



SIERRA CLUB

LONE STAR CHAPTER

To: The Honorable Dr. Charles Schwertner, Chair
Members, Senate Committee on Business and Commerce
Re: SB 149 (Springer)
From: Cyrus Reed, Sierra Club, cyrus.reed@sierraclub.org, 512-888-9991

March 14, 2023

Dear Senator Schwertner and members,

The Sierra Club Lone Star Chapter is opposed to SB 149. The bill, another example of “pre-emption” of local communities, purports to “to addressconcerns by prohibiting municipalities from adopting or enforcing regulatory requirements on the purchase or sale of goods or services by a person who engages in such commercial activity in more than one municipality, subject to certain exceptions to preserve municipalities' authority to regulate inherently local concerns.” The bill is very broadly written, effectively calling all municipal regulations into question.

Specifically the bill “Prohibits a municipality, notwithstanding any other law and except as provided by Subsection (c), from adopting or enforcing an ordinance, regulation, or other measure that imposes a restriction, condition, or regulation on commercial activity.”

While the bill does allow such regulations as a result of unique local concerns in Section C, the city must produce a written justification for the regulation, and can only do so if expressly authorized by state statute under C 4. And in fact under section (e) of the bill, the bill Provides that for purposes of Subsection (c)(4), a state statute that provides the statute does not preempt or affect municipal regulatory authority is prohibited from being construed to expressly authorize an ordinance, regulation, or other measure. In other words, it’s not enough to say the state doesn’t prevent a city from regulating said activity, it must be expressly stated.

In essence this bill would undermine cities ability to do anything or regulate anything without an underlying state statute to allow them to do it, and in any case would have to provide written justification

The examples of what this could impact are in fact too numerous to even list. Essentially any activity regulated by cities - distance of sex shops from residential areas - or where oil rigs can be located - or how much impervious cover is required in a development, or whether heritage trees can be protected - all of it would be subject to revisitation if this bill passes. This bill would severely hamper the ability of cities to develop their future and respond to local concerns. It is written broadly and should not be approved.