

By: Hefner

H.B. No. 4939

A BILL TO BE ENTITLED

AN ACT

relating to prohibitions on camping in a public place.

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

SECTION 1. Section 364.002(a) and (c), Local Government Code, are amended to read as follows:

(a) A local entity may not adopt or enforce a policy under which the entity prohibits or discourages the enforcement of any public camping ban, including prohibiting or discouraging the investigation or enforcement of violations of a public camping ban.

(c) A local entity may not utilize a property designated to be used by homeless individuals to camp unless the department has submitted and had approved a plan described by the Texas Government Code Sec. 2306.1123(b).

SECTION 2. Chapter 364, Local Government Code, is amended by adding new Sections 364.0021 and 364.0022 to read as follows:

Sec. 364.0021 COMPLAINTS AND REPORTING. (a) A local entity must develop and provide a process for a person to file a complaint to the local entity regarding public camping.

(b) A local entity must report to the attorney general, in form and manner prescribed by the attorney general the following information:

(1) number of complaints received on public camping;
(2) disposition of each complaint, including
court-ordered diversion programs;

1 (3) number of citations issued under Section 48.05,
2 Penal Code; and

3 (4) any other information deemed pertinent by the
4 attorney general.

5 Sec. 364.0022. ENFORCEMENT. (a) For a complaint received
6 under Section 364.0021, the local entity must take an action within
7 90 days.

8 (b) If a local entity does not take action within the
9 prescribed time the local entity will be deemed a "violating local
10 entity" by the attorney general.

11 (c) The attorney general or the Department of Public Safety
12 may initiate an action to enforce Section 48.05, Penal Code, and
13 recover any costs associated with enforcing this chapter from a
14 violating local entity in accordance with Section 321.5026, Tax
15 Code.

16 SECTION 3. Section 48.05, Penal Code, is amended by
17 amending subsection (i) and adding new subsection (k) to read as
18 follows:

19 (i) If the person is arrested or detained solely for an
20 offense under this section, a peace officer enforcing this section
21 shall ensure that all of the person's personal property not
22 designated as contraband under other law is preserved by:

23 (1) permitting the person to remove all the property
24 from the public place at the time of the person's departure; or

25 (2) taking custody of non-hazardous personal [the]
26 property and allowing the person to retrieve the property after the
27 person is released from custody.

1 (k) For the purposes of this section, personal property does
2 not include any permanent or semi-permanent structure other than a
3 camping tent.

4 SECTION 4. Chapter 321, Tax Code, is amended by adding new
5 Section 321.5026 to read as follows:

6 Sec. 321.5026. DISTRIBUTION OF TRUST FUNDS TO VIOLATING
7 LOCAL ENTITIES. (a) In this section, "violating local entity"
8 means a political subdivisions that is deemed to be a violating
9 local entity for the current state fiscal year under Chapter 364,
10 Local Government Code.

11 (b) Notwithstanding Section 321.502, the comptroller may
12 not, before July 1 of each state fiscal year, send to a violating
13 local entity its share of the taxes collected by the comptroller
14 under this chapter during the state fiscal year. Before sending the
15 violating local entity its share of the taxes, the comptroller
16 shall deduct the amount reported to the comptroller for the
17 violating local entity under Subsection (c) and credit that
18 deducted amount to the general revenue fund. Money credited to the
19 general revenue fund under this subsection may be appropriated to
20 the attorney general and Department of Public Safety equally.

21 (c) Not later than August 1 of each state fiscal year, the
22 attorney general and Department of Public Safety shall report to
23 the comptroller for each violating local entity the amount of money
24 the state spent in that state fiscal year to provide law enforcement
25 services in that defunding municipality.

26 SECTION 5. (a) Section 321.5026, Tax Code, as added by this
27 Act, applies only to a distribution of municipal sales and use tax

1 revenue to a municipality in a state fiscal year that begins on or
2 after the effective date of this Act.

3 (b) Not later than December 1, 2023, a local entity shall
4 develop and implement a complaint process as required under Section
5 364.0021, as added by this Act.

6 (c) Not later than January 1, 2024, the attorney general
7 shall prescribe the manner and form for reporting as required under
8 Section 364.0021, as added by this Act.

9 (d) This Act takes effect September 1, 2023.