

By: Canales

H.B. No. 3403

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the authority of a municipality to require that certain  
3 oil and gas operations be set back a certain distance from  
4 child-care facilities and schools.

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

6 SECTION 1. Section 81.0523(a), Natural Resources Code, is  
7 amended by amending Subdivision (1) and adding Subdivisions (1-a)  
8 and (3) to read as follows:

9 (1) "Child-care facility" has the meaning assigned by  
10 Section 42.002, Human Resources Code.

11 (1-a) "Commercially reasonable" means a condition  
12 that would allow a reasonably prudent operator to fully,  
13 effectively, and economically exploit, develop, produce, process,  
14 and transport oil and gas, as determined based on the objective  
15 standard of a reasonably prudent operator and not on an  
16 individualized assessment of an actual operator's capacity to act.

17 (3) "Private school" means a private school, including  
18 a parochial school, that:

19 (A) offers a course of instruction for students  
20 in one or more grades from kindergarten through grade 12; and

21 (B) has more than 100 students enrolled and  
22 attending courses at a single location.

23 SECTION 2. Section 81.0523(c), Natural Resources Code, is  
24 amended to read as follows:

1 (c) The authority of a municipality or other political  
2 subdivision to regulate an oil and gas operation is expressly  
3 preempted, except that a municipality may enact, amend, or enforce  
4 an ordinance or other measure that is not otherwise preempted by  
5 state or federal law and:

6 (1) that:

7 (A) regulates only aboveground activity related  
8 to an oil and gas operation that occurs at or above the surface of  
9 the ground, including a regulation governing fire and emergency  
10 response, traffic, lights, or noise, or imposing notice or  
11 reasonable setback requirements;

12 (B) [~~(2)~~] is commercially reasonable; and

13 (C) [~~(3)~~] does not effectively prohibit an oil  
14 and gas operation conducted by a reasonably prudent operator; or

15 (2) that regulates or prohibits the drilling of a new  
16 oil or gas well located within 1,500 feet of the property line of a  
17 child-care facility, private school, or primary or secondary public  
18 school [~~and~~

19 [~~(4) is not otherwise preempted by state or federal~~  
20 ~~law~~].

21 SECTION 3. This Act takes effect immediately if it receives  
22 a vote of two-thirds of all the members elected to each house, as  
23 provided by Section 39, Article III, Texas Constitution. If this  
24 Act does not receive the vote necessary for immediate effect, this  
25 Act takes effect September 1, 2017.