

BILL ANALYSIS

Senate Research Center

S.B. 766
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Over the past two decades, Texas has significantly liberalized its firearms laws to allow for citizens to better protect themselves by carrying concealed handguns. Over the same period of time, urban and suburban growth has encroached on many of the rural areas where shooting ranges are located. Often, the growing municipalities and their residents find these ranges undesirable and seek to regulate or litigate them out of existence. Some residents reportedly have gone so far as to fabricate evidence by scattering bullets over their yards in order to bring law suits against neighboring ranges. The legal pressure on ranges is creating a public safety issue, because it is causing ranges to shut down at the same time that more and more citizens are exercising their new right to carry a concealed handgun. Nobody can safely carry a concealed handgun without practice, so ranges need to be protected.

This bill prohibits municipalities and counties from regulating shooting ranges and increases the burden of proof that a private plaintiff must satisfy when suing a range. The goal of this bill is to protect safe ranges from legal harassment, not to shield unsafe ranges from being shut down. Under the bill, municipalities may still bring suit against a range that violates the law or that is not constructed according to industry safety standards. Similarly, nothing in the bill prohibits private citizens with clear and convincing evidence of guilt from suing for damages to private property, personal injury, or injunctive relief to enforce valid statutes, ordinances, or regulations.

As proposed, S.B. 766 amends current law relating to regulation and enforcement of laws affecting sport shooting ranges.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 128, Civil Practice and Remedies Code, as follows:

CHAPTER 128. New heading: LIMITATION ON SUITS AGAINST FIREARMS OR
AMMUNITION MANUFACTURER, TRADE ASSOCIATION,
SELLER, OR SPORT SHOOTING RANGE

Sec. 128.001. LIMITATION ON RIGHT TO BRING SUIT OR RECOVER
DAMAGES. (a) Makes no changes to this subsection.

(b) Prohibits a governmental unit, except as provided by Subsections (c) and (f), from bringing suit against a firearms or ammunition manufacturer, trade association, or seller for recovery of damages resulting from, or injunctive relief or abatement of a nuisance relating to, the lawful design, manufacture, marketing, or sale of firearms or ammunition to the public, or against a sport shooting range, as defined in Section 250.001 (Restriction on Regulation of Sport Shooting Ranges), Local Government Code, or the owners or operators of a sport shooting range, or the owners of real property on which a sport shooting range is operated, for the lawful discharge of firearms on the sport shooting range.

(c)-(e) Makes no changes to these subsections.

(f) Provides that nothing in this section shall prohibit a municipality from bringing an action against a sport shooting range, or the owners or operators of a sport shooting range, or the owners of real property on which a sport shooting range is operating, for injunctive relief to enforce a valid ordinance, statute, or regulation, or to require a sport shooting range to comply with generally accepted standards followed in the sport shooting range industry in Texas at the time of the sport shooting range's construction, if the sport shooting range:

(1) began operation after September 1, 2011; and

(2) operates exclusively within the municipality's geographical limits, exclusive of its extraterritorial jurisdiction.

Sec. 128.002. LIMITATION ON PRIVATE SUITS AGAINST OR RECOVERY OF DAMAGES FROM A SPORT SHOOTING RANGE. (a) Defines "private suit," "sport shooting range," "claimant," and "clear and convincing evidence" in this section.

(b) Prohibits a private suit from being brought against a sport shooting range or its owners or operators, or the owners of the real property on which a sport shooting range is operated, for recovery of damages resulting from, or injunctive relief or abatement of a nuisance relating to the lawful discharge of firearms, except as provided by Subsection (c).

(c) Provides that nothing in this section shall prohibit a private suit against a sport shooting range or its owners or operators, or the owners of the real property on which a sport shooting range is operated, for recovery of damages for:

(1) breach of contract for use of the real property on which a sport shooting range is located;

(2) damage or harm to private property caused by the unlawful discharge of firearms on a sport shooting range;

(3) personal injury or death caused by the unlawful discharge of a firearm on a sport shooting range; or

(4) injunctive relief to enforce a valid ordinance, statute, or regulation.

(d) Authorizes damages to be awarded, or an injunction to be obtained, in a private suit brought pursuant to Subsections (c)(2), (c)(3), and (c)(4) only if the claimant establishes a right to recovery by clear and convincing evidence.

SECTION 2. Amends Section 229.001, Local Government Code, by amending Subsections (a) and (b), as follows:

Sec. 229.001. FIREARMS; EXPLOSIVES. (a) Prohibits a municipality from adopting regulations relating to the transfer, private ownership, keeping, transportation, licensing, or registration of firearms, ammunition, or firearm supplies, or the discharge of a firearm at, or the operation of, a "sport shooting range" as defined in Section 250.001.

(b) Provides that Subsection (a) does not affect the authority a municipality has under another law to authorize certain requirements and regulations, including regulating the discharge of firearms within the limits of the municipality, other than at a "sport shooting range" as defined in Section 250.001.

SECTION 3. Amends Subtitle B, Title 7, Local Governmental Code, by adding Chapter 236, as follows:

CHAPTER 236. COUNTY REGULATION OF FIREARMS, AMMUNITION AND
SPORT SHOOTING RANGES

Sec. 236.001. FIREARMS; SPORT SHOOTING RANGES. (a) Defines "sport shooting range" in this section.

(b) Prohibits a county by order of commissioners court from adopting regulations relating to the transfer, private ownership, keeping, transportation, licensing, or registration of firearms, ammunition, or firearm supplies, or the discharge of a firearm at, or the operation of, a "sport shooting range" as defined in Section 250.001.

SECTION 4. Amends Section 250.001, Local Government Code, by adding Subsection (d), as follows:

(d) Requires at least twenty different individuals to discharge firearms at the private club or association each calendar year in order to qualify as a "private club" or an "association" within the meaning of subsection (a) (relating to defining "sport shooting range" in this section).

SECTION 5. Effective date: upon passage or September 1, 2011.