

BILL ANALYSIS

H.B. 3231
By: Clardy
Homeland Security & Public Safety
Committee Report (Unamended)

BACKGROUND AND PURPOSE

It has been suggested that the state should update and modernize existing firearms preemption statutes to ensure more uniform treatment of firearms and ammunition across various jurisdictions and provide adequate means of enforcing these protections. H.B. 3231 seeks to do so by more closely aligning limitations on municipal and county regulatory authority, expanding the scope of those limitations, and providing for a civil remedy for a person adversely affected by a municipality's or county's actions violating such a limitation.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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. 3231 amends the Local Government Code to revise the prohibitions against a municipality or county adopting regulations relating to the transfer, private ownership, keeping, transportation, licensing, or registration of firearms, air guns, knives, ammunition, or firearm or air gun supplies or the discharge of a firearm or air gun at a sport shooting range by:

- removing language limiting the ownership subject to that prohibition to private ownership;
- replacing keeping such an item with storing such an item as an action subject to the prohibition; and
- expanding the scope of the prohibition to include:
 - regulations relating to the possession or carrying of such an item;
 - regulations relating to transferring, possessing, carrying, owning, storing, transporting, licensing, or registering firearm or air gun accessories; and
 - regulations relating to commerce in firearms, air guns, knives, ammunition, or firearm or air gun supplies or accessories.

H.B. 3231 extends that prohibition to the enforcement of such a regulation by a county. The bill voids an ordinance, resolution, rule, or policy adopted or enforced by a municipality or county, as applicable, or an official action taken by an employee or agent of a municipality or county, as applicable, in violation of the prohibition.

H.B. 3231 includes the following among the exceptions to that prohibition as it relates to municipal regulatory actions:

- adopting or enforcing a generally applicable zoning ordinance, land use regulation, fire code, or business ordinance, except with regard to an ordinance or regulation designed or enforced to effectively restrict or prohibit the manufacture, sale, purchase, transfer, or display of firearms, firearm accessories, or ammunition that is otherwise lawful in Texas;
- regulating the carrying of a firearm by a person licensed to carry a handgun; and
- regulating or prohibiting an employee's carrying or possession of a firearm, firearm accessory, or ammunition in the course of the employee's official duties.

The exception for the regulation of an employee's carrying or possession of a firearm does not authorize a municipality to regulate an employee's carrying or possession of a firearm in violation of Labor Code provisions relating to restrictions on prohibiting employee transportation or storage of certain firearms or ammunition. The bill specifies that a municipality's authority to regulate the use of firearms, air guns, or knives in the case of an insurrection, riot, or natural disaster if it finds the regulations necessary to protect public health and safety does not authorize the seizure or confiscation of firearm or air gun supplies or accessories from an individual who is lawfully carrying or possessing the supplies or accessories.

H.B. 3231 excepts the following actions from the prohibition regarding county regulatory actions:

- requiring a resident or public employee to be armed for personal or national defense, law enforcement, or other purpose under other law;
- regulating the discharge of firearms or air guns;
- regulating the carrying of a firearm by a person licensed to carry a handgun;
- adopting or enforcing a generally applicable land use regulation, fire code, or business regulation; or
- regulating or prohibiting an employee's carrying or possession of a firearm, firearm accessory, or ammunition in the course of the employee's official duties.

H.B. 3231 voids a county order or regulation designed or enforced to effectively restrict or prohibit the manufacture, sale, purchase, transfer, or display of firearms, firearm accessories, or ammunition that is otherwise lawful in Texas. The exception for the regulation of an employee's carrying or possession of a firearm expressly does not authorize a county to regulate an employee's carrying or possession of a firearm in violation of Labor Code provisions relating to restrictions on prohibiting employee transportation or storage of certain firearms or ammunition. The bill provides for a civil remedy for a person adversely affected by a municipality's or county's violation of provisions restricting the entity's authority to regulate firearms, knives, ammunition, firearm supplies, and sport shooting ranges.

EFFECTIVE DATE

September 1, 2019.