86R10555 NC-F

By:  Fallon S.B. No. 2013

A BILL TO BE ENTITLED

AN ACT

relating to the preemption of municipal and county regulatory authority.

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

SECTION 1.  Subtitle C, Title 7, Local Government Code, is amended by adding Chapter 247 to read as follows:

CHAPTER 247. PREEMPTION OF MUNICIPAL AND COUNTY REGULATORY AUTHORITY

Sec. 247.001.  DEFINITIONS. In this chapter:

(1)  "License" has the meaning assigned by Section 2001.003, Government Code.

(2)  "Regulation" includes a charter provision, ordinance, order, or rule.

Sec. 247.002.  PREEMPTION. (a) A municipality or county may not adopt or enforce a regulation that conflicts with a state law. A regulation that conflicts with a state law is void.

(b)  For purposes of this section, a municipal or county regulation that conflicts with a state law includes a regulation:

(1)  that is a type of regulation expressly preempted by the state law;

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

(3)  that frustrates the purpose of the state law;

(4)  for which there is no reasonable construction under which the regulation and the state law can be given full effect; or

(5)  that regulates an activity performed under a license issued by the state and actually or effectively prohibits a person from performing the licensed activity.

Sec. 247.003.  ENFORCEMENT BY ATTORNEY GENERAL. (a) The attorney general may bring an action in the name of the state for injunctive or declaratory relief for a violation of this chapter.

(b)  The attorney general may file the action in a district court in:

(1)  Travis County;

(2)  if the action is brought against a municipality, the county in which the municipality is primarily located; or

(3)  the county against which the action is brought.

SECTION 2.  This Act takes effect September 1, 2019.