

By: Birdwell, Hall

S.B. No. 1017

A BILL TO BE ENTITLED

AN ACT

relating to the authority of a political subdivision to regulate an energy source or engine.

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

SECTION 1. Subtitle C, Title 7, Local Government Code, is amended by adding Chapter 247 to read as follows:

CHAPTER 247. REGULATION OF ENERGY SOURCES AND ENGINES

Sec. 247.001. DEFINITIONS. In this chapter:

(1) "Energy source" means any fuel or power source used to power an engine.

(2) "Engine" means a machine for converting an energy source into mechanical force and motion, including a generator or an internal combustion engine.

(3) "Political subdivision" includes a county, municipality, special district, school district, junior college district, or housing authority.

(4) "Retail service station" has the meaning assigned by Section 753.001, Health and Safety Code.

Sec. 247.002. RESTRICTION ON REGULATION OF ENERGY SOURCES.

(a) A political subdivision may not adopt or enforce an ordinance, order, regulation, or similar measure that limits access to an energy source or that results in the effective prohibition of infrastructure that is necessary to provide access to a specific energy source, including a wholesaler, retailer, energy producer,

1 or related infrastructure, including a retail service station.

2 (b) This section does not limit the authority of a political
3 subdivision to adopt or enforce an ordinance, order, regulation, or
4 similar measure relating to an energy source, or infrastructure
5 that is necessary to provide access to a specific energy source,
6 that:

7 (1) provides siting requirements, including siting
8 requirements involving certain geographic areas;

9 (2) does not effectively prohibit the operation of an
10 energy source or infrastructure that is necessary to provide access
11 to a specific energy source; and

12 (3) is not preempted by state or federal law.

13 Sec. 247.003. RESTRICTION ON REGULATION OF ENGINES. (a) A
14 political subdivision may not adopt or enforce an ordinance, order,
15 regulation, or similar measure that directly prohibits or restricts
16 the use, sale, or lease of an engine based on its fuel source.

17 (b) This section does not limit the authority of a political
18 subdivision to adopt or enforce an ordinance, order, regulation, or
19 similar measure not preempted by state or federal law that:

20 (1) does not effectively prohibit or restrict the use,
21 sale, or lease of the engine;

22 (2) implements an agreement between the political
23 subdivision and the Texas Commission on Environmental Quality to
24 regulate motor vehicle idling under Section 382.019, Health and
25 Safety Code; or

26 (3) only affects an engine owned or operated by the
27 political subdivision.

1 (c) This section does not limit the authority of a political
2 subdivision to adopt an ordinance, order, regulation, resolution,
3 policy, or other similar measure to encourage, promote, or provide
4 rebates for cleaner engines and cleaner fuel sources and that does
5 not directly or effectively ban, restrict, or prohibit the use,
6 sale, or lease of an engine based on the engine's fuel source.

7 (d) Section 81.0523, Natural Resources Code, prevails to
8 the extent of a conflict with this section.

9 SECTION 2. This Act takes effect September 1, 2023.