

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Clardy, Krause, Hefner, Ashby, et al.

H.B. No. 3231

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) public park;

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

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

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

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

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

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

(A) public property; or

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

(10) except as provided by Subsection (d-1), regulate or prohibit an employee's carrying or possession of a firearm, firearm accessory, or ammunition in the course of the employee's 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 (i) This section does not limit the enforceability of any  
18 state or federal law.

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

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

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

27 (a) Notwithstanding any other law, including Chapter 251,

Agriculture Code, a county may not adopt or enforce regulations relating to:

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

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

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

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

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

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

(2) regulate the discharge of firearms or air guns in accordance with Section 235.022;

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

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

1 business regulation; or

2 (5) except as provided by Subsection (a-4), regulate  
3 or prohibit an employee's carrying or possession of a firearm,  
4 firearm accessory, or ammunition in the course of the employee's  
5 official duties.

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

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

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

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

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

19 (1) actual damages;  
20 (2) equitable relief as determined by the court to be  
21 necessary, including declarative or injunctive relief; and  
22 (3) reasonable expenses, including attorney's fees,  
23 court costs, and expert witness fees.

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

ADOPTED

MAY 22 2019

*Letty Spaw*  
Secretary of the Senate

By: Falen

H.B. No. 3231

Substitute the following for \_\_\_\_B. No. \_\_\_\_:

By: [Signature]

C.S.H.B. No. 3231

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

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

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

(a-1) An ordinance, resolution, rule, or policy adopted or enforced by a municipality, or an official action, including in any legislative, police power, or proprietary capacity, taken by an employee or agent of a municipality in violation of this section is 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 (f) The attorney general may bring an action in the name of  
10 the state to obtain a temporary or permanent injunction against a  
11 municipality adopting a regulation in violation of this section.  
12 The attorney general may recover reasonable expenses incurred in  
13 obtaining an injunction under this subsection, including court  
14 costs, reasonable attorney's fees, investigative costs, witness  
15 fees, and deposition costs.

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

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

21 SECTION 3. Section 236.002, Local Government Code, is  
22 amended to read as follows:

23 Sec. 236.002. FIREARMS; AIR GUNS; SPORT SHOOTING RANGE.

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

27 (1) the transfer, possession, wearing, carrying,

1 ~~[private]~~ ownership, storage ~~[keeping]~~, transportation, licensing,  
2 or registration of firearms, air guns, knives, ammunition, or  
3 firearm or air gun supplies or accessories; ~~[or]~~

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

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

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

12 (c) Subsection (a) does not affect the authority of a county  
13 to:

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

17 (2) regulate the discharge of firearms or air guns in  
18 accordance with Section 235.022;

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

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

26 (5) except as provided by Subsection (e), regulate or  
27 prohibit an employee's carrying or possession of a firearm, firearm

1 accessory, or ammunition in the course of the employee's official  
2 duties.

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

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

10 (f) The attorney general may bring an action in the name of  
11 the state to obtain a temporary or permanent injunction against a  
12 county adopting a regulation, other than a regulation under Section  
13 236.003, in violation of this section. The attorney general may  
14 recover reasonable expenses incurred in obtaining an injunction  
15 under this subsection, including court costs, reasonable  
16 attorney's fees, investigative costs, witness fees, and deposition  
17 costs.

18 SECTION 4. This Act takes effect September 1, 2019.

ADOPTED

V V  
MAY 22 2019

*Letay Paul*  
Secretary of the Senate



FLOOR AMENDMENT NO. 1

BY: \_\_\_\_\_

1 Amend C.S.H.B 3231 (committee printing) on page 3 between  
2 lines 10 and 11 by adding subsection (g) as follows:

3 (g) This section does not limit the enforceability of any  
4 state or federal law.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**May 23, 2019**

**TO:** Honorable Dennis Bonnen, Speaker of the House, House of Representatives

**FROM:** John McGeady, Assistant Director     Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB3231** by Clardy (Relating to the regulation of firearms, air guns, knives, ammunition, or firearm or air gun supplies or accessories by a county or municipality. ), **As Passed 2nd House**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would amend the Local Government Code to prohibit municipalities and counties from adopting certain regulations related to firearms, air guns, knives, or ammunition. The bill authorizes the Office of the Attorney General (OAG) to bring an action against a municipality or county and recover reasonable expenses for violations of these provisions.

