

Date: March 14, 2023
To: Chairman Schwertner and the Members of the Senate Committee on Business & Commerce
From: Adrian Shelley, Public Citizen, ashelley@citizen.org, 512-477-1155.
CC: Sen. Phil King, Sen. Brian Birdwell, Sen. Donna Campbell, Sen. Brandon Creighton, Sen. Nathan Johnson, Sen. Lois W. Kolkhorst, Sen. José Menéndez, Sen. Mayes Middleton, Sen. Robert Nichols, Sen. Judith Zaffirini
Via hand delivery and by email.
Re: SB 1017 Opposition Testimony by Public Citizen

Dear Chairman Schwertner and Members of the Committee:

Public Citizen appreciates the opportunity to testify against SB 1017 by Senator Birdwell, relating to the authority of a political subdivision to regulate an energy source or engine. We must oppose this bill because (1) we believe that political subdivisions should have the authority to make and enforce local ordinances supported by their voters and (2) we support policies to phase out internal combustion engines and other uses of fossil fuels.

Political subdivisions should be able to regulate energy sources and engines.

We believe that political subdivisions such as cities should have authority to regulate on this subject. There are several reasons to do so:

- limiting nuisances and noise,
- reducing air pollution that has acute and chronic health impacts, and
- meeting federal air pollution standards and other pollution reduction targets.

Cities are answerable to their voters. If the voters do not support a proposed local regulation, they can persuade or change their local elected officials.

Dallas' proposed limitation on the use of gas-powered lawn equipment is an example of a local regulation this bill may target. City of Dallas officials made the case for this ordinance in a May 19, 2022 presentation, "Leaf Blower Considerations," that is available to the public.¹

Dallas makes a persuasive public policy argument for banning gas-powered lawn equipment.

A presentation on this subject by the City of Dallas Office of Environmental Quality and Sustainability included the following arguments, among others:²

- A two-stroke engine can have nearly 299 times the emissions of a pickup truck.
- Manufacturers recommend a 50 feet minimum safe distance for bystanders.

¹ See <https://dallascityhall.com/government/meetings/DCH%20Documents/park-board/Leaf%20Blower%20Consideration%20-%20May%2019%2C%202022.pdf>.

² Id. at p. 3-5.

- Over 100 cities have implemented policies, codes and ordinances related to gas-powered landscape equipment.

Dallas lists motivations for local ordinances on this subject including nonattainment designations for federal air pollution standards, climate plan emissions reduction targets, and community complaints.

We agree with these arguments and note finally that electric lawn equipment is zero emissions and cost-competitive with internal combustion engine equipment. For these reasons, we believe political subdivisions should be able to regulate the use of energy sources and engines.

Limits on the use of engines will improve public health and compliance with federal law.

17,000 Texans die every year just from particulate matter pollution from burning fossil fuels.³ Texas also has many regions in nonattainment for various National Ambient Air Quality Standards, including ozone, for which local economic consequences reach billions of dollars.⁴ Local ordinances to restrict the use of certain engines are essential to limiting deaths from air pollution and bringing Texas into attainment of the federal Clean Air Act.

The language of the bill may be overly broad.

The broad language of the bill includes the terms “energy source” and “engine.” This language could be interpreted very broadly, potentially to include:

- **Vehicles, from light-duty passenger vehicles to heavy-duty trucks.** Port Houston has a Clean Air Strategy Plan that encourages the use of “cleaner yard mules and hybrid electric cranes.”⁵ This might be preempted by the language of SB 1017. In the future the Port might be prevented from, for example, designating a priority gate for zero-emissions trucks; establishing an autonomous, all-electric dock; or even banning the pre-2008 model year diesel trucks that pollute at orders of magnitude more than cleaner models.
- **Golf carts, go-karts, ATVs, mopeds, and scooters.** The Texas Capitol grounds bans the use of electric scooters. Cities may want to limit the use of golf carts, ATVs, and similar small vehicles.
- **Construction equipment.** Ordinances relating to nuisance or noise from construction activity might be preempted if they, for example, limit the use of noisy engines to daylight hours.

³ Vohra K, Vodonos A, Schwartz J, Marais EA, Sulprizio MP, Mickley LJ. “Global mortality from outdoor fine particle pollution generated by fossil fuel combustion: Results from GEOS-Chem.” *Environ Res.* 2021 Apr;195:110754. <https://doi.org/10.1016/j.envres.2021.110754>. Epub 2021 Feb 9. PMID: 33577774, available at <https://pubmed.ncbi.nlm.nih.gov/33577774/>.

⁴ See https://www3.epa.gov/airquality/greenbook/anayo_tx.html.

⁵ See at pdf p. 7, <https://www.porthouston.com/wp-content/uploads/2022/11/2021-Clean-Air-Strategy-Plan-Update-Final.pdf>.