

Sierra Club Comments on HB 40/SB 1165: Undermining Citizen Rights and Local Control over Oil and Gas Safeguards

When Denton citizens enacted their fracking ban – an entirely unique situation – Chairman Craddick stated in a well-written editorial that a ban was the wrong approach but that cities did have the right to enact safeguards such as setbacks to protect its citizens, citing her hometown of Midland as an example.

Cities have a long history of approving ordinances regarding oil and gas activities. If Denton exceeded their authority, such situations should be resolved by the courts on a case-by-case basis so other cities are not hamstrung from addressing unique problems in a timely manner

In many cases, oil and gas industry have sat down at the table in coming up with ordinances that work for cities, its citizens and industry

HB 40/SB 1165 is overreach – it doesn't really clarify the municipal role, it really just undermines city authority by preempting that authority and then uses a "Commercially Reasonable" clause that will keep lawyers and courts busy and will give all of the leverage to the oil and gas industry.

There have been hundreds of people killed in traffic accidents in the last few years – would traffic procedures or hours of operations be considered commercially reasonable?

There have been dozens killed through the years by blow-outs and pipeline explosion. Should cities rely on RRC to make sure facilities are up to snuff? Would location or setbacks be considered commercially reasonable?

Would the bill cover groundwater districts? Are groundwater districts allowed to regulate oil and gas activities to assure that spacing, water withdrawal and reporting are followed? Or should we rely on the RRC to protect our groundwater?

HB 40/SB 1165 is overkill, being promoted in the wake of one city's decision to take action to ban fracking. If Denton overstepped its authority in this specific case, let the courts decide that, but in the meantime undermining all municipal – and potentially all political subdivision authority – is the wrong message and the wrong policy direction.

The Lone Star Chapter firmly opposes HB 40/SB 1165.