

BILL ANALYSIS

H.B. 1076

By: Toth

Federalism & Fiscal Responsibility, Select
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties contend that in order to protect the rights of Texas gun owners, it is necessary to make federal laws restricting the ownership of certain firearms, firearm accessories, and firearm ammunition unenforceable within the state's boundaries. H.B. 1076 seeks to be proactive in protecting the Second Amendment rights of Texas citizens and the ability of our law enforcement officers to protect the public by creating the Texas Firearm Protection Act.

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

H.B. 1076 amends the Penal Code to create the Texas Firearm Protection Act and to specify that its provisions apply to the following: the State of Texas, including an agency, department, commission, bureau, board, office, council, court, or other entity that is in any branch of state government and that is created by the Texas Constitution or by a Texas statute, including a university system or a system of higher education; the governing body of a municipality, county, or special district or authority; an officer, employee, or other body that is part of a municipality, county, or special district or authority, including a sheriff, municipal police department, municipal attorney, or county attorney; and a district attorney or criminal district attorney.

H.B. 1076 prohibits such an entity from adopting a rule, order, ordinance, or policy under which the entity enforces, or by consistent action allows the enforcement of, a federal statute, order, rule, or regulation enacted on or after January 1, 2013, that purports to regulate a firearm, firearm accessory, or firearm ammunition if the statute, order, rule, or regulation imposes a prohibition, restriction, or other regulation, such as capacity or size limitation, a registration requirement, or a background check, that does not exist under Texas law. The bill prohibits such an entity and a person employed by or otherwise under the direction or control of the entity from enforcing or attempting to enforce any such federal statute, order, rule, or regulation.

H.B. 1076 prohibits such an entity from receiving state grant funds if the entity adopts a rule, order, ordinance, or policy under which the entity enforces any federal laws described by the bill's provisions or, by consistent actions, allows the enforcement of any such federal laws. The bill requires state grant funds for the entity to be denied for the fiscal year following the year in which a final judicial determination in an action is made that the entity has violated the bill's provisions. The bill authorizes any citizen residing in the jurisdiction of such an entity to file a complaint with the attorney general if the citizen offers evidence to support an allegation that the entity has adopted a rule, order, ordinance, or policy under which the entity enforces the federal laws described by the bill's provisions or that the entity, by consistent actions, allows the enforcement of any such laws, and requires the citizen to include with the complaint the evidence the citizen has that supports the complaint. The bill sets out provisions relating to the attorney general's determinations regarding the validity of such a complaint, specifies that an

appeal of a suit brought under those applicable provisions is governed by the procedures for accelerated appeals in civil cases under the Texas Rules of Appellate Procedure, and requires the appellate court to render its final order or judgment with the least possible delay.

H.B. 1076 makes it a Class A misdemeanor offense for a person, in the person's official capacity as an officer of an applicable entity or as a person employed by or otherwise under the direction or control of such an entity, or under color of law, to knowingly enforce or attempt to enforce any federal statute, order, rule, or regulation described by the bill's provisions.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.