

By: Toth

H.B. No. 112

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the enforcement of certain federal laws regulating
3 firearms, firearm accessories, and firearm ammunition within the
4 State of Texas; creating a criminal offense.

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

6 SECTION 1. The Legislature of the State of Texas finds that:

7 (1) The Tenth Amendment to the United States
8 Constitution reserves to the states and the people all powers not
9 granted to the federal government elsewhere in the constitution, as
10 those powers were understood at the time Texas was admitted to
11 statehood in 1845. The guaranty of those powers is a matter of
12 contract between the state and people of Texas and the United States
13 dating from the time Texas became a state.

14 (2) The Ninth Amendment to the United States
15 Constitution guarantees to the people rights not enumerated in the
16 constitution, as those rights were understood at the time Texas
17 became a state. The guaranty of those rights is a matter of
18 contract between the state and people of Texas and the United States
19 dating from the time Texas became a state.

20 (3) The Second Amendment to the United States
21 Constitution guarantees the right of the people to keep and bear
22 arms, as that right was understood at the time Texas became a state.
23 The guaranty of that right is a matter of contract between the state
24 and people of Texas and the United States dating from the time Texas

1 became a state.

2 (4) Section 23, Article I, Texas Constitution, secures
3 to Texas citizens the right to keep and bear arms. That
4 constitutional protection is unchanged from the date the
5 constitution was adopted in 1876.

6 SECTION 2. Title 8, Penal Code, is amended by adding Chapter
7 40 to read as follows:

8 CHAPTER 40. THE TEXAS FIREARM PROTECTION ACT

9 Sec. 40.01. SHORT TITLE. This chapter may be cited as the
10 Texas Firearm Protection Act.

11 Sec. 40.02. DEFINITIONS. In this chapter:

12 (1) "Firearm" has the meaning assigned by Section
13 46.01.

14 (2) "Firearm accessory" means an item that is used in
15 conjunction with or mounted on a firearm but is not essential to the
16 basic function of the firearm. The term includes a detachable
17 firearm magazine.

18 Sec. 40.03. STATE AND LOCAL GOVERNMENT POLICY REGARDING
19 ENFORCEMENT OF FEDERAL FIREARM LAWS. (a) This section applies to:

20 (1) the State of Texas, including an agency,
21 department, commission, bureau, board, office, council, court, or
22 other entity that is in any branch of state government and that is
23 created by the constitution or a statute of this state, including a
24 university system or a system of higher education;

25 (2) the governing body of a municipality, county, or
26 special district or authority;

27 (3) an officer, employee, or other body that is part of

1 a municipality, county, or special district or authority, including
2 a sheriff, municipal police department, municipal attorney, or
3 county attorney; and

4 (4) a district attorney or criminal district attorney.

5 (b) An entity described by Subsection (a) may not adopt a
6 rule, order, ordinance, or policy under which the entity enforces,
7 or by consistent action allows the enforcement of, a federal
8 statute, order, rule, or regulation enacted on or after January 1,
9 2021, that purports to regulate a firearm, a firearm accessory, or
10 firearm ammunition if the statute, order, rule, or regulation
11 imposes a prohibition, restriction, or other regulation, such as a
12 capacity or size limitation, a registration requirement, or a
13 background check, that does not exist under the laws of this state.

14 (c) No entity described by Subsection (a) and no person
15 employed by or otherwise under the direction or control of the
16 entity may enforce or attempt to enforce any federal statute,
17 order, rule, or regulation described by Subsection (b).

18 (d) An entity described by Subsection (a) may not receive
19 state grant funds if the entity adopts a rule, order, ordinance, or
20 policy under which the entity enforces any federal law described by
21 Subsection (b) or, by consistent actions, allows the enforcement of
22 any federal law described by Subsection (b). State grant funds for
23 the entity shall be denied for the fiscal year following the year in
24 which a final judicial determination in an action brought under
25 this section is made that the entity has violated Subsection (b).

26 (e) Any citizen residing in the jurisdiction of an entity
27 described by Subsection (a) may file a complaint with the attorney

1 general if the citizen offers evidence to support an allegation
2 that the entity has adopted a rule, order, ordinance, or policy
3 under which the entity enforces a federal law described by
4 Subsection (b) or that the entity, by consistent actions, allows
5 the enforcement of a law described by Subsection (b). The citizen
6 must include with the complaint any evidence the citizen has in
7 support of the complaint.

8 (f) If the attorney general determines that a complaint
9 filed under Subsection (e) against an entity described by
10 Subsection (a) is valid, to compel the entity's compliance with
11 this section the attorney general may file a petition for a writ of
12 mandamus or apply for other appropriate equitable relief in a
13 district court in Travis County or in a county in which the
14 principal office of the entity is located. The attorney general may
15 recover reasonable expenses incurred in obtaining relief under this
16 subsection, including court costs, reasonable attorney's fees,
17 investigative costs, witness fees, and deposition costs.

18 (g) An appeal of a suit brought under Subsection (f) is
19 governed by the procedures for accelerated appeals in civil cases
20 under the Texas Rules of Appellate Procedure. The appellate court
21 shall render its final order or judgment with the least possible
22 delay.

23 (h) A person commits an offense if, in the person's official
24 capacity as an officer of an entity described by Subsection (a), or
25 as a person employed by or otherwise under the direction or control
26 of the entity, or under color of law, the person knowingly enforces
27 or attempts to enforce any federal statute, order, rule, or

1 regulation described by Subsection (b). An offense under this
2 subsection is a Class A misdemeanor.

3 SECTION 3. This Act takes effect immediately if it receives
4 a vote of two-thirds of all the members elected to each house, as
5 provided by Section 39, Article III, Texas Constitution. If this
6 Act does not receive the vote necessary for immediate effect, this
7 Act takes effect September 1, 2021.