

1 AN ACT

2 relating to state preemption of and the effect of certain state or  
3 federal law on certain municipal and county regulation.

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

5 SECTION 1. This Act shall be known as the Texas Regulatory  
6 Consistency Act.

7 SECTION 2. The legislature finds that:

8 (1) the state has historically been the exclusive  
9 regulator of many aspects of commerce and trade in this state;

10 (2) in recent years, several local jurisdictions have  
11 sought to establish their own regulations of commerce that are  
12 different than the state's regulations; and

13 (3) the local regulations have led to a patchwork of  
14 regulations that apply inconsistently across this state.

15 SECTION 3. The purpose of this Act is to provide statewide  
16 consistency by returning sovereign regulatory powers to the state  
17 where those powers belong in accordance with Section 5, Article XI,  
18 Texas Constitution.

19 SECTION 4. This Act:

20 (1) may not be construed to prohibit a municipality or  
21 county from building or maintaining a road, imposing a tax, or  
22 carrying out any authority expressly authorized by statute;

23 (2) may not be construed to prohibit a home-rule  
24 municipality from providing the same services and imposing the same

1 regulations that a general-law municipality is authorized to  
2 provide or impose;

3 (3) does not, except as expressly provided by this  
4 Act, affect the authority of a municipality to adopt, enforce, or  
5 maintain an ordinance or rule that relates to the control, care,  
6 management, welfare, or health and safety of animals;

7 (4) does not affect the authority of a municipality or  
8 county to conduct a public awareness campaign;

9 (5) does not affect the authority of a municipality or  
10 county to:

11 (A) enter into or negotiate terms of a collective  
12 bargaining agreement with its employees; or

13 (B) adopt a policy related to its employees; and

14 (6) does not affect the authority of a municipality or  
15 county to repeal or amend an existing ordinance, order, or rule that  
16 violates the provisions of this Act for the limited purpose of  
17 bringing that ordinance, order, or rule in compliance with this  
18 Act.

19 SECTION 5. Chapter 1, Agriculture Code, is amended by  
20 adding Section 1.004 to read as follows:

21 Sec. 1.004. PREEMPTION. Unless expressly authorized by  
22 another statute, a municipality or county may not adopt, enforce,  
23 or maintain an ordinance, order, or rule regulating conduct in a  
24 field of regulation that is occupied by a provision of this code.  
25 An ordinance, order, or rule that violates this section is void,  
26 unenforceable, and inconsistent with this code.

27 SECTION 6. Subchapter A, Chapter 1, Business & Commerce

1 Code, is amended by adding Section 1.109 to read as follows:

2 Sec. 1.109. PREEMPTION. Unless expressly authorized by  
3 another statute, a municipality or county may not adopt, enforce,  
4 or maintain an ordinance, order, or rule regulating conduct in a  
5 field of regulation that is occupied by a provision of this code.  
6 An ordinance, order, or rule that violates this section is void,  
7 unenforceable, and inconsistent with this code.

8 SECTION 7. Title 5, Civil Practice and Remedies Code, is  
9 amended by adding Chapter 102A to read as follows:

10 CHAPTER 102A. MUNICIPAL AND COUNTY LIABILITY FOR CERTAIN  
11 REGULATION

12 Sec. 102A.001. DEFINITION. In this chapter, "person" means  
13 an individual, corporation, business trust, estate, trust,  
14 partnership, limited liability company, association, joint  
15 venture, agency or instrumentality, public corporation, any legal  
16 or commercial entity, or protected or registered series of a  
17 for-profit entity.

18 Sec. 102A.002. LIABILITY FOR CERTAIN REGULATION. Any  
19 person who has sustained an injury in fact, actual or threatened,  
20 from a municipal or county ordinance, order, or rule adopted or  
21 enforced by a municipality or county in violation of any of the  
22 following provisions or a trade association representing the person  
23 has standing to bring and may bring an action against the  
24 municipality or county:

- 25 (1) Section 1.004, Agriculture Code;  
26 (2) Section 1.109, Business & Commerce Code;  
27 (3) Section 1.004, Finance Code;

- 1           (4) Section 30.005, Insurance Code;
- 2           (5) Section 1.005, Labor Code;
- 3           (6) Section 229.901, Local Government Code;
- 4           (7) Section 1.003, Natural Resources Code;
- 5           (8) Section 1.004, Occupations Code; or
- 6           (9) Section 1.004, Property Code.

