

By: Clardy

H.B. No. 3231

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the regulation of firearms, air guns, knives,
3 ammunition, or firearm or air gun supplies or accessories by a
4 county or municipality.

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

6 SECTION 1. Section 229.001, Local Government Code, is
7 amended by amending Subsections (a), (b), (d), and (e) and adding
8 Subsections (a-1), (b-1), (d-1), and (h) to read as follows:

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

12 (1) the transfer, possession, carrying, [private]
13 ownership, storage [keeping], transportation, licensing, or
14 registration of firearms, air guns, knives, ammunition, or firearm
15 or air gun supplies or accessories; ~~or~~

16 (2) commerce in firearms, air guns, knives,
17 ammunition, or firearm or air gun supplies or accessories; or

18 (3) the discharge of a firearm or air gun at a sport
19 shooting range.

20 (a-1) An ordinance, resolution, rule, or policy adopted or
21 enforced by a municipality, or an official action, including in any
22 legislative, police power, or proprietary capacity, taken by an
23 employee or agent of a municipality in violation of this section is
24 void.

1 (b) Subsection (a) does not affect the authority a
2 municipality has under another law to:

3 (1) require residents or public employees to be armed
4 for personal or national defense, law enforcement, or another
5 lawful purpose;

6 (2) regulate the discharge of firearms or air guns
7 within the limits of the municipality, other than at a sport
8 shooting range;

9 (3) except as provided by Subsection (b-1), adopt or
10 enforce a generally applicable zoning ordinance, land use
11 regulation, fire code, or business ordinance [~~regulate the use of~~
12 ~~property, the location of a business, or uses at a business under~~
13 ~~the municipality's fire code, zoning ordinance, or land-use~~
14 ~~regulations as long as the code, ordinance, or regulations are not~~
15 ~~used to circumvent the intent of Subsection (a) or Subdivision (5)~~
16 ~~of this subsection~~];

17 (4) regulate the use of firearms, air guns, or knives
18 in the case of an insurrection, riot, or natural disaster if the
19 municipality finds the regulations necessary to protect public
20 health and safety;

21 (5) regulate the storage or transportation of
22 explosives to protect public health and safety, except that 25
23 pounds or less of black powder for each private residence and 50
24 pounds or less of black powder for each retail dealer are not
25 subject to regulation;

26 (6) regulate the carrying of a firearm or air gun by a
27 person other than a person licensed to carry a handgun under

1 Subchapter H, Chapter 411, Government Code, at a:

2 (A) public park;

3 (B) public meeting of a municipality, county, or
4 other governmental body;

5 (C) political rally, parade, or official
6 political meeting; or

7 (D) nonfirearms-related school, college, or
8 professional athletic event;

9 (7) regulate the carrying of a firearm by a person
10 licensed to carry a handgun under Subchapter H, Chapter 411,
11 Government Code, in accordance with Section 411.209, Government
12 Code;

13 (8) regulate the hours of operation of a sport
14 shooting range, except that the hours of operation may not be more
15 limited than the least limited hours of operation of any other
16 business in the municipality other than a business permitted or
17 licensed to sell or serve alcoholic beverages for on-premises
18 consumption; ~~or~~

19 (9) ~~(8)~~ regulate the carrying of an air gun by a
20 minor on:

21 (A) public property; or

22 (B) private property without consent of the
23 property owner; or

24 (10) except as provided by Subsection (d-1), regulate
25 or prohibit an employee's carrying or possession of a firearm,
26 firearm accessory, or ammunition in the course of the employee's
27 official duties.

1 (b-1) The exception provided by Subsection (b)(3) does not
2 apply if the ordinance or regulation is designed or enforced to
3 effectively restrict or prohibit the manufacture, sale, purchase,
4 transfer, or display of firearms, firearm accessories, or
5 ammunition that is otherwise lawful in this state.

6 (d) The exception provided by Subsection (b)(4) does not
7 authorize the seizure or confiscation of any firearm, air gun,
8 knife, ~~[or]~~ ammunition, or firearm or air gun supplies or
9 accessories from an individual who is lawfully carrying or
10 possessing the firearm, air gun, knife, ~~[or]~~ ammunition, or firearm
11 or air gun supplies or accessories.

12 (d-1) The exception provided by Subsection (b)(10) does not
13 authorize a municipality to regulate an employee's carrying or
14 possession of a firearm in violation of Subchapter G, Chapter 52,
15 Labor Code.

