

By: Springer

S.B. No. 543

A BILL TO BE ENTITLED

AN ACT

relating to local, state, and federal regulation of firearm suppressors.

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

SECTION 1. Title 1, Government Code, is amended by adding Chapter 2 to read as follows:

CHAPTER 2. FIREARM SUPPRESSOR REGULATION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2.001. DEFINITIONS. In this chapter:

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

(2) "Firearm suppressor" means any device designed, made, or adapted to muffle the report of a firearm.

(3) "Generic and insignificant part" means an item that has manufacturing or consumer product applications other than inclusion in a firearm suppressor. The term includes a spring, screw, nut, and pin.

(4) "Manufacture" includes forging, casting, machining, or another process for working a material.

SUBCHAPTER B. INTRASTATE MANUFACTURE OF FIREARM SUPPRESSOR

Sec. 2.051. MEANING OF "MANUFACTURED IN THIS STATE." (a) For the purposes of this subchapter, a firearm suppressor is manufactured in this state if the item is manufactured:

(1) in this state from basic materials; and

1           (2) without the inclusion of any part imported from  
2 another state other than a generic and insignificant part.

3           (b) For the purposes of this subchapter, a firearm  
4 suppressor is manufactured in this state if it is manufactured as  
5 described by Subsection (a) without regard to whether a firearm  
6 imported into this state from another state is attached to or used  
7 in conjunction with the suppressor.

8           Sec. 2.052. NOT SUBJECT TO FEDERAL REGULATION. (a) A  
9 firearm suppressor that is manufactured in this state and remains  
10 in this state is not subject to federal law or federal regulation,  
11 including registration, under the authority of the United States  
12 Congress to regulate interstate commerce.

13           (b) A basic material from which a firearm suppressor is  
14 manufactured in this state, including unmachined steel, is not a  
15 firearm suppressor and is not subject to federal regulation under  
16 the authority of the United States Congress to regulate interstate  
17 commerce as if it actually were a firearm suppressor.

18           Sec. 2.053. MARKETING OF FIREARM SUPPRESSOR. A firearm  
19 suppressor manufactured and sold in this state must have the words  
20 "Made in Texas" clearly stamped on it.

21           Sec. 2.054. ATTORNEY GENERAL. On written notification to  
22 the attorney general by a United States citizen who resides in this  
23 state of the citizen's intent to manufacture a firearm suppressor  
24 to which Section 2.052 applies, the attorney general shall seek a  
25 declaratory judgment from a federal district court in this state  
26 that Section 2.052 is consistent with the United States  
27 Constitution.

1        SUBCHAPTER C. ENFORCEMENT OF CERTAIN FEDERAL FIREARMS LAWS

2                                PROHIBITED

3        Sec. 2.101. APPLICABILITY. This subchapter applies to:

4                (1) the State of Texas, including an agency,  
5 department, commission, bureau, board, office, council, court, or  
6 other entity that is in any branch of state government and that is  
7 created by the constitution or a statute of this state, including a  
8 university system or a system of higher education;

9                (2) the governing body of a municipality, county, or  
10 special district or authority;

11               (3) an officer, employee, or other body that is part of  
12 a municipality, county, or special district or authority, including  
13 a sheriff, municipal police department, municipal attorney, or  
14 county attorney; and

15               (4) a district attorney or criminal district attorney.

16        Sec. 2.102. STATE AND LOCAL GOVERNMENT POLICY REGARDING  
17 ENFORCEMENT OF FEDERAL FIREARM LAWS. (a) An entity described by  
18 Section 2.101 may not adopt a rule, order, ordinance, or policy  
19 under which the entity enforces, or by consistent action allows the  
20 enforcement of, a federal statute, order, rule, or regulation that  
21 purports to regulate a firearm suppressor if the statute, order,  
22 rule, or regulation imposes a prohibition, restriction, or other  
23 regulation that does not exist under the laws of this state.

24               (b) No entity described by Section 2.101 and no person  
25 employed by or otherwise under the direction or control of the  
26 entity may enforce or attempt to enforce any federal statute,  
27 order, rule, or regulation described by Subsection (a).

1       Sec. 2.103. STATE GRANT FUNDS. (a) An entity described by  
2 Section 2.101 may not receive state grant funds if the entity adopts  
3 a rule, order, ordinance, or policy under which the entity enforces  
4 a federal law described by Section 2.102(a) or, by consistent  
5 action, allows the enforcement of a federal law described by  
6 Section 2.102(a).

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

11       Sec. 2.104. ENFORCEMENT. (a) Any citizen residing in the  
12 jurisdiction of an entity described by Section 2.101 may file a  
13 complaint with the attorney general if the citizen offers evidence  
14 to support an allegation that the entity has adopted a rule, order,  
15 ordinance, or policy under which the entity enforces a federal law  
16 described by Section 2.102(a) or that the entity, by consistent  
17 action, allows the enforcement of a federal law described by  
18 Section 2.102(a). The citizen must include with the complaint any  
19 evidence the citizen has in support of the complaint.

20       (b) If the attorney general determines that a complaint  
21 filed under Subsection (a) against an entity described by Section  
22 2.101 is valid, to compel the entity's compliance with this  
23 subchapter the attorney general may file a petition for a writ of  
24 mandamus or apply for other appropriate equitable relief in a  
25 district court in Travis County or in a county in which the  
26 principal office of the entity is located. The attorney general may  
27 recover reasonable expenses incurred obtaining relief under this

1 subsection, including court costs, reasonable attorney's fees,  
2 investigative costs, witness fees, and deposition costs.

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

8 SECTION 2. Section 46.05(a), Penal Code, is amended to read  
9 as follows:

10 (a) A person commits an offense if the person intentionally  
11 or knowingly possesses, manufactures, transports, repairs, or  
12 sells:

13 (1) any of the following items, unless the item is  
14 registered in the National Firearms Registration and Transfer  
15 Record maintained by the Bureau of Alcohol, Tobacco, Firearms and  
16 Explosives or otherwise not subject to that registration  
17 requirement or unless the item is classified as a curio or relic by  
18 the United States Department of Justice:

19 (A) an explosive weapon;

20 (B) a machine gun; or

21 (C) a short-barrel firearm;

22 (2) armor-piercing ammunition;

23 (3) a chemical dispensing device;

24 (4) a zip gun;

25 (5) a tire deflation device; or

26 (6) ~~[a firearm silencer, unless the firearm silencer~~  
27 ~~is classified as a curio or relic by the United States Department of~~

1 ~~Justice or the actor otherwise possesses, manufactures,~~  
2 ~~transports, repairs, or sells the firearm silencer in compliance~~  
3 ~~with federal law; or~~

4 [~~7~~] an improvised explosive device.

5 SECTION 3. Section 46.01(4), Penal Code, is repealed.

6 SECTION 4. Subchapter B, Chapter 2, Government Code, as  
7 added by this Act, applies only to a firearm suppressor, as that  
8 term is defined by Section 2.001, Government Code, as added by this  
9 Act, that is manufactured on or after the effective date of this  
10 Act.

11 SECTION 5. An offense under Section 46.05(a)(6), Penal  
12 Code, as it existed immediately before the effective date of this  
13 Act, may not be prosecuted after the effective date of this Act. If  
14 on the effective date of this Act a criminal action is pending for  
15 an offense described by that subdivision, the action is dismissed  
16 on that date. However, a final conviction for an offense described  
17 by that subdivision that exists on the effective date of this Act is  
18 unaffected by this Act.

19 SECTION 6. This Act takes effect September 1, 2021.