7           Sec. 102A.003. REMEDIES. (a) A claimant is entitled to  
8 recover in an action brought under this chapter:

- 9           (1) declaratory and injunctive relief; and
- 10          (2) costs and reasonable attorney's fees.

11          (b) A municipality or county is entitled to recover in an  
12 action brought under this chapter costs and reasonable attorney's  
13 fees if the court finds the action to be frivolous.

14          Sec. 102A.004. IMMUNITY WAIVER. Governmental immunity of a  
15 municipality or county to suit and from liability is waived to the  
16 extent of liability created by this chapter.

17          Sec. 102A.005. NOTICE. A municipality or county is  
18 entitled to receive notice of a claim against it under this chapter  
19 not later than three months before the date a claimant files an  
20 action under this chapter. The notice must reasonably describe:

- 21          (1) the injury claimed; and
- 22          (2) the ordinance, order, or rule that is the cause of  
23 the injury.

24          Sec. 102A.006. VENUE. (a) Notwithstanding any other law,  
25 including Chapter 15, a claimant may bring an action under this  
26 chapter in:

- 27          (1) the county in which all or a substantial part of

1 the events giving rise to the cause of action occurred; or

2 (2) if the defendant is a municipality, a county in  
3 which the municipality is located.

4 (b) If the action is brought in a venue authorized by this  
5 section, the action may not be transferred to a different venue  
6 without the written consent of all parties.

7 SECTION 8. Chapter 1, Finance Code, is amended by adding  
8 Section 1.004 to read as follows:

9 Sec. 1.004. PREEMPTION. (a) Unless expressly authorized  
10 by another statute and except as provided by Subsection (b), a  
11 municipality or county may not adopt, enforce, or maintain an  
12 ordinance, order, or rule regulating conduct in a field of  
13 regulation that is occupied by a provision of this code. An  
14 ordinance, order, or rule that violates this section is void,  
15 unenforceable, and inconsistent with this code.

16 (b) A municipality or county may enforce or maintain an  
17 ordinance, order, or rule regulating any conduct under Chapter 393  
18 and any conduct related to a credit services organization, as  
19 defined by Section 393.001 or by any other provision of this code,  
20 or a credit access business, as defined by Section 393.601 or by any  
21 other provision of this code, if:

22 (1) the municipality or county adopted the ordinance,  
23 order, or rule before January 1, 2023; and

24 (2) the ordinance, order, or rule would have been  
25 valid under the law as it existed before the date this section was  
26 enacted.

27 SECTION 9. Chapter 30, Insurance Code, is amended by adding

1 Section 30.005 to read as follows:

2 Sec. 30.005. PREEMPTION. Unless expressly authorized by  
3 another statute, a municipality or county may not adopt, enforce,  
4 or maintain an ordinance, order, or rule regulating conduct in a  
5 field of regulation that is occupied by a provision of this code.  
6 An ordinance, order, or rule that violates this section is void,  
7 unenforceable, and inconsistent with this code.

8 SECTION 10. Chapter 1, Labor Code, is amended by adding  
9 Section 1.005 to read as follows:

10 Sec. 1.005. PREEMPTION. (a) Unless expressly authorized  
11 by another statute, a municipality or county may not adopt,  
12 enforce, or maintain an ordinance, order, or rule regulating  
13 conduct in a field of regulation that is occupied by a provision of  
14 this code. An ordinance, order, or rule that violates this section  
15 is void, unenforceable, and inconsistent with this code.

16 (b) For purposes of Subsection (a), a field occupied by a  
17 provision of this code includes employment leave, hiring practices,  
18 breaks, employment benefits, scheduling practices, and any other  
19 terms of employment that exceed or conflict with federal or state  
20 law for employers other than a municipality or county.

