By:  Hall S.B. No. 513

(In the Senate - Filed January 28, 2021; March 9, 2021, read first time and referred to Committee on State Affairs; April 9, 2021, reported favorably by the following vote: Yeas 5, Nays 2; April 9, 2021, sent to printer.)

COMMITTEE VOTE

               Yea Nay Absent  PNV

Hughes          X

Birdwell                  X

Campbell        X

Hall            X

Lucio               X

Nelson          X

Powell              X

Schwertner      X

Zaffirini                 X

A BILL TO BE ENTITLED

AN ACT

relating to the enforcement of certain federal laws regulating firearms, firearm accessories, and firearm ammunition within the State of Texas; creating a criminal offense.

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

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

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

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

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

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

SECTION 2.  Title 8, Penal Code, is amended by adding Chapter 40 to read as follows:

CHAPTER 40. THE TEXAS FIREARM PROTECTION ACT

Sec. 40.01.  SHORT TITLE. This chapter may be cited as the Texas Firearm Protection Act.

Sec. 40.02.  DEFINITIONS. In this chapter:

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

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

Sec. 40.03.  STATE AND LOCAL GOVERNMENT POLICY REGARDING ENFORCEMENT OF FEDERAL FIREARM LAWS. (a) This section 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 this state, 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.

(b)  An entity described by Subsection (a) may not adopt 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 enacted on or after January 1, 2021, that purports to regulate a firearm, a firearm accessory, or firearm ammunition if the statute, order, rule, or regulation imposes a prohibition, restriction, or other regulation, such as a capacity or size limitation, a registration requirement, or a background check, that does not exist under the laws of this state.

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

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

(e)  Any citizen residing in the jurisdiction of an entity described by Subsection (a) may 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 Subsection (b) or that the entity, by consistent actions, allows the enforcement of a law described by Subsection (b). The citizen must include with the complaint any evidence the citizen has in support of the complaint.

(f)  If the attorney general determines that a complaint filed under Subsection (e) against an entity described by Subsection (a) is valid, to compel the entity's compliance with this section the attorney general may file a petition for a writ of mandamus or apply 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. The attorney general may recover reasonable expenses incurred in obtaining relief under this subsection, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition costs.

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

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

SECTION 3.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.

\* \* \* \* \*