



CITY OF HOUSTON

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Mayor

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The Honorable Charles Schwertner
Senate Committee on Business and Commerce
P.O. Box 12068
Austin, Texas 78711

Dear Chairman Schwertner and Members of the Committee:

The City of Houston appreciates this opportunity to voice our concerns about Senate Bill 149, relating to municipal regulation of unique local concerns and prohibiting other state-wide commerce. Specifically, this bill would eliminate the municipality's authority to regulate specific commercial activity without the *express* approval of the State.

Houston opposes the bill because it is overly broad and significantly curtails the ability of local government to respond to its own residents' concerns about quality-of-life issues. Through its preemptive language, the bill effectively eliminates residents' rights to adopt amendments to the City Charter that allow or restrict desired regulations. If passed, the bill would directly interfere with the initiative and referendum rights our residents and business currently enjoy. The preemptive restrictions would touch on virtually every type of activity that residents desire their local governments to undertake to recognize community preferences, and which the local elected body is most qualified to determine best protects the health, safety, and welfare of its people. This is true for all cities, but especially home rule cities, where the citizens get to select that form of government by open election, and who have the opportunity – and frequently exercise it – to submit charter amendments and local ordinance options.

This is not a bill that is only meant to curtail municipal authority, it is a bill that inherently curtails the people's authority, in the guise of a business-friendly law.

The bill would prohibit cities from adopting regulations put forward in response to citizens' concerns unless the concerns are "locally unique" to the city. Although there are instances of commonality in citizen concerns across various municipalities, each city faces a unique set of challenges that can only be addressed by a local governmental body. Nowhere in Texas is that more significant than a city like Houston, which has no zoning. The problems that communities face are also affected by variations in size, population, geography (location on the Gulf Coast versus inland), weather conditions, traffic and congestion, and any number of other factors that make each city unique and give rise to unique concerns among its residents. Therefore, the solutions in each jurisdiction will be as unique as the concerns themselves.

This bill would take away a municipality's authority to regulate "commercial activity" within its own boundaries. If passed, this bill would completely abolish each city's democratic right and ability to regulate concerns ranging from boarding homes to billboard requirements, and even the more vital infrastructure and free marketplace components that are located within a municipality's boundaries.

For Houston, passage of this bill would mean ignoring our residents' and businesses' concerns on several critical issues. By way of example:

1. Parking regulations, walkability issues, and density of development. Houston is reviewing ways to encourage walkability—which means wider sidewalks. The city also regulates valet parking services which is a motivation for more downtown visitors looking for convenience in a dense metro area. Because these elements are not specifically delegated to cities in any statute, Houston would not be able to adopt these regulations—even though the business and development communities strongly support and advocate for them.
2. Aesthetic requirements for sexually oriented businesses. Because of the nature of these businesses, Houstonians have strong opinions about the appearance and noise emanating from these businesses.
3. The City of Houston's major initiative, Complete Communities, of turning neglected areas into communities of opportunity would be, at best, severely impeded if this bill passes. The designation of these areas is not specifically authorized by law; other Texas cities have similar programs, but the overall issue of desiring neglected communities to have focused resources is again, shared by many Texas cities. This program is supported by residents and businesses not only in these designated areas, but across the city.
4. Houston has begun receiving national recognition for park and green space improvements in the city. This has been accomplished through a variety of means, including agreements with other governmental and non-profit entities and payment of dedicated fees. Citizens want parks. Park dedication fees, which have proven beneficial to many Texas cities, and which have been upheld as a reasonable regulation by the Texas Supreme Court, are not specifically authorized by State law and would be eliminated under the proposed bill.
5. Payday lending regulation. This would take away a municipality's ability to regulate payday lenders to protect vulnerable citizens in an ever-changing economy.

Thank you for the opportunity to submit comments explaining our strenuous opposition to SB 149. For the reasons set forth above, Houston requests that SB 149 not move forward.

Sincerely,



Sylvester Turner
Mayor