

By: White of Tyler

H.B. No. 4061

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of firearms, air guns, ammunition, and firearm and air gun supplies; imposing a civil penalty.

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

SECTION 1. Section 229.001(a), Local Government Code, is amended to read as follows:

(a) Notwithstanding any other law, including Section 43.002 of this code and Chapter 251, Agriculture Code, a municipality may not adopt regulations relating to:

(1) the transfer, purchase, sale, taxation, manufacture, storage, carrying, wearing, private ownership, keeping, transportation, licensing, or registration of firearms, air guns, ammunition, or firearm or air gun supplies; or

(2) the discharge of a firearm or air gun at a sport shooting range.

SECTION 2. Subtitle C, Title 7, Local Government Code, is amended by adding Chapter 247 to read as follows:

CHAPTER 247. REGULATION OF FIREARMS AND AMMUNITION

Sec. 247.001. DEFINITIONS. In this chapter:

(1) "Local regulation" means an ordinance, order, or regulation of a political subdivision.

(2) "Officer" means a person appointed or elected as an executive officer of a political subdivision.

(3) "Political subdivision" means a municipality,

1 county, or special-purpose district, including a school, junior  
2 college, water, hospital, or conservation and reclamation  
3 district.

4 Sec. 247.002. UNAUTHORIZED LOCAL REGULATION OF FIREARMS AND  
5 AMMUNITION. (a) Notwithstanding any other law, a political  
6 subdivision or an officer of a political subdivision may not adopt  
7 or enforce a local regulation relating to a firearm or ammunition  
8 unless authorized by this code or other state law.

9 (b) A local regulation relating to a firearm or ammunition  
10 that is not authorized by this code or other state law is invalid.

11 (c) It is not a defense to a suit brought under this chapter  
12 alleging that a political subdivision adopted a local regulation in  
13 violation of Subsection (a) that the political subdivision was  
14 acting in good faith or on the advice of counsel.

15 Sec. 247.003. WAIVER OF GOVERNMENTAL IMMUNITY; PERMISSION  
16 TO SUE. (a) Governmental immunity to suit and liability is waived  
17 and abolished to the extent of liability for the relief allowed  
18 under this chapter for a violation of Section 247.002(a).

19 (b) A person who is adversely affected by a violation of  
20 Section 247.002(a) may file suit against the political subdivision.

21 Sec. 247.004. VENUE. Venue for a suit brought under this  
22 chapter is in the district court in the county in which the  
23 violation occurred.

24 Sec. 247.005. REMEDIES. A district court may award a  
25 plaintiff in a civil action brought under Section 247.003:

26 (1) declaratory relief under Chapter 37, Civil  
27 Practice and Remedies Code;

1           (2) injunctive relief to prevent the threatened  
2 violation or continued violation;

3           (3) actual damages of not more than \$100,000; and

4           (4) reasonable attorney's fees, court costs, and other  
5 reasonable expenses required in bringing the action.

6           Sec. 247.006. CIVIL PENALTY. (a) An officer who knowingly  
7 and wilfully violates Section 247.002(a) is personally liable to  
8 the state for a civil penalty of not more than \$5,000.

9           (b) The attorney general or a district or county attorney of  
10 the county in which the violation is alleged to have occurred may  
11 sue to collect the civil penalty.

12           (c) The affirmative defense of official immunity is not  
13 available to an officer sued under this section.

14           SECTION 3. This Act takes effect September 1, 2015.