According to the Office of Court Administration (OCA), it is not anticipated that the bill will create a significant increase in court caseloads. No significant impact to the state court system is anticipated.

According to OAG, any legal work resulting from the passage of this bill could be reasonably absorbed with current resources.

**Local Government Impact**

According to OCA, no significant impact to the local courts is anticipated.

According to the Texas Municipal League, no significant impact to cities is anticipated.

According to the Texas Association of Counties, no significant fiscal impact to counties is anticipated.

**Source Agencies:**     302 Office of the Attorney General, 212 Office of Court Administration,  
Texas Judicial Council

**LBB Staff:** WP, CMa, LBO, SD, GP



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**May 18, 2019**

**TO:** Honorable Joan Huffman, Chair, Senate Committee on State Affairs

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB3231** by Clardy (relating to the regulation of firearms, air guns, knives, ammunition, or firearm or air gun supplies or accessories by a county or municipality.), **Committee Report 2nd House, Substituted**

<b>No significant fiscal implication to the State is anticipated.</b>
---

The bill would amend the Local Government Code to prohibit municipalities and counties from adopting certain regulations related to firearms, air guns, knives, or ammunition. The bill authorizes the Office of the Attorney General (OAG) to bring an action against a municipality or county and recover reasonable expenses for violations of these provisions.

According to the Office of Court Administration (OCA), it is not anticipated that the bill will create a significant increase in court caseloads. No significant impact to the state court system is anticipated.

According to OAG, any legal work resulting from the passage of this bill could be reasonably absorbed with current resources.

**Local Government Impact**

According to OCA, no significant impact to the local courts is anticipated.

According to the Texas Municipal League, no significant impact to cities is anticipated.

According to the Texas Association of Counties, no significant fiscal impact to counties is anticipated.

**Source Agencies:**        302 Office of the Attorney General, 212 Office of Court Administration,  
Texas Judicial Council

**LBB Staff:** WP, CMa, LBO, SD, GP

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**May 16, 2019**

**TO:** Honorable Joan Huffman, Chair, Senate Committee on State Affairs

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB3231** by Clardy (Relating to the regulation of firearms, air guns, knives, ammunition, or firearm or air gun supplies or accessories by a county or municipality.), **As Engrossed**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would amend the Local Government Code to prohibit municipalities and counties from adopting certain regulations related to firearms, air guns, knives, or ammunition. The bill would authorize a person to file a lawsuit against a municipality or a county for adopting or enforcing regulations these regulations.

According to the Office of Court Administration (OCA), it is not anticipated that the bill will create a significant increase in court caseloads. No significant impact to the state court system is anticipated.

**Local Government Impact**

According to OCA, no significant impact to the local courts is anticipated.

According to the Texas Municipal League, no significant impact to cities is anticipated.

According to the Texas Association of Counties, no significant fiscal impact to counties is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council

**LBB Staff:** WP, CMa, LBO, SD, GP

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**April 2, 2019**

**TO:** Honorable Poncho Nevárez, Chair, House Committee on Homeland Security & Public Safety

**FROM:** John McGeady, Assistant Director     Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB3231** by Clardy (Relating to the regulation of firearms, air guns, knives, ammunition, or firearm or air gun supplies or accessories by a county or municipality.), **As Introduced**

<b>No significant fiscal implication to the State is anticipated.</b>
---

The bill would amend the Local Government Code to prohibit municipalities and counties from adopting certain regulations related to firearms, air guns, knives, or ammunition. The bill would authorize a person to file a lawsuit against a municipality or a county for adopting or enforcing regulations these regulations.

According to the Office of Court Administration (OCA), it is not anticipated that the bill will create a significant increase in court caseloads. No significant impact to the state court system is anticipated.

**Local Government Impact**

According to OCA, no significant impact to the local courts is anticipated.

According to the Texas Municipal League, no significant impact to cities is anticipated.

According to the Texas Association of Counties, no significant fiscal impact to counties is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council

**LBB Staff:** WP, LBO, SD, GP