations Code, is amended by  
21 adding Section 1.004 to read as follows:

22 Sec. 1.004. FIELD PREEMPTION. The provisions of this code  
23 preclude municipalities and counties from adopting or enforcing an  
24 ordinance, order, rule, or policy in a field occupied by a provision  
25 of this code unless explicitly authorized by statute. A municipal  
26 or county ordinance, order, rule, or policy that violates this  
27 section is void and unenforceable.

1           SECTION 11. Chapter 102A, Civil Practice and Remedies Code,  
2 as added by this Act, applies only to a cause of action that accrues  
3 on or after the effective date of this Act.

4           SECTION 12. This Act takes effect immediately if it  
5 receives a vote of two-thirds of all the members elected to each  
6 house, as provided by Section 39, Article III, Texas Constitution.  
7 If this Act does not receive the vote necessary for immediate  
8 effect, this Act takes effect September 1, 2023.