21 SECTION 11. Subchapter A, Chapter 51, Local Government  
22 Code, is amended by adding Section 51.002 to read as follows:

23 Sec. 51.002. ORDINANCE OR RULES INCONSISTENT WITH STATE LAW  
24 PROHIBITED. Notwithstanding Section 51.001, the governing body of  
25 a municipality may adopt, enforce, or maintain an ordinance or rule  
26 only if the ordinance or rule is consistent with the laws of this  
27 state.

1 SECTION 12. Chapter 229, Local Government Code, is amended  
2 by adding Subchapter Z to read as follows:

3 SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

4 Sec. 229.901. AUTHORITY TO REGULATE ANIMAL BUSINESSES. (a)

5 A municipality may not adopt, enforce, or maintain an ordinance or  
6 rule that restricts, regulates, limits, or otherwise impedes a  
7 business involving the breeding, care, treatment, or sale of  
8 animals or animal products, including a veterinary practice, or the  
9 business's transactions if the person operating that business holds  
10 a license for the business that is issued by the federal government  
11 or a state.

12 (b) Except as provided by this subsection, a municipality  
13 may not adopt, enforce, or maintain an ordinance or rule that  
14 restricts, regulates, limits, or otherwise impedes the retail sale  
15 of dogs or cats. A municipality may enforce or maintain an  
16 ordinance or rule adopted before April 1, 2023, that restricts,  
17 regulates, limits, or otherwise impedes the retail sale of dogs or  
18 cats until the state adopts statewide regulation for the retail  
19 sale of dogs or cats, as applicable.

20 SECTION 13. Chapter 1, Natural Resources Code, is amended  
21 by adding Section 1.003 to read as follows:

22 Sec. 1.003. PREEMPTION. Unless expressly authorized by  
23 another statute, a municipality or county may not adopt, enforce,  
24 or maintain an ordinance, order, or rule regulating conduct in a  
25 field of regulation that is occupied by a provision of this code.  
26 An ordinance, order, or rule that violates this section is void,  
27 unenforceable, and inconsistent with this code.

1 SECTION 14. Chapter 1, Occupations Code, is amended by  
2 adding Section 1.004 to read as follows:

3 Sec. 1.004. PREEMPTION. (a) Unless expressly authorized  
4 by another statute, a municipality or county may not adopt,  
5 enforce, or maintain an ordinance, order, or rule regulating  
6 conduct in a field of regulation that is occupied by a provision of  
7 this code. An ordinance, order, or rule that violates this section  
8 is void, unenforceable, and inconsistent with this code.

9 (b) Subsection (a) may not be construed to affect municipal  
10 or county authority to regulate a massage establishment in  
11 accordance with Section 455.005.

12 SECTION 15. Chapter 1, Property Code, is amended by adding  
13 Section 1.004 to read as follows:

14 Sec. 1.004. PREEMPTION. (a) Unless expressly authorized  
15 by another statute, a municipality or county may not adopt,  
16 enforce, or maintain an ordinance, order, or rule regulating  
17 conduct in a field of regulation that is occupied by a provision of  
18 this code. An ordinance, order, or rule that violates this section  
19 is void, unenforceable, and inconsistent with this code.

20 (b) For purposes of Subsection (a), a field occupied by a  
21 provision of this code includes an ordinance, order, or rule  
22 regulating evictions or otherwise prohibiting, restricting, or  
23 delaying delivery of a notice to vacate or filing a suit to recover  
24 possession of the premises under Chapter 24.

25 SECTION 16. Chapter 102A, Civil Practice and Remedies Code,  
26 as added by this Act, applies only to a cause of action that accrues  
27 on or after the effective date of this Act.



1           SECTION 17. This Act takes effect immediately if it  
2 receives a vote of two-thirds of all the members elected to each  
3 house, as provided by Section 39, Article III, Texas Constitution.  
4 If this Act does not receive the vote necessary for immediate  
5 effect, this Act takes effect September 1, 2023.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 2127 was passed by the House on April 19, 2023, by the following vote: Yeas 92, Nays 55, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2127 on May 19, 2023, by the following vote: Yeas 84, Nays 58, 1 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 2127 was passed by the Senate, with amendments, on May 16, 2023, by the following vote: Yeas 18, Nays 13.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor