

By: Creighton

H.B. No. 1314

A BILL TO BE ENTITLED

AN ACT

relating to the unlawful seizure of a firearm by a governmental officer or employee; providing penalties.

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

SECTION 1. Chapter 46, Penal Code, is amended by adding Section 46.16 to read as follows:

Sec. 46.16. UNLAWFUL SEIZURE OF FIREARM. (a) A person who is an officer or employee of the United States, this state, or a political subdivision of this state commits an offense if the person, while acting under color of the person's office or employment, intentionally or knowingly seizes a firearm as permitted or required by a federal statute, order, rule, or regulation that imposes a prohibition, restriction, or other regulation on firearms that does not exist under the laws of this state.

(b) For purposes of this section, a person acts under color of the person's office or employment if the person acts or purports to act in an official capacity or takes advantage of such actual or purported capacity.

(c) An offense under this section is a Class A misdemeanor.

(d) It is an exception to the application of this section that the person's seizure of a firearm was consistent with an explicit and applicable grant of federal statutory authority that is consistent with the United States Constitution.

1       (e) The prosecution may negate the existence of the  
2 exception provided by Subsection (d) only by proving beyond a  
3 reasonable doubt that, based on a decision entered by the United  
4 States Supreme Court on or after September 1, 2013, the federal  
5 statute, order, rule, or regulation described by Subsection (a) is  
6 not within the scope of federal powers conferred by the United  
7 States Constitution.

8       SECTION 2. This Act takes effect immediately if it receives  
9 a vote of two-thirds of all the members elected to each house, as  
10 provided by Section 39, Article III, Texas Constitution. If this  
11 Act does not receive the vote necessary for immediate effect, this  
12 Act takes effect September 1, 2013.