

BILL ANALYSIS

C.S.H.B. 3539

By: Troxclair

Community Safety, Select
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Law enforcement is finding it increasingly difficult to find sufficient supplies of ammunition or afford the ammunition that is available in the marketplace. This adversely affects their ability to train and adequately respond to public safety needs, including mass shootings. C.S.H.B. 3539 seeks to address this issue by establishing the Texas Ammunition Facility under the Department of Public Safety to contract with a person to acquire, store and resell ammunition to law enforcement in Texas.

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

C.S.H.B. 3539 amends Chapter 411, Government Code, to require the Department of Public Safety of the State of Texas ("DPS") to contract with a person to establish and operate the Texas ammunition facility to acquire, store, and resell to law enforcement agencies quality ammunition to ensure these agencies have available ammunition to use for training and public safety with a preference for law enforcement officers and law enforcement trainees.

The bill requires DPS to closely supervise the Texas ammunition facility to ensure and promote integrity, honesty, fairness, and security in the operation of the facility. The bill further requires the contract with the person to establish and operate the Texas ammunition facility for the acquisition, storage, and resale of quality ammunition must include provisions requiring:

- ammunition to be manufactured in Texas; and
- packaging for the ammunition to bear the state seal, state arms, or state flag of Texas and state "Made in Texas."

The bill vests the operator of the Texas ammunition facility with powers necessary to carry out duties imposed on the operator under the applicable contract. The operator of the Texas ammunition facility must store and acquire quality ammunition for resale at a reasonable price only to law enforcement agencies, giving a preference for use by law enforcement officer trainees and law enforcement officers. The operator of the Texas ammunition facility must also store and acquire sufficient quality ammunition in order to be prepared for possible future shortages of ammunitions from other sources.

The Texas ammunition facility can not sell any ammunition or component parts to any person other than a Texas law enforcement agency. Revenue collected by the department under a contract with the operator of the Texas ammunition facility must be deposited into the general revenue fund to the credit of the law enforcement officer standards and education fund account. Such revenue may be appropriated only for the operations of the Texas ammunition facility, including acquiring and storing quality ammunition for resale to law enforcement agencies, or for expenses related to the continuing education of persons licensed under Chapter 1701, Occupations Code, including peace officers and telecommunicators.

The bill further requires DPS to submit a report to the legislature and governor on the condition, operation, and projected business activity of the facility not later than December 1 of each year.

C.S.H.B 3539 defines the following terms for purposes of the bill’s provisions:

- “Ammunition” means a combination of projectiles, cartridges, primers, and propellants designed to be discharged from a firearm.
- “Facility” means the Texas ammunition facility established by the provisions of the bill.
- “Facility operator” means the person selected to operate the Texas ammunition facility.
- “Law enforcement officer” means a person who is a peace officer under Article 2.12, Code of Criminal Procedure.
- “Law enforcement officer trainee” means a person enrolled in the basic peace officer training course required for the issuance of a peace officer license.
- “Quality ammunition” means ammunition that meets the minimum safety specifications of the Sporting Arms and Ammunition Manufacturers’ Institute for the caliber and type of cartridge manufactured, as specified.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2023.

COMPARISON OF ORIGINAL TO SUBSTITUTE

While C.S.H.B. 3539 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute adds definitions for “facility,” “law enforcement officer,” “law enforcement officer trainee,” and “quality ammunition” not present in the introduced. While the introduced defined “ammunition” to include propellants fired from a handgun or rifle, the substitute modifies the definition to include propellants designed to be discharged from a firearm.

While the introduced established the Texas Ammunition Manufacturing Facility as an agency of the state within DPS and established a facility to manufacture quality ammunition for use by law enforcement for training and public safety, the substitute instead requires DPS to contract with a person to establish and operate the Texas ammunition facility to acquire, store, and resell quality ammunition to law enforcement agencies for training and public safety.

The substitute omits language included in the introduced, including provisions:

- authorizing the Texas ammunition facility to manufacture ammunition for use by the general public for recreational shooting, hunting, self-defense and all other legal purposes as protected by the Second Amendment to the United States Constitution;
- granting DPS discretion to contract with or employ a person to perform a function, activity, or service relating to the Texas ammunition facility as necessary to implement the new provisions of the bill, including constructing and operating the facility;
- exempting ammunition sold by the Texas ammunition facility from state or local sales and use tax;
- granting DPS rulemaking authority to implement the provisions of the bill;

The substitute includes language not present in the introduced, including provisions:

- giving preference in the use of ammunition acquired, stored, or resold by the Texas ammunition facility to law enforcement officers and law enforcement officer trainees;
- requiring the contract between DPS and the facility operator to include provisions requiring ammunition to be manufactured in Texas and packaging the ammunition bearing the state seal, state arms, or state flag of Texas;
- obligating the facility operator to acquire and store sufficient quality ammunition to prepare for potential future shortages of ammunition from other sources;
- dedicating proceeds collected by DPS under a contract for the Texas ammunition facility to the credit of the law enforcement officer standards and education fund account and limiting the use of such funds;

While the introduced gave DPS broad authority and an obligation to exercise close supervision over the Texas ammunition facility, the substitute obligates DPS to closely supervise the facility. While the introduced prohibited the facility operator from selling component parts of ammunition to other ammunition manufacturers in Texas, including projectiles, cartridges, primers and propellants and prohibited the facility operator from selling ammunition manufactured by the facility directly to consumers or selling ammunition or component parts to foreign countries, the substitute prohibits the facility from selling ammunition or any component parts to any person except a Texas law enforcement agency.

While the substitute requires a facility operator to print the state seal, state arms, or the state flag of Texas on packaging of ammunition, the introduced made such labeling discretionary.