

By: Toth

H.B. No. 4041

A BILL TO BE ENTITLED

AN ACT

1
2 relating to prohibiting the enforcement of certain federal laws;
3 creating a criminal offense.

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

5 SECTION 1. The Legislature of the State of Texas finds that:

6 (1) The Tenth Amendment to the United States
7 Constitution reserves to the states and the people all powers not
8 granted to the federal government elsewhere in the constitution, as
9 those powers were understood at the time Texas was admitted to
10 statehood in 1845. The guaranty of those powers is a matter of
11 contract between the state and people of Texas and the United States
12 dating from the time Texas became a state.

13 (2) The Ninth Amendment to the United States
14 Constitution guarantees to the people rights not enumerated in the
15 constitution, as those rights were understood at the time Texas
16 became a state. The guaranty of those rights is a matter of
17 contract between the state and people of Texas and the United States
18 dating from the time Texas became a state.

19 (3) The Second Amendment to the United States
20 Constitution guarantees the right of the people to keep and bear
21 arms, as that right was understood at the time Texas became a state.
22 The guaranty of that right is a matter of contract between the state
23 and people of Texas and the United States dating from the time Texas
24 became a state.

1 (4) The First Amendment to the United States
2 Constitution guarantees to the people rights concerning religion,
3 expression, assembly, and petition, as those rights were understood
4 at the time Texas became a state. The guaranty of those rights is a
5 matter of contract between the state and people of Texas and the
6 United States dating from the time Texas became a state.

7 (5) Section 23, Article I, Texas Constitution, secures
8 to Texas citizens the right to keep and bear arms. That
9 constitutional protection is unchanged from the date the
10 constitution was adopted in 1876.

11 SECTION 2. Title 9, Penal Code, is amended by adding Chapter
12 44 to read as follows:

13 CHAPTER 44. ENFORCEMENT OF CERTAIN FEDERAL LAWS PROHIBITED

14 Sec. 44.01. DEFINITIONS. In this chapter:

15 (1) "Firearm" has the meaning assigned by Section
16 46.01.

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

21 Sec. 44.02. STATE AND LOCAL GOVERNMENT POLICY REGARDING
22 ENFORCEMENT OF FEDERAL LAWS. (a) This section applies to:

23 (1) the State of Texas, including an agency,
24 department, commission, bureau, board, office, council, court, or
25 other entity that is in any branch of state government and that is
26 created by the constitution or a statute of this state, including a
27 university system or a system of higher education;

1 (2) the governing body of a municipality, county, or
2 special district or authority;

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

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

8 (b) An entity described by Subsection (a) may not adopt a
9 rule, order, ordinance, or policy under which the entity enforces,
10 or, by consistent actions, allows the enforcement of, a federal
11 statute, order, rule, or regulation enacted on or after January 1,
12 2019, that imposes a prohibition, restriction, or other regulation
13 that does not exist under the laws of this state and that purports
14 to:

15 (1) regulate a firearm, firearm accessory, or firearm
16 ammunition;

17 (2) establish a religion or prohibit the free exercise
18 of a religion;

19 (3) abridge the freedom of speech or of the press;

20 (4) abridge the right of the people to peaceably
21 assemble; or

22 (5) abridge the right of the people to petition the
23 government for a redress of grievances.

24 (c) No entity described by Subsection (a) and no person
25 employed by or otherwise under the direction or control of the
26 entity may enforce or attempt to enforce any federal statute,
27 order, rule, or regulation described by Subsection (b).

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

10 (e) Any citizen residing in the jurisdiction of an entity
11 described by Subsection (a) may file a complaint with the attorney
12 general if the citizen offers evidence to support an allegation
13 that the entity has adopted a rule, order, ordinance, or policy
14 under which the entity enforces the federal laws described by
15 Subsection (b) or that the entity, by consistent actions, allows
16 the enforcement of any laws described by Subsection (b). The
17 citizen must include with the complaint the evidence the citizen
18 has that supports the complaint.

19 (f) If the attorney general determines that a complaint
20 filed under Subsection (e) against an entity described by
21 Subsection (a) is valid, the attorney general may file a petition
22 for a writ of mandamus or apply for other appropriate equitable
23 relief in a district court in Travis County or in a county in which
24 the principal office of an entity described by Subsection (a) is
25 located to compel the entity that adopts a rule, order, ordinance,
26 or policy under which the local entity enforces the laws described
27 by Subsection (b), or that, by consistent actions, allows the

1 enforcement of the laws described by Subsection (b) to comply with
2 this section. The attorney general may recover reasonable expenses
3 incurred in obtaining relief under this subsection, including court
4 costs, reasonable attorney's fees, investigative costs, witness
5 fees, and deposition costs.

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

11 (h) A person commits an offense if, in the person's official
12 capacity as an officer of an entity described by Subsection (a), or
13 as a person employed by or otherwise under the direction or control
14 of the entity, or under color of law, knowingly enforces or attempts
15 to enforce any federal statute, order, rule, or regulation
16 described by Subsection (b). An offense under this subsection is a
17 Class A misdemeanor.

18 SECTION 3. This Act takes effect immediately if it receives
19 a vote of two-thirds of all the members elected to each house, as
20 provided by Section 39, Article III, Texas Constitution. If this
21 Act does not receive the vote necessary for immediate effect, this
22 Act takes effect September 1, 2019.