

By: Springer

H.B. No. 3899

A BILL TO BE ENTITLED

AN ACT

relating to the encouragement of intra-state commerce.

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

SECTION 1. Subchapter A, Chapter 51, Local Government Code, is amended by adding Section 51.004 to read as follows:

Sec. 51.004. REGULATION OF UNIQUE LOCAL CONCERNS AUTHORIZED; OTHER REGULATION OF STATE-WIDE COMMERCE PROHIBITED.

(a) In this section:

(1) "commercial activity" means the purchase or sale of goods or services of any kind or quantity, conducted by a person who engages in such activity in more than one municipality in this state;

(2) "uniquely local concern" means a particularized concern unique to the physical conditions in the municipality;

(3) "regulation of local land use" means taking action consistent with Chapters 211-214 and includes adoption and enforcement of building construction standards and permitting, barring, or limiting the use of designated property for one or more designated types or categories of commercial activity, but shall not include any restriction, condition, or regulation of the goods, services, transactions, operations, purchaser-seller interactions, employment practices, finances, advertising, marketing, or any other conduct or practices by a person engaging in a commercial activity; and

1 (4) "citizens' physical safety" means protection of
2 citizens from physical bodily injury inflicted by physical contact
3 with another person, animal, or physical condition on real
4 property.

5 (b) Except as authorized by Subsection (c), the governing
6 body of a municipality may not adopt or enforce an ordinance, rule,
7 or police regulation that imposes a restriction, condition, or
8 regulation on commercial activity.

9 (c) The governing body may adopt and enforce an ordinance,
10 rule, or police regulation:

11 (1) essential to directly regulating a uniquely local
12 concern that the governing body determines cannot be of similar
13 concern in another municipality because of the uniqueness of the
14 local concern;

15 (2) essential to necessary regulation of local land
16 use;

17 (3) essential to protecting citizens' physical safety;
18 or

19 (4) that it is expressly authorized to adopt by a
20 statute of this state.

21 (d) A governing body acting under Section (c)(1) must
22 contemporaneously adopt a detailed written statement describing
23 the uniquely local concern and the basis for its determination that
24 the concern cannot be of similar concern in another municipality.

25 (e) An ordinance, rule, or police regulation prohibited by
26 subsection (b) impairs the free flow of commerce across the state
27 and is inconsistent with the general law of this state.

1 (f) A commercial activity that is subject to regulation by
2 this state or the United States cannot present any uniquely local
3 concern.

4 (g) A state statute that states it does not preempt
5 municipal regulatory authority or does not affect municipal
6 regulatory authority shall not be construed under Subsection (c)(4)
7 to expressly authorize any ordinance, rule, or police regulation.

8 SECTION 2. EFFECTIVE DATE. This Act takes effect
9 immediately if it receives a vote of two-thirds of all the members
10 elected to each house, as provided by Section 39, Article III, Texas
11 Constitution. If this Act does not receive the vote necessary for
12 immediate effect, this Act takes effect September 1, 2019.