

By: Hall, Kolthorst, Perry

S.B. No. 438

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting public funds from being used to enforce certain federal or international laws regulating firearms, firearm accessories, and firearm ammunition within the State of Texas.

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

SECTION 1. Title 1, Government Code, is amended by adding Chapter 2 to read as follows:

CHAPTER 2. GENERAL PROVISIONS RELATING TO USE OF PUBLIC FUNDS

Sec. 2.001. PROHIBITION ON USE OF PUBLIC FUNDS TO ENFORCE CERTAIN FEDERAL OR INTERNATIONAL LAWS REGULATING FIREARMS, FIREARM ACCESSORIES, AND FIREARM AMMUNITION. (a) In this section:

(1) "Firearm" has the meaning assigned by Section 46.01, Penal Code.

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

(b) This section applies to:

(1) 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 constitution or a statute of this state, including a university system or a system of higher education;

(2) the governing body of a municipality, county, or

1 special district or authority;

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

6 (4) a district attorney or criminal district attorney.

7 (c) Notwithstanding any other law, an entity described by
8 Subsection (b) may not use public funds to enforce a federal
9 statute, order, rule, or regulation or an international law
10 purporting to regulate a firearm, a firearm accessory, or firearm
11 ammunition, or the carrying of those items, if the federal statute,
12 order, rule, or regulation or international law imposes a
13 prohibition, restriction, or other regulation, such as a capacity,
14 size, or configuration limitation, that does not exist under the
15 laws of this state.

16 (d) An entity described by Subsection (b) may not receive
17 state grant funds if the entity adopts a rule, order, ordinance, or
18 policy under which the entity requires the enforcement of any
19 federal statute, order, rule, or regulation or an international law
20 described by Subsection (c) or, by consistent actions, requires the
21 enforcement of any federal statute, order, rule, or regulation or
22 an international law described by Subsection (c). State grant
23 funds for the entity shall be denied for the fiscal year following
24 the year in which a final judicial determination in an action
25 brought under this section is made that the entity has
26 intentionally required the enforcement of any federal statute,
27 order, rule, or regulation or an international law described by

1 Subsection (c).

2 (e) Any citizen residing in the jurisdiction of an entity
3 described by Subsection (b) may file a complaint with the attorney
4 general if the citizen offers evidence to support an allegation
5 that the entity has adopted a rule, order, ordinance, or policy
6 under which the entity requires the enforcement of any federal
7 statute, order, rule, or regulation or an international law
8 described by Subsection (c) or that the entity, by consistent
9 actions, requires the enforcement of any federal statute, order,
10 rule, or regulation or an international law described by Subsection
11 (c). The citizen must include with the complaint the evidence the
12 citizen has that supports the complaint.

13 (f) If the attorney general determines that a complaint
14 filed under Subsection (e) against an entity described by
15 Subsection (b) is valid, the attorney general may file a petition
16 for a writ of mandamus or apply for other appropriate equitable
17 relief in a district court in Travis County or in a county in which
18 the principal office of the entity is located to compel the entity
19 to comply with Subsection (c). The attorney general may recover
20 reasonable expenses incurred in obtaining relief under this
21 subsection, including court costs, reasonable attorney's fees,
22 investigative costs, witness fees, and deposition costs.

23 (g) An appeal of a suit brought under Subsection (f) is
24 governed by the procedures for accelerated appeals in civil cases
25 under the Texas Rules of Appellate Procedure. The appellate court
26 shall render its final order or judgment with the least possible
27 delay.

1 (h) The attorney general shall defend any entity described
2 by Subsection (b) that the federal government attempts to sue or
3 prosecute for an action or omission consistent with the
4 requirements of this section.

5 SECTION 2. This Act takes effect immediately if it receives
6 a vote of two-thirds of all the members elected to each house, as
7 provided by Section 39, Article III, Texas Constitution. If this
8 Act does not receive the vote necessary for immediate effect, this
9 Act takes effect September 1, 2015.