

By: Swanson

H.B. No. 3734

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

1 under which the regulation and the state law can be given full
2 effect; or

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

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

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

11 (1) Travis County;

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

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

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