

BILL ANALYSIS

C.S.H.B. 627

By: Krause

Federalism & Fiscal Responsibility, Select
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that the U.S. Constitution enumerates the powers of the federal government and reserves all rights, privileges, and powers not defined within the document to the people and the states. While the federal government's regulation of commerce with foreign nations and among the several states is widely considered to be in the sphere of federal regulatory authority, the federal government's authority to regulate intrastate commerce, such as the sale, manufacture, and use of a product only in Texas, has been challenged several times in the federal court system.

Interested parties contend that exempting the intrastate manufacture of a firearm, a firearm accessory, or ammunition from federal regulation enables the Texas Legislature to direct the regulatory environment for a substantial subset of Texas gun owners, protecting them from unreasonable federal regulations. Furthermore, the interested parties report that Texas is currently home to over 100 firearms manufacturers and that the implementation of intrastate protections could potentially entice more manufacturers to set up operations in the state. A recent legislative enactment declared the intrastate manufacture, sale, and use of incandescent light bulbs exempt from federal regulatory authority, which some note establishes a precedent of support for such measures. C.S.H.B. 627 seeks to codify similar provisions for the manufacture, sale, and use of firearms, firearm accessories, and ammunition.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 627 amends the Business & Commerce Code to establish that a firearm, a firearm accessory, or ammunition that is manufactured in Texas and remains in Texas is not subject to federal law or federal regulation, including registration, under the authority of the U.S. Congress to regulate interstate commerce and that a basic material from which a firearm, a firearm accessory, or ammunition is manufactured in Texas is not a firearm, a firearm accessory, or ammunition and is not subject to federal regulation under the authority of the U.S. Congress to regulate interstate commerce as if it actually were such an item. The bill specifies that a firearm, a firearm accessory, or ammunition is considered to be "manufactured in this state" if the item is manufactured in Texas from basic materials and without the inclusion of any part imported from another state, other than a generic and insignificant part, and without regard to whether a firearm accessory that was imported from another state is attached to or used in conjunction with it. The bill's provisions do not apply to a firearm that cannot be carried and used by one person, a firearm that has a bore diameter greater than 1.5 inches and that uses smokeless powder and not black powder as a propellant, ammunition with a projectile that explodes using an explosion of chemical energy after the projectile leaves the firearm, or a firearm that is capable of shooting more than two shots automatically, without manual reloading, by a single function of the trigger. The bill requires a firearm manufactured and sold in Texas to have the words "Made in Texas"

clearly stamped on a central metallic part, such as the receiver or frame.

C.S.H.B. 627 requires the attorney general, on written notification to the attorney general by a citizen of the citizen's intent to manufacture a firearm, a firearm accessory, or ammunition in Texas, to seek a declaratory judgment from a federal district court in Texas that the bill's provisions are consistent with the U.S. Constitution.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 627 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. FINDINGS.	SECTION 1. Same as introduced version.
SECTION 2. DECLARATION.	SECTION 2. Same as introduced version.
SECTION 3. Title 99, Business & Commerce Code, is amended by adding Chapter 2003 to read as follows: <u>CHAPTER 2003. INTRASTATE MANUFACTURE OF A FIREARM, A FIREARM ACCESSORY, OR AMMUNITION</u>	SECTION 3. Title 99, Business & Commerce Code, is amended by adding Chapter 2003 to read as follows: <u>CHAPTER 2003. INTRASTATE MANUFACTURE OF A FIREARM, A FIREARM ACCESSORY, OR AMMUNITION</u>
<u>Sec. 2003.001. DEFINITIONS.</u>	<u>Sec. 2003.001. DEFINITIONS.</u>
<u>Sec. 2003.002. MEANING OF "MANUFACTURED IN THIS STATE."</u>	<u>Sec. 2003.002. MEANING OF "MANUFACTURED IN THIS STATE."</u>
<u>Sec. 2003.003. NOT SUBJECT TO FEDERAL REGULATION.</u>	<u>Sec. 2003.003. NOT SUBJECT TO FEDERAL REGULATION.</u>
<u>Sec. 2003.004. EXCEPTIONS. This chapter does not apply to:</u> <u>(1) a firearm that cannot be carried and used by one person;</u> <u>(2) a firearm that has a bore diameter greater than 1.5 inches and that uses smokeless powder and not black powder as a propellant;</u> <u>(3) ammunition with a projectile that explodes using an explosion of chemical energy after the projectile leaves the firearm; or</u> <u>(4) a firearm that discharges two or more projectiles with one activation of the trigger or other firing device.</u>	<u>Sec. 2003.004. EXCEPTIONS. This chapter does not apply to:</u> <u>(1) a firearm that cannot be carried and used by one person;</u> <u>(2) a firearm that has a bore diameter greater than 1.5 inches and that uses smokeless powder and not black powder as a propellant;</u> <u>(3) ammunition with a projectile that explodes using an explosion of chemical energy after the projectile leaves the firearm; or</u> <u>(4) any firearm that is capable of shooting more than two shots automatically, without manual reloading, by a single function of the trigger.</u>

Sec. 2003.005. MARKETING OF FIREARMS.

Sec. 2003.006. ATTORNEY GENERAL.

(a) The attorney general shall defend a citizen of this state whom the federal government attempts to prosecute, claiming the power to regulate interstate commerce, for violation of a federal law concerning the manufacture, sale, transfer, or possession of a firearm, a firearm accessory, or ammunition manufactured and retained in this state.

(b) On written notification to the attorney general by a citizen of the citizen's intent to manufacture a firearm, a firearm accessory, or ammunition to which this chapter applies, the attorney general shall seek a declaratory judgment from a federal district court in this state that this chapter is consistent with the United States Constitution.

SECTION 4. This Act applies only to a firearm, a firearm accessory, as that term is defined by Section 2003.001, Business & Commerce Code, as added by this Act, and ammunition that is manufactured on or after the effective date of this Act.

SECTION 5. This Act takes effect September 1, 2013.

Sec. 2003.005. MARKETING OF FIREARMS.

Sec. 2003.006. ATTORNEY GENERAL.

(a) On written notification to the attorney general by a citizen of the citizen's intent to manufacture a firearm, a firearm accessory, or ammunition to which this chapter applies, the attorney general shall seek a declaratory judgment from a federal district court in this state that this chapter is consistent with the United States Constitution.

SECTION 4. Same as introduced version.

SECTION 5. Same as introduced version.