

BILL ANALYSIS

H.B. 957
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State Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

It is currently an offense to possess, manufacture, transport, repair, or sell a firearm silencer unless a person is in compliance with federal law. It has been suggested that this is an unnecessary regulation that infringes on the rights of Texans and that the State of Texas should also not assist the federal government in enforcing laws and regulations restricting Texans' access to firearm suppressors if they are wholly manufactured and sold in Texas. H.B. 957 seeks to address this issue by removing the aforementioned offense and establishing that a firearm suppressor that is manufactured and remains in Texas is not subject to federal law or regulation under the authority of the U.S. Congress to regulate interstate commerce.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 957 amends the Penal Code to remove a firearm silencer from among the prohibited weapons whose intentional or knowing possession, manufacture, transport, repair, or sale constitutes an offense. The bill establishes that a criminal action for such an offense involving a firearm silencer that is pending on the bill's effective date is dismissed on that date.

H.B. 957 amends the Government Code to establish the following regarding firearm suppressors that are manufactured on or after the bill's effective date:

- a firearm suppressor that is manufactured in and remains in Texas is not subject to federal law or federal regulation, including registration, under the authority of the U.S. Congress to regulate interstate commerce; and
- 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 that Congressional authority as if it actually were a firearm suppressor.

The bill requires the attorney general, on written notification by a U.S. citizen residing in Texas of the citizen's intent to manufacture an applicable firearm suppressor, to seek a declaratory judgment from a federal district court in Texas that these provisions are consistent with the U.S. Constitution. The bill sets out the circumstances under which a firearm suppressor is considered to be manufactured in Texas and requires a firearm suppressor manufactured and sold in Texas to have the words "Made in Texas" clearly stamped on it.

H.B. 957 prohibits the state, specified state or local entities, or an officer, employee, or body of

certain local entities 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 and that imposes a regulation that does not exist under state law. The bill prohibits any applicable entity and any person employed by or otherwise under the entity's direction or control from enforcing or attempting to enforce any such federal statute, order, rule, or regulation. The bill prohibits an entity that adopts a prohibited rule, order, ordinance, or policy from receiving state grant funds and requires such funds to be denied to the entity for the fiscal year following the year in which the entity's adoption of the rule, order, ordinance, or policy is finally judicially determined to have violated the bill's prohibition.

H.B. 957 authorizes any citizen residing in an applicable entity's jurisdiction to file a complaint with the attorney general if the citizen offers and includes with the complaint evidence to support an allegation that the entity has adopted a prohibited rule, order, ordinance, or policy or that the entity consistently allows the enforcement of an applicable federal law. The bill authorizes the attorney general, on determining the complaint is valid, to file a petition for a writ of mandamus or apply for other appropriate equitable relief in a specified district court to compel the entity's compliance with the bill's provisions. The bill provides for the attorney general's recovery of reasonable expenses. The bill establishes that an appeal of a suit brought to enforce the bill's provisions is governed by certain accelerated appeals procedures and requires the appellate court to render its final order or judgment with the least possible delay.

H.B. 957 repeals Section 46.01(4), Penal Code.

EFFECTIVE DATE

September 1, 2021.