

By: Huffines

S.B. No. 1673

A BILL TO BE ENTITLED

AN ACT

relating to the preemption of a local law by state law.

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

SECTION 1. Chapter 1, Local Government Code, is amended by adding Section 1.006 to read as follows:

Sec. 1.006. STATE LAW PREEMPTION. (a) In this section:

(1) "local government" means a county, municipality, or other political subdivision of this state; and

(2) "license" has the meaning assigned by Section 2001.003, Government Code.

(b) The Legislature finds that no local government shall contradict or undermine a state law, rule, regulation, permit, or license.

(c) A local government shall not adopt or enforce a local ordinance, rule, or regulation that regulates a particular subject if a state law preempts regulation of the subject by a local government.

(d) A local government shall not adopt or enforce a local ordinance, rule, or regulation that conflicts with, is more stringent than, or is inconsistent with a state law, rule, regulation, permit, or a license.

(e) A local government shall not regulate an activity performed under a license issued by a state agency in such a manner that the activity effectively cannot reasonably be performed within

1 the limits or extraterritorial jurisdiction of the municipality.

2 (f) Governmental immunity to suit and liability is waived
3 and abolished to the extent of liability for the relief allowed
4 under Subsections (i) and (j) for a violation of this section.

5 (g) A person who is adversely affected by a violation of
6 this section may file suit against the local government. The
7 attorney general may file suit against a local government to
8 enforce this section.

9 (h) A person filing suit under Subsection (e) may choose the
10 venue for the suit from either the district court of Travis County
11 or the county in which the violation occurred.

12 (i) A court may award a plaintiff in a civil action brought
13 under this section:

14 (1) declaratory relief under Chapter 37, Civil
15 Practice and Remedies Code;

16 (2) injunctive relief to prevent the threatened
17 violation or continued violation; and,

18 (3) actual damages.

19 (j) If a plaintiff prevails in a suit brought under this
20 section, a court shall award to the plaintiff reasonable attorney's
21 fees, court costs, and other reasonable expenses required in
22 bringing the action.

23 SECTION 2. Section 1.006, Local Government Code, as added
24 by this Act, applies to an ordinance, rule, or regulation adopted by
25 a local government before, on, or after the effective date of this
26 Act.

27 SECTION 3. This Act takes effect September 1, 2015.