

By: Estes

S.B. No. 1806

A BILL TO BE ENTITLED

AN ACT

relating to limits on the regulatory authority of a municipality.

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

SECTION 1. Subtitle A, Title 7, Local Government Code, is amended by adding Chapter 230 to read as follows:

CHAPTER 230. PREEMPTION OF MUNICIPAL REGULATORY AUTHORITY

Sec. 230.001. PREEMPTION. (a) "License" has the meaning assigned by Section 2001.003, Government Code.

(b) Any municipal charter provision, ordinance, rule, or regulation that conflicts with any provision of state law is null and void.

(c) A municipal charter provision, ordinance, rule or regulation conflicts with state law if:

(1) it is a type of ordinance expressly preempted by state law;

(2) it regulates an area in which state law is pervasive and occupies the field;

(3) it frustrates the purpose of state law;

(4) there is no reasonable construction of the municipal ordinance, rule, or regulation under which both the ordinance, rule, or regulation and the state law in question can be given full effect; or

(5) it regulates an activity performed under a license issued by the state and either actually or effectively prohibits a

1 person from performing the licensed activity.

2 (d) Subsection (c) is not intended to be an exhaustive list  
3 of the ways in which a municipal charter provision, ordinance,  
4 rule, or regulation may conflict with state law.

5 (e) The attorney general may bring an action in the name of  
6 the state to enforce the provisions of this section.

7 Sec. 230.002. BAG BANS. A municipal charter provision,  
8 ordinance, rule or regulation may not:

9 (a) ban the provision or sale of a single-use or carry-out  
10 paper or plastic bag; or

11 (b) require the payment of a fee for a single-use or  
12 carry-out paper or plastic bag.

13 SECTION 2. This Act takes effect September 1, 2015.