



## **HB 2127 / SB 814 – Texas Regulatory Consistency Act, Fact Check**

1. *HB 2127 / SB 814 would strip employment discrimination protections from 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).

2. *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.
3. *Although SCOTUS has upheld employment discrimination for LGBTQ, what about housing?* The Fair Housing Act prohibits housing and housing-related discrimination because of race, color, national origin, religion, sex (including gender identity and sexual orientation), familial status, and disability. A person who has experienced (or is about to experience) discrimination in housing because of sex, including their actual or perceived sexual orientation or gender identity, may file a complaint with HUD. HUD will investigate complaints alleging violations of the Fair Housing Act on this basis. Local governments must have substantially equivalent ordinances to Federal law if they address fair housing. IF they are allowed to address LGBTQ in their ordinances now, then it can continue to be done. This bill does not affect Federal law protections (or who is or is not covered).
4. *HB 2121 / SB 814 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 / SB 814.
5. *HB 2127 / SB 814 would stop local governments from addressing natural or man-made disasters.* False. Government Code Chapter 418 expressly grants cities and counties

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 / SB 814.

6. *HB 2127 / SB 814 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.
7. *HB 2127 / SB 814 would stop local governments from addressing towing and impounding.* 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."
8. *HB 2127 / SB 814 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.
9. *HB 2127 / SB 814 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.
10. *HB 2127 / SB 814 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 / SB 814 at all (see Chapters 81 and 121).
11. *HB 2127 / SB 814 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 / SB 814.

12. *HB 2127 / SB 814 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)
13. *HB 2127 / SB 814 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 / SB 814.
14. *HB 2127 / SB 814 would stop local governments from addressing payday lending.* This is a red herring because cities don't have the legal authority to enforce their existing ordinances. Stakeholders should address concerns with payday lending to the Texas Legislature. **\*\*The CSHB now contains language that explicitly says that municipalities may enforce or maintain an ordinance or rule regulating any conduct under Chapter 393, Finance Code, related to a credit services organization, or a credit access business.**
15. *HB 2127 / SB 814 would stop local governments from addressing puppy mills / dog and cat breeders.* That is not the intent of the bill, and if necessary, we can clarify that in HB 2127 / SB 814. **\*\*The CSHB now contains language allowing cities to regulate unlicensed dog/cat breeders and the sale of animals unlawfully. The bill explicitly states that it does not affect the authority of a municipality to adopt, enforce, or maintain an ordinance, order, or rule that relates to the control, care, management, welfare, or health and safety of animals.**
16. *HB 2127 / SB 814 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/SB 814 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.
17. *HB 2127 / SB 814 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 / SB 814 does not impact these provisions.

18. *If HB 2127 / SB 814 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 / SB 814 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 / SB 814. 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 / SB 814 that grant cities and counties the express authority to regulate in a certain field. HB 2127 / SB 814 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)