



TEXAS MUNICIPAL LEAGUE  
*Empowering Texas cities to serve their citizens*

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President **John B. Love III**, Mayor Pro Tem, Midland  
Executive Director **Bennett Sandlin**

March 28, 2019

The Honorable Dade Phelan  
House Committee on State Affairs  
P.O. Box 12068  
Austin, Texas 78711-2068

Dear Mr. Chairman:

I am writing on behalf of the Texas Municipal League to express our opposition to **House Bill 3899** by **Springer**. The bill, which is not a Legislative Council draft, is unclear in its scope.

It appears that it would:

1. prohibit a city from adopting or enforcing an ordinance, rule, or police regulation that imposes a restriction, condition, or regulation on the purchase or sale of goods or services of any kind or quantity, conducted by a person who engages in such activity in more than one city in this state;
2. except from the prohibition in (1) an ordinance, rule, or regulation: (a) essential to regulating a uniquely local concern (i.e., a particularized concern unique to the physical conditions in the city) that the governing body determines cannot be of similar concern in another city; (b) essential to the necessary regulation of local land use (defined as taking action consistent with Chapters 211-214 and including adoption and enforcement of building construction standards and permitting, barring, or limiting the use of designated property for one or more designated types or categories of commercial activity); (c) essential to protect citizens' physical safety; or (d) that is expressly authorized by state law;
3. *prohibit a city from enforcing a regulation that includes any restriction, condition, or regulation of the goods, services, transactions, operations, purchaser-seller interactions, employment practices, finances, advertising, marketing, or any other conduct or practices by a person engaging in a commercial activity;*
4. provide that a commercial activity that is subject to regulation by Texas or the United States cannot present any uniquely local concern; and
5. provide that a state statute that provides that it does not preempt city regulatory authority may not be construed to expressly authorize an ordinance, rule, or regulation.

The bill would apply to any business that does business in more than one city in the state, and it would appear to allow a city to use its zoning, subdivision, or other building regulations to adopt or enforce building construction standards and permitting, barring, or limiting the use of designated property for one or more designated types or categories of commercial activity.

However it would prohibit a city from including any restriction, condition, or regulation of the goods, services, transactions, operations, purchaser-seller interactions, employment practices, finances, advertising, marketing, or any other conduct or practices by a person engaging in a commercial activity.

As-written, the bill would preempt any number of city regulations that have been enacted at the request of citizens. For example, the following would likely be wiped out by the bill:

1. Payday lender regulations that prohibit predatory lending practices.
2. Sexually oriented business regulations, such as “no touch” ordinances.
3. Burglar alarm registration ordinances designed to properly allocate law enforcement resources.
4. Pawnshop regulations designed to stop stolen property transactions.
5. Eight liner and similar game room regulations designed to protect patrons of those establishments and properly allocate law enforcement resources.
6. Short-term rental regulations designed to protect both patrons and neighbors.
7. Noise ordinances designed to protect quality of life.
8. Billboard and on-premise sign regulations designed to protect against visual blight.
9. Peddler and door-to-door solicitor regulations designed to protect residents from unscrupulous salespersons.
10. Oil and gas well drilling ordinances designed to protect residents from the deleterious effects of urban drilling.
11. Ordinances regulating alcohol sales near churches and schools designed to protect youth.
12. Health codes designed to protect restaurant patrons.
13. Transportation network company rules at city airports designed to facilitate traveler access to those services.

The above are just a few examples of ordinances that are common in Texas cities. They may not be “essential to protect citizens’ physical safety,” but they are reasonable and certainly improve the quality of life of city residents and others.

Thank you for your consideration and please do not hesitate to contact me if I can be of any assistance to you.

Sincerely,



Shanna Igo  
*Deputy Executive Director*

cc: Members of the House Committee on State Affairs