

By: Estes

S.B. No. 766

A BILL TO BE ENTITLED

AN ACT

relating to regulation and enforcement of laws affecting sport shooting ranges.

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

SECTION 1. Chapter 128, Civil Practice and Remedies Code, is amended to read as follows:

CHAPTER 128. LIMITATION ON SUITS AGAINST FIREARMS OR

AMMUNITION MANUFACTURER, TRADE ASSOCIATION, [~~OR~~]

SELLER, OR SPORT SHOOTING RANGE

Sec. 128.001. LIMITATION ON RIGHT TO BRING SUIT OR RECOVER DAMAGES. (a) In this section, "governmental unit" means:

(1) a political subdivision of the state, including a municipality or county; and

(2) any other agency of government whose authority is derived from the laws or constitution of this state.

(b) Except as provided by Subsections (c) and (f), a governmental unit may not bring 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, 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,

1 for the lawful discharge of firearms on the sport shooting range.

2 (c) A governmental unit on behalf of the state or any other  
3 governmental unit may bring a suit described by Subsection (b) if  
4 the suit is approved in advance by the legislature in a concurrent  
5 resolution or by enactment of a law. This subsection does not  
6 create a cause of action.

7 (d) Nothing in this section shall prohibit a governmental  
8 unit from bringing an action against a firearms manufacturer, trade  
9 association, or seller for recovery of damages for:

10 (1) breach of contract or warranty as to firearms or  
11 ammunition purchased by a governmental unit;

12 (2) damage or harm to property owned or leased by the  
13 governmental unit caused by a defective firearm or ammunition;

14 (3) personal injury or death, if such action arises  
15 from a governmental unit's claim for subrogation;

16 (4) injunctive relief to enforce a valid ordinance,  
17 statute, or regulation; or

18 (5) contribution under Chapter 33, Civil Practice and  
19 Remedies Code.

20 (e) Nothing in this section shall prohibit the attorney  
21 general from bringing a suit described by Subsection (b) on behalf  
22 of the state or any other governmental unit. This subsection does  
23 not create a cause of action.

24 (f) Nothing in this section shall prohibit a municipality  
25 from bringing an action against a sport shooting range, or the  
26 owners or operators of a sport shooting range, or the owners of real  
27 property on which a sport shooting range is operating, for

1 injunctive relief to enforce a valid ordinance, statute or  
2 regulation, or to require a sport shooting range to comply with  
3 generally accepted standards followed in the sport shooting range  
4 industry in Texas at the time of the sport shooting range's  
5 construction, if the sport shooting range:

- 6           (1) began operation after September 1, 2011; and  
7           (2) operates exclusively within the municipality's  
8 geographical limits, exclusive of its extraterritorial  
9 jurisdiction.

10           Sec. 128.002. LIMITATION ON PRIVATE SUITS AGAINST OR  
11 RECOVERY OF DAMAGES FROM A SPORT SHOOTING RANGE. (a) In this  
12 section,

- 13           (1) "private suit" means:  
14                 (A) a civil suit brought by a natural person; or  
15                 (B) a civil suit brought by an entity other than a  
16 natural person or governmental entity;

17           (2) "sport shooting range" has the same meaning  
18 assigned by Section 250.001, Local Government Code;

19           (3) "claimant" has the same meaning assigned by  
20 Section 41.001;

21           (4) "Clear and convincing evidence" has the same  
22 meaning assigned by Section 41.001.

23           (b) Except as provided by Subsection (c), a private suit may  
24 not be brought against a sport shooting range or its owners or  
25 operators, or the owners of the real property on which a sport  
26 shooting range is operated, for recovery of damages resulting from,  
27 or injunctive relief or abatement of a nuisance relating to the

1 lawful discharge of firearms.

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

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

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

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

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

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

18 Section 2. Section 229.001, Local Government Code, is  
19 amended by amending Subsections (a) and (b) to read as follows:

20 Sec. 229.001. FIREARMS; EXPLOSIVES. (a) A municipality  
21 may not adopt regulations relating to the transfer, private  
22 ownership, keeping, transportation, licensing, or registration or  
23 firearms, ammunition, or firearm supplies, or the discharge of a  
24 firearm at, or the operation of, a "sport shooting range" as defined  
25 in Section 250.001.

26 (b) Subsection (a) does not affect the authority a  
27 municipality has under another law to:

1           (1) require residents or public employees to be armed  
2 for personal or national defense, law enforcement, or another  
3 lawful purpose;

4           (2) regulate the discharge of firearms within the  
5 limits of the municipality, other than at a "sport shooting range"  
6 as defined in Section 250.001;

7           (3) regulate the use of property, the location of a  
8 business, or uses at a business under the municipality's fire code,  
9 zoning ordinance, or land-use regulations as long as the code,  
10 ordinance, or regulations are not used to circumvent the intent of  
11 Subsection (a) or Subdivision (5) of this subsection;

12           (4) regulate the use of firearms in the case of an  
13 insurrection, riot, or natural disaster if the municipality finds  
14 the regulations necessary to protect public health and safety;

15           (5) regulate the storage or transportation of  
16 explosives to protect public health and safety, except that 25  
17 pounds or less of black powder for each private residence and 50  
18 pounds or less of black powder for each retail dealer are not  
19 subject to regulation; or

20           (6) regulate the carrying of a firearm by a person  
21 other than a person licensed to carry a concealed handgun under  
22 Subchapter H, Chapter 411, Government Code, [FN1] at a:

23                   (A) public park;

24                   (B) public meeting of a municipality, county, or  
25 other governmental body;

26                   (C) political rally, parade, or official  
27 political meeting; or

1 (D) nonfirearms-related school, college, or  
2 professional athletic event.

3 SECTION 3. Subtitle B, Title 7, Local Governmental Code, is  
4 amended by adding Chapter 236 to read as follows:

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

7 Sec. 236.001. FIREARMS; SPORT SHOOTING RANGES. (a) In  
8 this section, "sport shooting range" has the same meaning assigned  
9 in Section 250.001.

10 (b) A county by order of commissioners court may not adopt  
11 regulations relating to the transfer, private ownership, keeping,  
12 transportation, licensing, or registration of firearms,  
13 ammunition, or firearm supplies, or the discharge of a firearm at,  
14 or the operation of, a "sport shooting range" as defined in Section  
15 250.001.

16 SECTION 4. Section 250.001, Local Government Code, is  
17 amended by adding Subsection (d) to read as follows:

18 (d) In order to qualify as a "private club or an  
19 "association" within the meaning of subsection (a), at least twenty  
20 different individuals must discharge firearms at the private club  
21 or association each calendar year.

22 SECTION 5. This Act takes effect immediately if it receives  
23 a vote of two-thirds of all the members elected to each house, as  
24 provided by Section 39, Article III, Texas Constitution. If this  
25 Act does not receive the vote necessary for immediate effect, this  
26 Act takes effect September 1, 2011.