

BILL ANALYSIS

Senate Research Center

H.B. 2266
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Business & Commerce
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Local municipalities often pass local ordinances relating to occupational licensing that are more stringent than existing state law. This frequently results in small businesses being overburdened and economically hampered. H.B. 2266 seeks to address this issue by authorizing a license holder to bring an action to enjoin the enforcement of a local law that regulates the occupation or license holder's business activity in a manner that is more stringent than state law or that would result in an adverse economic impact on the license holder. A license holder would be required to prove that the regulation is more stringent or would result in adverse economic impact and would be able to present evidence for that purpose.

The burden of establishing that the local law does not conflict with that state law and is necessary and narrowly tailored to protect against actual harm to the public's health or safety would be on the municipality to prove. A court would be authorized to grant any prohibitory or mandatory relief warranted by the facts and required to award court costs and attorneys fees to the license holder if they prevail.

H.B. 2266 amends current law relating to judicial review of certain local laws applicable to state license holders.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Authorizes this Act to be cited as the Regulations with Economic Impact in Need of Scrutiny (REINS) Act.

SECTION 2. Provides that 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. Amends Title 2, Occupations Code, by adding Chapter 60, as follows:

CHAPTER 60. JUDICIAL REVIEW OF CERTAIN LOCAL LAWS AFFECTING LICENSE HOLDERS

Sec. 60.001. DEFINITIONS. Defines "local law," "license holder," and "state licensing authority."

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

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

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

(b) Requires a license holder to bring the action in a district court in a county that includes any territory of the municipality that adopted the local law or in Travis County.

(c) Requires the license holder bringing the action under this section to show by a preponderance of the evidence that the local law is a local law described by Subsection (a). Authorizes the license holder to provide evidence regarding the adverse economic impact of similar local laws in other jurisdictions inside or outside of this state.

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

(1) does not conflict with state law; and

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

(e) Authorizes the court to grant any prohibitory or mandatory relief warranted by the facts, including a temporary restraining order, temporary injunction, or permanent injunction.

(f) Requires the court, if the license holder prevails in the action, to award to the license holder court costs and reasonable and necessary attorney's fees to be paid by the municipality defending the action.

(g) Provides that this section does not apply to a local law that establishes requirements for, imposes restrictions on, or otherwise regulates:

(1) a sexually oriented business under Chapter 243 (Municipal and County Authority to Regulate Sexually Oriented Business), Local Government Code;

(2) a massage parlor as defined by Section 234.101 (Definitions), Local Government Code; or

(3) any conduct under Chapter 393 (Credit Services Organizations), Finance Code, and any conduct related to a credit services organization, as defined by Section 393.001 (Definitions), Finance Code, or a credit access business, as defined by Section 393.601 (Definitions), Finance Code, if the local law:

(A) was adopted before January 1, 2023; and

(B) would have been valid under the law as it existed before the date this chapter was enacted.

(h) Provides that, notwithstanding any other provision of this section:

(1) a license holder is prohibited from bringing an action under this section against a municipality if the license holder is an employee of the municipality; and

(2) an association of municipal employees who are license holders are prohibited from bringing an action under this section if the action relates to a local law governing the working conditions of those employees.

SECTION 4. Effective date: upon passage or September 1, 2023.