

BILL ANALYSIS

H.B. 2266
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Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

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.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 2266 amends the Occupations Code to authorize an occupational or business license holder to bring an action to enjoin the enforcement of a local law that regulates the license holder's occupation or business activity in a manner more stringent than state law or that would result in an adverse economic impact on the license holder. The bill does the following:

- requires the license holder to show by a preponderance of the evidence such stringent regulation or adverse impact;
- authorizes the license holder to provide evidence regarding the adverse economic impact of similar local laws in other jurisdictions inside or outside Texas;
- requires the license holder to bring the action in a district court in Travis County or in a county that includes any territory of the municipality that adopted the local law;
- places on the defending municipality the burden of establishing that the local law does not conflict with state law and is necessary and narrowly tailored to protect against actual and specific harm to the public's health or safety;
- authorizes the court to grant any prohibitory or mandatory relief warranted by the facts; and
- requires the court to award court costs and reasonable and necessary attorney's fees to be paid by the municipality to a license holder that prevails in the action.

H.B. 2266 establishes that its purpose 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 license holder's occupation or lawful business activities. The bill defines the following terms:

- "local law" as 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;
- "license holder" as an individual or entity that, under state law, in order to practice the individual's occupation or conduct the entity's business in Texas, is required to obtain a license, permit, registration certificate, or other evidence of authority from, and is subject to regulation by, a state licensing authority; and
- "state licensing authority" as a state agency, department, board, or commission or the executive or administrative officer of such an entity that issues a license, permit, registration certificate, or other evidence of authority to an individual or entity authorizing the individual to practice the individual's occupation or the entity to conduct the entity's business in Texas.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2023.