

By: Mowery, Hupp, Hardcastle, McReynolds,
Geren, et al.

H.B. No. 1364

Substitute the following for H.B. No. 1364:

By: Cook of Colorado

C.S.H.B. No. 1364

A BILL TO BE ENTITLED

AN ACT

relating to municipal regulation of the discharge of firearms and
certain other weapons.

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

SECTION 1. Section 251.005, Agriculture Code, is amended by
amending Subsection (c) and adding Subsection (c-1) to read as
follows:

(c) A governmental requirement of a city does not apply to
any agricultural operation situated outside the corporate
boundaries of the city on the effective date of this chapter. If an
agricultural operation so situated is subsequently annexed or
otherwise brought within the corporate boundaries of the city, the
governmental requirements of the city do not apply to the
agricultural operation unless the requirement is reasonably
necessary to protect persons who reside in the immediate vicinity
or persons on public property in the immediate vicinity of the
agricultural operation from the danger of:

(1) explosion, flooding, vermin, insects, physical
injury, contagious disease, removal of lateral or subjacent
support, contamination of water supplies, radiation, storage of
toxic materials, [discharge of firearms,] or traffic hazards; or

(2) discharge of firearms or other weapons, subject to
the restrictions in Section 229.002, Local Government Code.

(c-1) A governmental requirement may be imposed under

1 Subsection (c) [~~this subsection~~] only after the governing body of
2 the city makes findings by resolution that the requirement is
3 necessary to protect public health. Before making findings as to
4 the necessity of the requirement, the governing body of the city
5 must use the services of the city health officer or employ a
6 consultant to prepare a report to identify the health hazards
7 related to agricultural operations and determine the necessity of
8 regulation and manner in which agricultural operations should be
9 regulated.

10 SECTION 2. Section 43.002, Local Government Code, is
11 amended by amending Subsection (c) and adding Subsection (d) to
12 read as follows:

13 (c) This section does not prohibit a municipality from
14 imposing:

15 (1) a regulation relating to the location of sexually
16 oriented businesses, as that term is defined by Section 243.002;

17 (2) a municipal ordinance, regulation, or other
18 requirement affecting colonias, as that term is defined by Section
19 2306.581, Government Code;

20 (3) a regulation relating to preventing imminent
21 destruction of property or injury to persons;

22 (4) a regulation relating to public nuisances;

23 (5) a regulation relating to flood control;

24 (6) a regulation relating to the storage and use of
25 hazardous substances; or

26 (7) a regulation relating to the sale and use of
27 fireworks[~~, or~~

1 ~~[(8) a regulation relating to the discharge of~~
2 ~~firearms].~~

3 (d) A regulation relating to the discharge of firearms or
4 other weapons is subject to the restrictions in Section 229.002.

5 SECTION 3. Chapter 229, Local Government Code, is amended
6 by adding Section 229.002 to read as follows:

7 Sec. 229.002. REGULATION OF DISCHARGE OF WEAPON. A
8 municipality may not apply a regulation relating to the discharge
9 of firearms or other weapons in the extraterritorial jurisdiction
10 of the municipality or in an area annexed by the municipality after
11 September 1, 1981, if the firearm or other weapon is:

12 (1) a shotgun, air rifle or pistol, BB gun, or bow and
13 arrow discharged:

14 (A) on a tract of land of 10 acres or more and
15 more than 150 feet from a residence or occupied building located on
16 another property; and

17 (B) in a manner not reasonably expected to cause
18 a projectile to cross the boundary of the tract; or

19 (2) a center fire or rim fire rifle or pistol of any
20 caliber discharged:

21 (A) on a tract of land of 50 acres or more and
22 more than 300 feet from a residence or occupied building located on
23 another property; and

24 (B) in a manner not reasonably expected to cause
25 a projectile to cross the boundary of the tract.

26 SECTION 4. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

C.S.H.B. No. 1364

1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2005.