

By: Fallon

S.B. No. 1901

A BILL TO BE ENTITLED

1 AN ACT

2 Relating to the encouragement of intra-state commerce.

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

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

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

8 (a) In this section:

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

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

15 (3) "regulation of local land use" means taking action  
16 consistent with Chapters 211-214 and includes adoption and  
17 enforcement of building construction standards and permitting,  
18 barring, or limiting the use of designated property for one or more  
19 designated types or categories of commercial activity, but shall  
20 not include any restriction, condition, or regulation of the goods,  
21 services, transactions, operations, purchaser-seller  
22 interactions, employment practices, finances, advertising,  
23 marketing, or any other conduct or practices by a person engaging in  
24 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.