16 (e) In this section:

17 (1) "Air gun" means any gun that discharges a pellet,
18 BB, or paintball by means of compressed air, gas propellant, or a
19 spring.

20 (2) "Ammunition" means fixed cartridge ammunition,
21 shotgun shells, individual components of fixed cartridge
22 ammunition and shotgun shells, projectiles for muzzle-loading
23 firearms, or any propellant used in firearms or ammunition.

24 (3) "Firearm or air gun accessory" means a device
25 specifically designed or adapted to:

26 (A) enable the wearing or carrying by a person,
27 or the storage or mounting in or on a conveyance, of a firearm or air

1 gun; or

2 (B) be inserted into or affixed to a firearm or
3 air gun to enable, alter, or improve the functioning or
4 capabilities of the firearm.

5 (4) "Knife" has the meaning assigned by Section 46.01,
6 Penal Code.

7 (5) [~~3~~] "Sport shooting range" has the meaning
8 assigned by Section 250.001.

9 (h) A person adversely affected by a violation of this
10 section may file suit against the municipality in an appropriate
11 court. The court shall award to a plaintiff who prevails:

12 (1) actual damages;

13 (2) equitable relief as determined by the court to be
14 necessary, including declarative or injunctive relief; and

15 (3) reasonable expenses, including attorney's fees,
16 court costs, and expert witness fees.

17 SECTION 2. Section 236.001(1), Local Government Code, is
18 amended to read as follows:

19 (1) "Air gun," "ammunition," and "firearm or air gun
20 accessory" have the meanings [~~gun" has the meaning~~] assigned by
21 Section 229.001.

22 SECTION 3. Section 236.002, Local Government Code, is
23 amended by amending Subsection (a) and adding Subsections (a-1),
24 (a-2), (a-3), and (a-4) to read as follows:

25 (a) Notwithstanding any other law, including Chapter 251,
26 Agriculture Code, a county may not adopt or enforce regulations
27 relating to:

1 (1) the transfer, possession, carrying, [private]
2 ownership, storage [keeping], transportation, licensing, or
3 registration of firearms, air guns, knives, ammunition, or firearm
4 or air gun supplies or accessories; [~~or~~]

5 (2) commerce in firearms, air guns, knives,
6 ammunition, or firearm or air gun supplies or accessories; or

7 (3) the discharge of a firearm or air gun at a sport
8 shooting range.

9 (a-1) An ordinance, rule, resolution, or policy adopted or
10 enforced by a county, or an official action, including in any
11 legislative, police power, or proprietary capacity, taken by an
12 employee or agent of a county in violation of this section is void.

13 (a-2) Subsection (a) does not affect the authority of a
14 county to:

15 (1) require a resident or public employee to be armed
16 for personal or national defense, law enforcement, or other purpose
17 under other law;

18 (2) regulate the discharge of firearms or air guns in
19 accordance with Section [235.022](#);

20 (3) regulate the carrying of a firearm by a person
21 licensed to carry a handgun under Subchapter H, Chapter [411](#),
22 Government Code, in accordance with Section [411.209](#), Government
23 Code;

24 (4) except as provided by Subsection (a-3), adopt or
25 enforce a generally applicable land use regulation, fire code, or
26 business regulation; or

27 (5) except as provided by Subsection (a-4), regulate

1 or prohibit an employee's carrying or possession of a firearm,
2 firearm accessory, or ammunition in the course of the employee's
3 official duties.

4 (a-3) A county order or regulation designed or enforced to
5 effectively restrict or prohibit the manufacture, sale, purchase,
6 transfer, or display of firearms, firearm accessories, or
7 ammunition that is otherwise lawful in this state is void.

8 (a-4) Subsection (a-2)(5) does not authorize a county to
9 regulate an employee's carrying or possession of a firearm in
10 violation of Subchapter G, Chapter 52, Labor Code.

11 SECTION 4. Chapter 236, Local Government Code, is amended
12 by adding Section 236.004 to read as follows:

13 Sec. 236.004. CIVIL REMEDY. (a) A person adversely
14 affected by a violation of this chapter may file suit against the
15 county in an appropriate court.

16 (b) The court shall award to a plaintiff who prevails:

17 (1) actual damages;

18 (2) equitable relief as determined by the court to be
19 necessary, including declarative or injunctive relief; and

20 (3) reasonable expenses, including attorney's fees,
21 court costs, and expert witness fees.

22 SECTION 5. This Act takes effect September 1, 2019.