

By: Swanson

H.B. No. 610

A BILL TO BE ENTITLED

AN ACT

relating to judicial review of certain local laws applicable to state license holders.

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

SECTION 1. This Act may be cited as the Regulations with Economic Impact in Need of Security (REINS) Act.

SECTION 2. The purpose of this Act is to provide a judicial remedy to ensure that a state license holder has the right to engage in an occupation or business activity authorized by and regulated under state law without burdensome or inconsistent local regulation of the state license holder's occupation or lawful business activities.

SECTION 3. Title 2, Occupations Code, is amended by adding Chapter 60 to read as follows:

CHAPTER 60. JUDICIAL REVIEW OF CERTAIN LOCAL LAWS AFFECTING

LICENSE HOLDERS

Sec. 60.001. DEFINITIONS. In this chapter:

(1) "Local law" means an ordinance, rule, regulation, or other measure adopted by the governing body of a municipality that establishes requirements for, imposes restrictions on, or otherwise regulates the occupation or business activity of a license holder within the municipality or the municipality's extraterritorial jurisdiction.

(2) "License holder" means an individual or entity

1 that, under state law, in order to practice the individual's  
2 occupation or conduct the entity's business in this state, is  
3 required to obtain a license, permit, registration certificate, or  
4 other evidence of authority from, and is subject to regulation by, a  
5 state licensing authority.

6 (3) "State licensing authority" means a state agency,  
7 department, board, or commission or the executive or administrative  
8 officer of a state agency, department, board, or commission that  
9 issues a license, permit, registration certificate, or other  
10 evidence of authority to an individual or entity authorizing the  
11 individual to practice the individual's occupation or the entity to  
12 conduct the entity's business in this state.

13 Sec. 60.002. SUIT TO ENJOIN ENFORCEMENT OF CERTAIN LOCAL  
14 LAWS AFFECTING LICENSE HOLDERS. (a) A license holder subject to a  
15 local law may bring an action under this section to enjoin the  
16 enforcement of the local law if the local law:

17 (1) establishes requirements for, imposes  
18 restrictions on, or otherwise regulates the occupation or business  
19 activity of the license holder in a manner that is more stringent  
20 than the requirements, restrictions, and regulations imposed on the  
21 license holder under state law; or

22 (2) would result in an adverse economic impact on the  
23 license holder.

24 (b) A license holder must bring the action in a district  
25 court in:

26 (1) a county that includes any territory of the  
27 municipality that adopted the local law; or

1           (2) Travis County.

2           (c) The license holder bringing the action under this  
3 section must show by a preponderance of the evidence that the local  
4 law is a local law described by Subsection (a). The license holder  
5 may provide evidence regarding the adverse economic impact of  
6 similar local laws in other jurisdictions inside or outside of this  
7 state.

8           (d) If the license holder satisfies the burden of proof  
9 required by Subsection (c), the municipality defending the action  
10 has the burden of establishing by clear and convincing evidence  
11 that the local law:

12                   (1) does not conflict with state law; and

13                   (2) is necessary and narrowly tailored to protect  
14 against actual and specific harm to the public's health or safety.

15           (e) The court may grant any prohibitory or mandatory relief  
16 warranted by the facts, including a temporary restraining order,  
17 temporary injunction, or permanent injunction.

18           (f) If the license holder prevails in the action, the court  
19 shall award to the license holder court costs and reasonable and  
20 necessary attorney's fees to be paid by the municipality defending  
21 the action.

22           SECTION 4. This Act takes effect immediately if it receives  
23 a vote of two-thirds of all the members elected to each house, as  
24 provided by Section 39, Article III, Texas Constitution. If this  
25 Act does not receive the vote necessary for immediate effect, this  
26 Act takes effect September 1, 2021.