By:  Oliverson, Nevárez, Springer, Phelan, H.B. No. 2286

     Toth, et al.

A BILL TO BE ENTITLED

AN ACT

relating to the criminal consequences of engaging in certain conduct with respect to certain firearm accessories and prohibiting the enforcement of certain federal laws related to certain firearm accessories.

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. ENFORCEMENT OF CERTAIN FEDERAL LAWS PROHIBITED

Sec. 2.001.  DEFINITIONS. In this chapter:

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

(2)  "Firearm suppressor" means any device designed, made, or adapted to muffle the report of a firearm.

Sec. 2.002.  STATE AND LOCAL GOVERNMENT POLICY REGARDING ENFORCEMENT OF FEDERAL FIREARM LAWS. (a) 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 special district or authority;

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

(4)  a district attorney or criminal district attorney.

(b)  An entity described by Subsection (a) may not adopt a rule, order, ordinance, or policy under which the entity enforces, or by consistent action allows the enforcement of, a federal statute, order, rule, or regulation that purports to regulate a firearm suppressor if the statute, order, rule, or regulation imposes a prohibition, restriction, or other regulation that does not exist under the laws of this state.

(c)  Except as provided by Subsection (c-1), no entity described by Subsection (a) and no person employed by or otherwise under the direction or control of the entity may enforce or attempt to enforce any federal statute, order, rule, or regulation described by Subsection (b).

(c-1)  Notwithstanding any other provision of this chapter, a law enforcement officer may enforce a federal statute, order, rule, or regulation described by Subsection (b) if the officer is cooperating with an agent of the federal government as a member of a task force.

(d)  An entity described by Subsection (a) may not receive state grant funds if the entity adopts a rule, order, ordinance, or policy under which the entity enforces a federal law described by Subsection (b) or, by consistent action, allows the enforcement of a federal law described by Subsection (b). State grant funds for the entity shall be denied for the fiscal year following the year in which a final judicial determination in an action brought under this section is made that the entity has violated Subsection (b).

(e)  Any citizen residing in the jurisdiction of an entity described by Subsection (a) may file a complaint with the attorney general if the citizen offers evidence to support an allegation that the entity has adopted a rule, order, ordinance, or policy under which the entity enforces a federal law described by Subsection (b) or that the entity, by consistent action, allows the enforcement of a federal law described by Subsection (b). The citizen must include with the complaint any evidence the citizen has in support of the complaint.

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

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

SECTION 2.  Section 46.05(a), Penal Code, as amended by Chapters 155 (H.B. 1819) and 814 (H.B. 913), Acts of the 85th Legislature, Regular Session, 2017, is reenacted and amended to read as follows:

(a)  A person commits an offense if the person intentionally or knowingly possesses, manufactures, transports, repairs, or sells:

(1)  any of the following items, unless the item is registered in the National Firearms Registration and Transfer Record maintained by the Bureau of Alcohol, Tobacco, Firearms and Explosives or otherwise not subject to that registration requirement or unless the item is classified as a curio or relic by the United States Department of Justice:

(A)  an explosive weapon;

(B)  a machine gun; or

(C)  a short-barrel firearm;

(2)  knuckles;

(3)  armor-piercing ammunition;

(4)  a chemical dispensing device;

(5)  a zip gun;

(6)  a tire deflation device; or

(7)  [~~a firearm silencer, unless the firearm silencer is classified as a curio or relic by the United States Department of Justice or the actor otherwise possesses, manufactures, transports, repairs, or sells the firearm silencer in compliance with federal law~~

[~~(7)~~]  an improvised explosive device.

SECTION 3.  Section 46.05(e), Penal Code, as amended by Chapters 155 (H.B. 1819) and 814 (H.B. 913), Acts of the 85th Legislature, Regular Session, 2017, is reenacted to read as follows:

(e)  An offense under Subsection (a)(1), (3), (4), (5), or (7) is a felony of the third degree. An offense under Subsection (a)(6) is a state jail felony. An offense under Subsection (a)(2) is a Class A misdemeanor.

SECTION 4.  Section 46.01(4), Penal Code, is repealed.

SECTION 5.  To the extent of any conflict, this Act controls over another Act of the 86th Legislature, Regular Session, 2019, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 6.  An offense under Section 46.05(a)(7), Penal Code, as added by Chapter 155 (H.B. 1819), Acts of the 85th Legislature, Regular Session, 2017, may not be prosecuted after the effective date of this Act. If on the effective date of this Act a criminal action is pending for an offense described by that subdivision, the action is dismissed on that date. However, a final conviction for an offense described by that subdivision that exists on the effective date of this Act is unaffected by this Act.

SECTION 7.  This Act takes effect September 1, 2019.