



HB 2127 – Texas Regulatory Consistency Act, Fact Check

1. *HB 2127 creates **legal uncertainty** by conflicting with the Texas Constitution’s framework for home-rule cities.* False. There is no conflict between the Texas Constitution’s provisions on home-rule cities and HB 2127. The Texas Constitution is clear that even home-rule cities may not adopt ordinances or city charter provisions that are inconsistent with laws enacted by the Legislature (Art. XI, Sec. 5). That is the framework HB 2127 continues.
2. *HB 2127 will lead to **frivolous lawsuits**.* False. The bill does not allow for compensatory damages, and so there is no financial incentive to sue. Further, the bill requires at least 3 months’ notice before a lawsuit is filed and allows local governments to amend an ordinance to policy to bring it into compliance with the bill. In other words, HB 2127 provides every opportunity to avoid an unnecessary lawsuit.
3. *HB 2127 would prohibit cities from enacting **employment discrimination** protections for LGBT workers.* False. LGBT employees remain protected from employment discrimination under federal law (Title VII and the US Supreme Court’s 6-3 decision in *Bostok*). Also, cities and counties may continue to enforce their own ordinances on the matter of LGBT employment discrimination under the express authority they have in Labor Code Sec. 21.151.

It's also worth noting that most Texas cities and counties do not currently have an employment discrimination ordinance (even Houston and San Antonio do not have one).

4. *Federal law is insufficient to protect LGBT workers because it does not cover private employers with fewer than 15 employees.* This is the same threshold in the ordinances currently in place in Austin, Dallas, and Fort Worth. Congress intentionally limited Title VII to businesses with 15 or more employees for the express purposes of “easing entry into the market and preserving the competitive position of smaller firms”. This threshold is also in Texas’ employment discrimination statute.
5. *HB 2127 would prohibit cities from enacting **housing discrimination** protections for LGBT Texans.* False. LGBT Texans also remain protected from housing discrimination under federal, state, and local law. The US Department of Housing and Urban Development (HUD) confirms that *Bostok* applies to the Fair Housing Act and has an extensive [website](#) outlining protections and remedies for anyone who has faced LGBT-based housing discrimination. Further, cities may continue to enforce their own fair housing

ordinances protecting LGBT Texans under the express authority they have in Local Government Code Sec. 214.903.

6. *HB 2127 will lead to dangerous **working conditions**, particularly for construction workers who need rest/water breaks because of the heat.* False. OSHA has very detailed regulations that are tailored to worksites that Texas employers must continue to follow regardless of HB 2127.
7. *HB 2127 would stop local governments from addressing **payday lending**.* The current version of HB 2127 explicitly allows cities and counties to enforce and maintain payday lending ordinances that were adopted before January 1, 2023 and valid before HB 2127. Additional concerns about payday lending ordinances are a red herring because cities lack the legal authority to enforce these ordinances.
8. *HB 2127 would stop local governments from addressing **puppy mills / dog and cat breeders / animal welfare**.* The current version of HB 2127 clarifies that cities retain their ability to regulate the control, care, management, welfare, and health and safety of animals—except for businesses that are already licensed and regulated by the state or federal government. The current version of HB 2127 also explicitly allows a city to enforce and maintain an ordinance or rule adopted before April 1, 2023, that restricts, regulates, limits, or otherwise impedes the retail sale of dogs or cats until the state adopts statewide regulations on this topic.
9. *HB 2127 would affect **“fair chance hiring”** and protections against discrimination in hiring.* FALSE Under the laws enforced by EEOC (Equal Employment Opportunity Commission), it is illegal to discriminate against someone (applicant or employee) because of that person's race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), national origin, age (40 or older), disability or genetic information. It is also illegal to retaliate against a person because he or she complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit. The law forbids discrimination in every aspect of employment. It should be noted that over 60% of small business owners have positions they cannot fill. They are the second-chance hirers.
10. *HB 2127 would stop local governments from addressing **natural or man-made disasters**.* False. Government Code Chapter 418 expressly grants cities and counties the authority to respond to natural and man-made disasters. See, for example, Sec. 418.1015: “The presiding officer of the governing body of an incorporated city or a county or the chief administrative officer of a joint board is designated as the emergency management

director for the officer's political subdivision." Because this is an express authorization of power, it is not impacted by HB 2127.

