

BILL ANALYSIS

Senate Research Center
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H.B. 957
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State Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Penal Code, Section 46.05, establishes a criminal offense for an individual who intentionally or knowingly possesses, manufactures, transports, repairs, or sells certain weapons, including a firearm silencer unless the silencer is classified as a curio or relic by the United States Department of Justice or the individual otherwise possesses, manufactures, transports, repairs, or sells the silencer in compliance with federal law.

Concerned parties note that Texas' prohibition on possessing firearm suppressors is unnecessary and infringes on the rights of Texans and that the state should not enforce federal laws and regulations that could restrict access to firearm suppressors made and sold in Texas.

The bill removes firearm suppressors from the list of prohibited weapons in the Texas Penal Code. The bill also makes a firearm suppressor that is manufactured and remains in Texas not subject to federal law or federal regulation. The bill also prescribes procedures for various forms of relief.

H.B. 957 amends current law relating to local, state, and federal regulation of firearm suppressors.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 1, Government Code, by adding Chapter 2, as follows:

CHAPTER 2. FIREARM SUPPRESSOR REGULATION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2.001. DEFINITIONS. Defines "firearm," "firearm suppressor," "generic and insignificant part," and "manufacture."

SUBCHAPTER B. INTRASTATE MANUFACTURE OF FIREARM SUPPRESSOR

Sec. 2.051. MEANING OF "MANUFACTURED IN THIS STATE." (a) Provides that, for the purposes of this subchapter, a firearm suppressor is manufactured in Texas if the item is manufactured in Texas from basic materials and without the inclusion of any part imported from another state other than a generic and insignificant part.

(b) Provides that, for the purposes of this subchapter, a firearm suppressor is manufactured in Texas if it is manufactured as described by Subsection (a) without regard to whether a firearm imported into Texas from another state is attached to or used in conjunction with the suppressor.

Sec. 2.052. NOT SUBJECT TO FEDERAL REGULATION. (a) Provides that a firearm suppressor that is manufactured in Texas and remains in Texas is not subject to federal law or federal regulation, including registration, under the authority of the United States Congress to regulate interstate commerce.

(b) Provides that a basic material from which a firearm suppressor is manufactured in Texas, including unmachined steel, is not a firearm suppressor and is not subject to federal regulation under the authority of the United States Congress to regulate interstate commerce as if it actually were a firearm suppressor.

Sec. 2.053. MARKETING OF FIREARM SUPPRESSOR. Requires that a firearm suppressor manufactured and sold in Texas have the words "Made in Texas" clearly stamped on it.

Sec. 2.054. ATTORNEY GENERAL. Requires the attorney general, on written notification to the attorney general by a United States citizen who resides in Texas of the citizen's intent to manufacture a firearm suppressor to which Section 2.052 applies, to seek a declaratory judgment from a federal district court in Texas that Section 2.052 is consistent with the United States Constitution.

SUBCHAPTER C. ENFORCEMENT OF CERTAIN FEDERAL FIREARMS LAWS PROHIBITED

Sec. 2.101. APPLICABILITY. Provides that this subchapter 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 Texas, 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.

Sec. 2.102. STATE AND LOCAL GOVERNMENT POLICY REGARDING ENFORCEMENT OF FEDERAL FIREARM LAWS. (a) Prohibits an entity described by Section 2.101 from adopting 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 Texas.

(b) Prohibits an entity described by Section 2.101 and a person employed by or otherwise under the direction or control of the entity from enforcing or attempting to enforce any federal statute, order, rule, or regulation described by Subsection (a).

Sec. 2.103. STATE GRANT FUNDS. (a) Prohibits an entity described by Section 2.101 from receiving state grant funds if the entity adopts a rule, order, ordinance, or policy under which the entity enforces a federal law described by Section 2.102(a) or, by consistent action, allows the enforcement of a federal law described by Section 2.102(a).

(b) Requires that state grant funds for the entity be denied for the fiscal year following the year in which a final judicial determination in an action brought under this subchapter is made that the entity has violated Section 2.102(a).

Sec. 2.104. ENFORCEMENT. (a) Authorizes any citizen residing in the jurisdiction of an entity described by Section 2.101 to 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 Section 2.102(a) or that the entity, by consistent action, allows the enforcement of a federal law described by Section 2.102(a). Requires the citizen to include with the complaint any evidence the citizen has in support of the complaint.

(b) Authorizes the attorney general, if the attorney general determines that a complaint filed under Subsection (a) against an entity described by Section 2.101 is valid, to compel the entity's compliance with this subchapter by filing a petition for a writ of mandamus or applying 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. Authorizes the attorney general to recover reasonable expenses incurred obtaining relief under this subsection, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition costs.

(c) Provides that an appeal of a suit brought under Subsection (b) is governed by the procedures for accelerated appeals in civil cases under the Texas Rules of Appellate Procedure. Requires the appellate court to render its final order or judgment with the least possible delay.

SECTION 2. Amends Section 46.05(a), Penal Code, to delete existing text providing that a person commits an offense if the person intentionally or knowingly possesses, manufactures, transports, repairs, or sells a firearm silencer, unless the item 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. Makes nonsubstantive changes.

SECTION 3. Repealer: Section 46.01(4) (relating to the definition of "firearm silencer"), Penal Code.

SECTION 4. Makes application of Subchapter B, Chapter 2, Government Code, as added by this Act, prospective.

SECTION 5. Prohibits an offense under Section 46.05(a)(6) (relating to the offense of intentionally or knowingly possessing, manufacturing, transporting, repairing, or selling a firearm suppressor, unless it is otherwise done so in compliance with federal law), Penal Code, as it existed immediately before the effective date of this Act, from being prosecuted after the effective date of this Act. Provides that 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. Provides that 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 6. Effective date: September 1, 2021.