

1-1 By: Shapiro, Nelson S.B. No. 1742
1-2 (In the Senate - Filed March 11, 2009; March 20, 2009, read
1-3 first time and referred to Committee on Intergovernmental
1-4 Relations; April 6, 2009, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 5, Nays 0;
1-6 April 6, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1742 By: Wentworth

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to municipal regulation of the discharge of firearms and
1-11 certain other weapons; providing a criminal penalty.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 229.002, Local Government Code, is
1-14 amended to read as follows:

1-15 Sec. 229.002. REGULATION OF DISCHARGE OF WEAPON.

1-16 (a) Except as provided by Subsection (b), a [A] municipality may
1-17 not apply a regulation relating to the discharge of firearms or
1-18 other weapons in the extraterritorial jurisdiction of the
1-19 municipality or in an area annexed by the municipality after
1-20 September 1, 1981, if the firearm or other weapon is:

1-21 (1) a shotgun, air rifle or pistol, BB gun, or bow and
1-22 arrow discharged:

1-23 (A) on a tract of land of 10 acres or more and
1-24 more than 1,500 [~~150~~] feet from:

1-25 (i) a residence or occupied building
1-26 located on another property; ~~and~~

1-27 (ii) the property line of a public tract of
1-28 land, generally accessible by the public, that is routinely used
1-29 for organized sporting or recreational activities or that has
1-30 permanent recreational facilities or equipment;

1-31 (iii) the property line of a residential
1-32 subdivision; and

1-33 (iv) the property line of a multifamily
1-34 residential complex; and

1-35 (B) in a manner not reasonably expected to cause
1-36 a projectile to cross the boundary of the tract; ~~or~~

1-37 (2) a center fire or rim fire rifle or pistol of any
1-38 caliber discharged:

1-39 (A) on a tract of land of 50 acres or more and
1-40 more than 1,500 [~~300~~] feet from:

1-41 (i) a residence or occupied building
1-42 located on another property; ~~and~~

1-43 (ii) the property line of a public tract of
1-44 land, generally accessible by the public, that is routinely used
1-45 for organized sporting or recreational activities or that has
1-46 permanent recreational facilities or equipment;

1-47 (iii) the property line of a residential
1-48 subdivision; and

1-49 (iv) the property line of a multifamily
1-50 residential complex; and

1-51 (B) in a manner not reasonably expected to cause
1-52 a projectile to cross the boundary of the tract; or

1-53 (3) discharged at a sport shooting range, as defined
1-54 by Section 250.001, in a manner not reasonably expected to cause a
1-55 projectile to cross the boundary of a tract of land.

1-56 (b) A municipality may adopt and enforce a regulation
1-57 prohibiting or restricting excessive noise from the discharge of a
1-58 firearm in the extraterritorial jurisdiction of the municipality or
1-59 in an area annexed by the municipality after September 1, 1981.

1-60 SECTION 2. Chapter 229, Local Government Code, is amended
1-61 by adding Section 229.003 to read as follows:

1-62 Sec. 229.003. DISCHARGE OF FIREARM ACROSS PROPERTY LINE;
1-63 CRIMINAL PENALTY. (a) In this section, "firearm" means any device

2-1 designed, made, or adapted to expel a projectile through a barrel by
2-2 using the energy generated by an explosion or burning substance or
2-3 any device readily convertible to that use.

2-4 (b) A person commits an offense if:
2-5 (1) the person knowingly discharges a firearm; and
2-6 (2) the projectile from the firearm travels across a
2-7 property line of property that is located in the extraterritorial
2-8 jurisdiction of a municipality.

2-9 (c) An offense under this section is a Class C misdemeanor.
2-10 It is a defense to prosecution under this section that the person:

2-11 (1) owns the property on both sides of each property
2-12 line crossed by the projectile; or

2-13 (2) has a written agreement with any person who owns
2-14 property on either side of each property line crossed by the
2-15 projectile that allows the person to discharge a firearm on, over,
2-16 or across the property or property line.

2-17 (d) The written agreement required under Subsection (c)(2)
2-18 must:

2-19 (1) contain the name of the person allowed to
2-20 discharge the firearm;

2-21 (2) identify the property on either side of the
2-22 property line crossed by the projectile; and

2-23 (3) be signed by any person who owns the property on
2-24 either side of the property line crossed by the projectile.

2-25 (e) If conduct constituting an offense under this section
2-26 constitutes an offense under a section of the Penal Code, the person
2-27 may be prosecuted under either section or both sections.

2-28 SECTION 3. This Act takes effect immediately if it receives
2-29 a vote of two-thirds of all the members elected to each house, as
2-30 provided by Section 39, Article III, Texas Constitution. If this
2-31 Act does not receive the vote necessary for immediate effect, this
2-32 Act takes effect September 1, 2009.

2-33 * * * * *