



City of Austin

P.O. Box 1088, Austin, TX 78767-1088

March 24, 2021

The Honorable Jeff Leach
Chair, House Committee on Judiciary & Civil Jurisprudence
Texas House of Representatives
P.O. Box 2910
Austin, TX 78768-2910

Re: City of Austin Written Testimony in Opposition to House Bill 610

Chair Leach and Members of the Committee on Judiciary & Civil Jurisprudence:

Thank you for the opportunity to submit written testimony and express some of the City of Austin's concerns about House Bill 610 by Representative Valoree Swanson, which authorizes state license holders to sue the City if local ordinances, rules, or regulations impose restrictions or otherwise regulate state license holders in a manner that is more restrictive than under state law or if local regulations "would result in an adverse economic impact on the license holder."

Given the large number of licensed professions and the broad language of the bill, it could have many unintended consequences and interfere a city's ability to protect activities that impact the health, safety, and civil rights of its residents. Below are just two examples of common activities that this bill affects.

While many of the City's food and pool safety ordinance provisions are based on State law, the City is particularly concerned about the impact that HB 610 may have on local regulations designed to protect the health and safety of patrons of public pools and food establishments. For example, based on local ordinance, restaurants are required to close down when significant food safety concerns are identified, a measure that ensures that the food establishment will correct the identified health and safety issues immediately and food handlers must take the time to address the food safety concerns in order to provide safe food for the public. These measures were enacted in order to reduce the possibility of foodborne illness outbreaks. Relatedly, mobile food establishments must meet same standards.

Additionally, the City requires operators of public pools, who are licensed by the state, to close their pool for certain safety issues. This prevents a resident from entering the pool area and would be prohibited by the bill. If the anti-suction safety system of a pool is found to be faulty by City staff and the City is unable to close the pool, a resident could potentially be trapped at the bottom of a pool.

The provision of the bill prohibiting regulations that could “result in adverse economic impact on the license holder” would also undermine the ability of local governments to regulate the safety and health aspects of public services such as food establishments and swimming pools. Such regulation almost always imposes a cost on the license holder relative to no or lesser regulation, yet the bill’s requirement for a neutral or positive financial impact fails to account for the negative economic impacts that are almost certainly incurred by the public in the absence of local government health and safety regulation of licensed/ permitted public services, such as foodborne illness outbreaks or accidental deaths due to unsafe swimming pools. The requirements may result in a cost, but these requirements are vital to the safety of local residents, employees and visitors.

Thank you for your consideration of these comments. Please do not hesitate to reach out if you have any questions or would like any additional information.

Sincerely,

A handwritten signature in black ink that reads "Stephanie Hayden-Howard". The signature is written in a cursive style with a large initial 'S'.

Stephanie Hayden-Howard
Director, Austin Public Health