

1-1 By: Toth, et al. (Senate Sponsor - Paxton) H.B. No. 1076
 1-2 (In the Senate - Received from the House May 7, 2013;
 1-3 May 9, 2013, read first time and referred to Committee on
 1-4 Agriculture, Rural Affairs, and Homeland Security; May 15, 2013,
 1-5 reported favorably by the following vote: Yeas 3, Nays 1;
 1-6 May 15, 2013, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8	X			
1-9				
1-10		X		
1-11	X			
1-12			X	
1-13	X			

1-14 A BILL TO BE ENTITLED
 1-15 AN ACT

1-16 relating to certain firearms, firearm accessories, and firearm
 1-17 ammunition within the State of Texas; providing an exemption from
 1-18 federal regulation and providing penalties.

1-19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-20 SECTION 1. The Legislature of the State of Texas finds that:

1-21 (1) The Tenth Amendment to the United States
 1-22 Constitution reserves to the states and the people all powers not
 1-23 granted to the federal government elsewhere in the constitution, as
 1-24 those powers were understood at the time Texas was admitted to
 1-25 statehood in 1845. The guaranty of those powers is a matter of
 1-26 contract between the state and people of Texas and the United States
 1-27 dating from the time Texas became a state.

1-28 (2) The Ninth Amendment to the United States
 1-29 Constitution guarantees to the people rights not enumerated in the
 1-30 constitution, as those rights were understood at the time Texas
 1-31 became a state. The guaranty of those rights is a matter of
 1-32 contract between the state and people of Texas and the United States
 1-33 dating from the time Texas became a state.

1-34 (3) The Second Amendment to the United States
 1-35 Constitution guarantees the right of the people to keep and bear
 1-36 arms, as that right was understood at the time Texas became a state.
 1-37 The guaranty of that right is a matter of contract between the state
 1-38 and people of Texas and the United States dating from the time Texas
 1-39 became a state.

1-40 (4) Section 23, Article I, Texas Constitution, secures
 1-41 to Texas citizens the right to keep and bear arms. That
 1-42 constitutional protection is unchanged from the date the
 1-43 constitution was adopted in 1876.

1-44 SECTION 2. The Penal Code is amended by adding Chapter 40 to
 1-45 read as follows:

1-46 CHAPTER 40. THE TEXAS FIREARM PROTECTION ACT

1-47 Sec. 40.01. This chapter may be cited as the Texas Firearm
 1-48 Protection Act.

1-49 Sec. 40.02. DEFINITIONS. In this chapter:

1-50 (1) "Firearm" has the meaning assigned by Section
 1-51 46.01.

1-52 (2) "Firearm accessory" means an item that is used in
 1-53 conjunction with or mounted on a firearm but is not essential to the
 1-54 basic function of the firearm. The term includes a detachable
 1-55 firearm magazine.

1-56 Sec. 40.03. STATE AND LOCAL GOVERNMENT POLICY REGARDING
 1-57 ENFORCEMENT OF FEDERAL FIREARM LAWS. (a) This section applies to:

1-58 (1) the State of Texas, including an agency,
 1-59 department, commission, bureau, board, office, council, court, or
 1-60 other entity that is in any branch of state government and that is
 1-61 created by the constitution or a statute of this state, including a

2-1 university system or a system of higher education;

2-2 (2) the governing body of a municipality, county, or
 2-3 special district or authority;

2-4 (3) an officer, employee, or other body that is part of
 2-5 a municipality, county, or special district or authority, including
 2-6 a sheriff, municipal police department, municipal attorney, or
 2-7 county attorney; and

2-8 (4) a district attorney or criminal district attorney.

2-9 (b) An entity described by Subsection (a) may not adopt a
 2-10 rule, order, ordinance, or policy under which the entity enforces,
 2-11 or by consistent action allows the enforcement of, a federal
 2-12 statute, order, rule, or regulation enacted on or after January 1,
 2-13 2013, that purports to regulate a firearm, a firearm accessory, or
 2-14 firearm ammunition if the statute, order, rule, or regulation
 2-15 imposes a prohibition, restriction, or other regulation, such as
 2-16 capacity or size limitation, a registration requirement, or a
 2-17 background check, that does not exist under the laws of this state.

2-18 (c) No entity described by Subsection (a) and no person
 2-19 employed by or otherwise under the direction or control of the
 2-20 entity may enforce or attempt to enforce any federal statute,
 2-21 order, rule, or regulation described by Subsection (b).

2-22 (d) An entity described by Subsection (a) may not receive
 2-23 state grant funds if the entity adopts a rule, order, ordinance, or
 2-24 policy under which the entity enforces any federal laws described
 2-25 by Subsection (b) or, by consistent actions, allows the enforcement
 2-26 of any federal laws described by Subsection (b). State grant funds
 2-27 for the entity shall be denied for the fiscal year following the
 2-28 year in which a final judicial determination in an action brought
 2-29 under this section is made that the entity has violated Subsection
 2-30 (b).

2-31 (e) Any citizen residing in the jurisdiction of an entity
 2-32 described by Subsection (a) may file a complaint with the attorney
 2-33 general if the citizen offers evidence to support an allegation
 2-34 that the entity has adopted a rule, order, ordinance, or policy
 2-35 under which the entity enforces the federal laws described by
 2-36 Subsection (b) or that the entity, by consistent actions, allows
 2-37 the enforcement of any laws described by Subsection (b). The
 2-38 citizen must include with the complaint the evidence the citizen
 2-39 has that supports the complaint.

2-40 (f) If the attorney general determines that a complaint
 2-41 filed under Subsection (e) against an entity described by
 2-42 Subsection (a) is valid, the attorney general may file a petition
 2-43 for a writ of mandamus or apply for other appropriate equitable
 2-44 relief in a district court in Travis County or in a county in which
 2-45 the principal office of an entity described by Subsection (a) is
 2-46 located to compel the entity that adopts a rule, order, ordinance,
 2-47 or policy under which the local entity enforces the laws described
 2-48 by Subsection (b) or that, by consistent actions, allows the
 2-49 enforcement of the laws described by Subsection (b), to comply with
 2-50 this section. The attorney general may recover reasonable expenses
 2-51 incurred in obtaining relief under this subsection, including court
 2-52 costs, reasonable attorney's fees, investigative costs, witness
 2-53 fees, and deposition costs.

2-54 (g) An appeal of a suit brought under Subsection (f) is
 2-55 governed by the procedures for accelerated appeals in civil cases
 2-56 under the Texas Rules of Appellate Procedure. The appellate court
 2-57 shall render its final order or judgment with the least possible
 2-58 delay.

2-59 (h) A person commits an offense if, in the person's official
 2-60 capacity as an officer of an entity described by Subsection (a), or
 2-61 as a person employed by or otherwise under the direction or control
 2-62 of the entity, or under color of law, knowingly enforces or attempts
 2-63 to enforce any federal statute, order, rule, or regulation
 2-64 described by Subsection (b). An offense under this subsection is a
 2-65 Class A misdemeanor.

2-66 SECTION 3. This Act takes effect immediately if it receives
 2-67 a vote of two-thirds of all the members elected to each house, as
 2-68 provided by Section 39, Article III, Texas Constitution. If this
 2-69 Act does not receive the vote necessary for immediate effect, this

3-1 Act shall take effect September 1, 2013.

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