

House Bill 3231
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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; [ø]

(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

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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; [ø]

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~~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; [☒]

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(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; [☒]

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(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.
(b-1) The exception provided by Subsection (b)(3) does not apply if the ordinance or regulation is 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 this state.
(d) The exception provided by Subsection (b)(4) does not authorize the seizure or confiscation of any firearm, air gun, knife, ~~[\u00d7]~~ ammunition, or firearm or air gun supplies or accessories from an individual who is lawfully carrying or possessing the firearm, air gun, knife, ~~[\u00d7]~~ ammunition, or firearm or air gun supplies or accessories.
(d-1) The exception provided by Subsection (b)(10) does not authorize a municipality to regulate an employee's carrying or possession of a firearm in violation of Subchapter G, Chapter 52, Labor Code.
(e) In this section:
(1) "Air gun" means any gun that discharges a pellet, BB, or paintball by means of compressed air, gas propellant, or a spring.
(2) "Ammunition" means fixed cartridge ammunition, shotgun shells, individual components of fixed cartridge ammunition and shotgun shells, projectiles for muzzle-

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(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.
(b-1) The exception provided by Subsection (b)(3) does not apply if the ordinance or regulation is 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 this state.
(d) The exception provided by Subsection (b)(4) does not authorize the seizure or confiscation of any firearm, air gun, knife, ~~[\u00d7]~~ ammunition, or firearm or air gun supplies or accessories from an individual who is lawfully carrying or possessing the firearm, air gun, knife, ~~[\u00d7]~~ ammunition, or firearm or air gun supplies or accessories.
(d-1) The exception provided by Subsection (b)(10) does not authorize a municipality to regulate an employee's carrying or possession of a firearm in violation of Subchapter G, Chapter 52, Labor Code.
(e) In this section:
(1) "Air gun" means any gun that discharges a pellet, BB, or paintball by means of compressed air, gas propellant, or a spring.
(2) "Ammunition" means fixed cartridge ammunition, shotgun shells, individual components of fixed cartridge ammunition and shotgun shells, projectiles for muzzle-

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loading firearms, or any propellant used in firearms or ammunition.

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

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

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

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

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

(h) A person adversely affected by a violation of this section may file suit against the municipality in an appropriate court.

The court shall award to a plaintiff who prevails:

(1) actual damages;

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

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

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loading firearms, or any propellant used in firearms or ammunition.

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

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

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

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

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

(f) The attorney general may bring an action in the name of the state to obtain a temporary or permanent injunction against a municipality adopting a regulation in violation of this section. The attorney general may recover reasonable expenses incurred in obtaining an injunction under this subsection, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition costs.

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

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

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

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

(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:

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(g) This section does not limit the enforceability of any state or federal law. [FA1]

SECTION 2. Same as House version.

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

Sec. 236.002. **FIREARMS; AIR GUNS; SPORT SHOOTING RANGE.** (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.

(b) 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.

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

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(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 business regulation; or

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

(a-3) 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 this state is void.

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

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(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 (d), adopt or enforce a generally applicable land use regulation, fire code, or business regulation; or

(5) except as provided by Subsection (e), 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.

(d) 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 this state is void.

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

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

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

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

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

(1) actual damages;

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

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

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

No equivalent provision.

SECTION 4. Same as House version.