11. *HB 2127 would stop local governments from addressing **public health disasters like a pandemic**.* False. Local governments have broad authority to prevent and respond to public health emergencies like a pandemic in the Health and Safety Code, which is not impacted by HB 2127 at all (see Chapters 81 and 121).
12. *HB 2127 would stop local governments from addressing **unsafe waste storage**.* False. Local governments have express authority to address SOLID WASTE, TOXIC CHEMICALS, SEWAGE, LITTER, AND WATER (include storage of) in the Health and Safety Code, Chapter 361.
13. *HB 2127 would stop local governments from addressing **short-term rentals**.* False. The regulation of short-term rentals by local governments is maintained in the Local Government Code. Cities and counties could also regulate STRs within their jurisdiction powers to regulate nuisances and zoning.
14. *HB 2127 would stop local governments from addressing **towing, impounding, and wreckers**.* False. Express authority that won't change under the bill. Occupations Code Sec. 2308.208. "MUNICIPAL OR COUNTY ORDINANCE REGULATING UNAUTHORIZED VEHICLES AND TOWING OF MOTOR VEHICLES. The governing body of a municipality or the commissioners court of a county may adopt an ordinance that is identical to this chapter or that imposes additional requirements that exceed the minimum standards of this chapter but may not adopt an ordinance conflicting with this chapter." Tow trucks are defined to include wreckers.
15. *HB 2127 would stop local governments from addressing **unsafe boarding homes**.* False. Local governments may continue to regulate unsafe boarding homes through Health & Safety Code Section 260.004, which is not impacted by HB 2127: "A county or municipality may require a person to obtain a permit from the county or municipality to operate a boarding home facility within the county's or municipality's jurisdiction. A county or municipality may adopt the standards developed by the executive commissioner under Section 260.003 and require a boarding home facility that holds a permit issued by the county or municipality to comply with the adopted standards." Cities may also address unsafe boarding homes through their express authority to define and abate nuisances (Section 217.002, Local Government Code), and their authority to enforce building standards and criminal laws.

16. *HB 2127 would stop local governments and police from preventing or responding to **metal theft**.* False. Local governments may continue to regulate metal recycling entities to prevent theft under their explicit authority in Section 1956.003, Occupations Code.
17. *HB 2127 would stop local governments from regulating **electricians**.* False. Not impacted. Occupations Code Chapter 1305, Subchapter E, Regulations of Electricians by Local Governments, gives explicit authority to regulate this industry and collect permit fees.
18. *HB 2127 would stop local governments from addressing **livestock** in non-agricultural areas.* False. Not impacted by the bill. Local Government Code Sec. 215.026(b): (b) The governing body [of a general law municipality] may prohibit or otherwise regulate the running at large of horses, mules, cattle, sheep, swine, or goats.
19. *HB 2127 would stop local governments from addressing **water restrictions**.* False. Not impacted. Local Gov't Code Sec. 551.007. WATER CONSERVATION BY HOME-RULE MUNICIPALITY. A home-rule municipality may adopt and enforce ordinances requiring water conservation in the municipality and by customers of the municipality's municipally owned water and sewer utility in the extraterritorial jurisdiction of the municipality.
20. *HB 2127 would stop local governments from addressing **uncontrolled burns** and fire prevention measures.* False. Local governments have express authority to address **fireworks**, outdoor burning, and other fire suppression topics (see Local Government Code Chapters 342 and 352). This authority would not change with HB 2127.
21. *HB 2127 would stop local governments from addressing **backyard firework displays**.* False. Cities and counties will keep their authority over fireworks per Local Government Code Ch. 342 (cities) and 352 (counties)
22. *HB 2127 would stop local governments from addressing **unsafe outdoor festivals**.* False. Occupations Code Chapter 2104 gives counties explicit authority to grant, deny, or revoke an outdoor music festival permit if certain public safety conditions are met. Again, this would not change with HB 2127.
23. *HB 2127 would stop local governments from addressing **overgrown lots, insects and bees, animals, and door-to-door sales**.* False. Cities and counties may address these through their public safety, zoning, and other regulatory powers that are expressly granted by statute. This is no different from general law cities, which do not seem to have a problem with overgrown lots, insects and bees, animals, and door-to-door sales. HB 2127 also includes a savings clause that allows a home-rule municipality to provide the

same services and impose the same regulations that a general-law municipality is authorized to provide or impose.

