

By: Perry

S.B. No. 1870

A BILL TO BE ENTITLED

AN ACT

relating to municipal and county enforcement of drug and consumable hemp product laws; providing civil penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle C, Title 11, Local Government Code, is amended by adding Chapter 366, and a heading is added to that chapter to read as follows:

CHAPTER 366. ENFORCEMENT OF DRUG AND CONSUMABLE HEMP PRODUCT LAWS

SECTION 2. Chapter 366, Local Government Code, as added by this Act, is amended by adding Section 366.001 to read as follows:

Sec. 366.001. DEFINITION. In this chapter, "local entity" means:

- (1) the governing body of a municipality;
- (2) a commissioners court of a county;
- (3) a sheriff, constable, or municipal police department; and
- (4) a district attorney, county attorney, criminal district attorney, or municipal attorney.

SECTION 3. Section 370.003, Local Government Code, is transferred to Chapter 366, Local Government Code, as added by this Act, redesignated as Section 366.002, Local Government Code, and amended to read as follows:

Sec. 366.002 [~~370.003~~]. LOCAL ENTITY [~~MUNICIPAL OR COUNTY POLICY REGARDING~~] ENFORCEMENT OF DRUG AND CONSUMABLE HEMP PRODUCT

1 LAWS. (a) A local entity [~~The governing body of a municipality, the~~
2 ~~commissioners court of a county, or a sheriff, municipal police~~
3 ~~department, municipal attorney, county attorney, district~~
4 ~~attorney, or criminal district attorney~~] may not adopt or enforce
5 an ordinance, order, rule, [a] policy, or other measure under which
6 the local entity will not fully enforce state laws relating to drugs
7 or consumable hemp products, including Chapters 443, 481, and 483,
8 Health and Safety Code[~~, and federal law~~].

9 (b) Notwithstanding any other law, a local entity may not
10 place an item on a ballot, including a municipal charter or charter
11 amendment, that would provide that the local entity will not fully
12 enforce a law described by Subsection (a).

13 SECTION 4. Chapter 366, Local Government Code, as added by
14 this Act, is amended by adding Sections 366.003, 366.004, and
15 366.005 to read as follows:

16 Sec. 366.003. COMPLAINT REGARDING DRUG OR CONSUMABLE HEMP
17 PRODUCT LAW ENFORCEMENT. (a) A citizen residing in this state may
18 file a complaint with the attorney general in the form and manner
19 prescribed by the attorney general if the citizen asserts facts
20 that support an allegation that a local entity has violated Section
21 366.002. The citizen must submit with the complaint a sworn
22 statement that to the best of the citizen's knowledge all of the
23 facts asserted in the complaint are true and correct.

24 (b) The attorney general shall:

25 (1) develop a form that a citizen residing in this
26 state may use to submit a complaint described by Subsection (a); and

27 (2) publish the complaint form on the attorney

1 general's Internet website.

2 Sec. 366.004. ATTORNEY GENERAL ACTION FOR EQUITABLE RELIEF.

3 (a) If, in response to a valid complaint under Section 366.003 or
4 in the attorney general's own discretion, the attorney general
5 determines that a violation of Section 366.002 has occurred, the
6 attorney general may file a petition for a writ of mandamus or apply
7 for other appropriate equitable relief in a district court in
8 Travis County, in a county that is represented or served wholly or
9 partly by the local entity alleged to have violated Section
10 366.002, or in a county that is adjacent to a county that is
11 represented by or is served wholly or partly by the local entity
12 alleged to have violated Section 366.002 to compel the local entity
13 to comply with Section 366.002.

14 (b) An action that is brought by the attorney general under
15 this section in a venue authorized by Subsection (a) may not be
16 transferred to a different venue without the written consent of the
17 attorney general.

18 (c) An appeal of an action brought under this section is
19 governed by the procedures in the Texas Rules of Appellate
20 Procedure for pursuing an accelerated appeal. The appellate court
21 shall render its final order or judgment with the least possible
22 delay.

23 Sec. 366.005. CIVIL PENALTIES. (a) A local entity that is
24 found by a court to have knowingly violated Section 366.002(a) is
25 liable to the state for a civil penalty in an amount not less than:

26 (1) \$25,000 for the first violation; and

27 (2) \$50,000 for each subsequent violation.

1 (b) A local entity that is found by a court to have knowingly
2 violated Section 366.002(b) is liable to the state for a civil
3 penalty in an amount not less than:

4 (1) \$25,000 for the first violation; and

5 (2) \$50,000 for each subsequent violation.

6 (c) Each day of a continuing violation described by
7 Subsection (a) or (b) is a separate violation. A violation is
8 considered to continue until the local entity proves by clear and
9 convincing evidence that the violation has been remedied.

10 (d) A local entity may incur a penalty under both
11 Subsections (a) and (b).

12 (e) A local entity's governmental immunity to suit and from
13 liability is waived to the extent of liability created by this
14 section. A local entity may not assert official immunity as a
15 defense to an action brought under this section.

16 (f) The attorney general may seek a civil penalty under this
17 section regardless of whether a citizen submitted a complaint under
18 Section 366.003.

19 SECTION 5. Chapter 366, Local Government Code, as added by
20 this Act, applies only to a cause of action that accrues on or after
21 the effective date of this Act.

22 SECTION 6. This Act takes effect immediately if it receives
23 a vote of two-thirds of all the members elected to each house, as
24 provided by Section 39, Article III, Texas Constitution. If this
25 Act does not receive the vote necessary for immediate effect, this
26 Act takes effect September 1, 2025.