24. *HB 2127 would affect city ordinances regarding **open containers**.* False. Local governments have authority to regulate open containers in Texas Alcoholic Beverage Code 109, Subchapter C. (particularly Sec. 109.35); this is not impacted by HB 2127. Counties also have the right to shut down places where alcohol is sold and consumed if they are considered as a common nuisance under Alcoholic Beverage Code Sec. 101.70.
25. *HB 2127 would affect city ordinances regarding **solar panels**.* False. Local Government Code Section 229.101 gives municipalities the explicit authority to regulate solar energy devices. Fewer than 20 Texas cities have a solar panel ordinance; most cities handle solar installation approval through permitting alone. HB 2127 does not affect permitting.
26. *HB 2127 would prevent local governments from establishing **pay and other labor** policies for their own employees.* False. The Local Government Code has extensive laws about city and county employees, and HB 2127 does not impact these provisions. The current version of HB 2127 explicitly clarifies that the bill does not affect the authority of a city or county to collectively bargain with its employees or adopt policies related to its employees.
27. *If HB 2127 passes, there's no reason to have city and county governments.* False.

Cities and counties have many regulatory authorities that are not impacted by HB 2127 because they relate to other codes, including the:

- Alcoholic Beverage Code
- Business Organizations Code
- Code of Criminal Procedure
- Education Code
- Election Code
- Estates Code
- Family Code
- Government Code
- Health and Safety Code
- Human Resources Code
- Local Government Code
- Parks and Wildlife Code
- Penal Code
- Probate Code

- Tax Code
- Transportation Code
- Utilities Code
- Water Code

The Local Government Code in particular is full of examples that will not be impacted by HB 2127. For example:

- Zoning (Chapters 211-250)
- Motor vehicle and motor vehicle part sales (Chapter 215)
- Rendering plants (Chapter 215)
- Taxicabs and limousines (Chapter 215)
- "The weight and quality of bread" (Chapter 215)
- Butchers, tanneries, stables, slaughterhouses, and dairies (Chapters 215 and 234)
- Unrestrained animals (Chapter 215)
- "Hawkers, peddlers, and pawnbrokers" (Chapter 215)
- Theaters, circuses, and similar exhibitions (Chapter 215)
- Billboards and other outdoor signs (Chapter 216)
- Nuisances and disorderly conduct (Chapter 217)
- Vehicle wrecking and salvage yards, junkyards, recycling businesses, flea markets, demolition businesses, and outdoor resale businesses (Chapter 234)
- Day-care centers (Chapter 234)
- Massage parlors (Chapter 234)
- Game rooms (Chapter 234)
- Firearms, knives, and shooting ranges (Chapter 236)
- Sexually oriented businesses (SOBs) (Chapter 243)
- Acquisition, sale, and lease of local government property (Chapters 251-280)
- Public buildings, parks, entertainment districts, libraries, and other community facilities (Chapters 281-337)
- Historic preservation (Chapter 318)
- Public safety, including police, fire, and jails (Chapters 341-370)
- Community planning and development (Chapters 371-507)
- Water and utilities (Chapters 551-590)
- Parking and transportation (Chapters 601-615)

There are also many provisions of the codes listed in HB 2127 that grant cities and counties the express authority to regulate in a certain field. HB 2127 is clear that, in these instances, cities and counties retain their ability to regulate, for example:

- Herbicide (Agriculture Code Chapter 76)
- Emergency mosquito control (Agriculture Code Chapter 76)
- Fire ant control (Agriculture Code Chapter 77)

- Soil conservation (Agriculture Code Chapter 201)
- Flood control and drainage (Agriculture Code Chapter 201)
- Employment discrimination (Labor Code Chapter 21)
- Beaches and dunes (Natural Resources Code Chapters 61 and 63)
- Metal recycling entities (Occupations Code Chapter 1956)
- Outdoor music festivals (Occupations Code Chapter 2104)
- Vehicle towing and booting (Occupations Code Chapter 2308)