

By: Dutton

H.B. No. 2241

A BILL TO BE ENTITLED

AN ACT

relating to firearms; authorizing a private civil right of action.

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

SECTION 1. (a) The legislature finds and declares that the proliferation of assault weapons, .50 caliber rifles, and unserialized firearms poses a threat to the health, safety, and security of all residents of, and visitors to, this state. All Texans are directly harmed by the proliferation of these weapons, and this state has a compelling interest in protecting its citizens from gun violence and from intimidation by persons brandishing these weapons. Further, this state has a compelling interest in enabling law enforcement authorities to trace firearms used, manufactured, distributed, or transported unlawfully.

(b) The legislature further finds and declares that the proliferation of firearms to and among young people poses a threat to the health, safety, and security of all residents of, and visitors to, this state. Firearms are especially dangerous in the hands of young people because current research and scientific evidence show that young people are more impulsive, more likely to engage in risky and reckless behavior, unduly influenced by peer pressure, motivated more by rewards than costs or negative consequences, less likely to consider the future consequences of their actions and decisions, and less able to control themselves in emotionally arousing situations. In recognition of these facts, the

1 legislature has previously prohibited certain transfers of
2 firearms to a person under 18 years of age. This state has a
3 compelling interest in further restricting the proliferation of
4 firearms among those under 21 years of age.

5 (c) The legislature finds restricting assault weapons is
6 necessary based on a finding that each assault weapon has such a
7 high rate of fire and capacity for firepower that the weapon's
8 function as a legitimate sports or recreational firearm is
9 substantially outweighed by the danger that the weapon can be used
10 to kill and injure human beings. The legislature also finds
11 restricting .50 caliber rifles is necessary based on a finding that
12 the weapons pose a clear and present threat to the health, safety,
13 and security of all residents of, and visitors to, this state
14 because those firearms have such a high capacity for long-distance
15 and highly destructive firepower that they pose an unacceptable
16 risk of death and serious injury of human beings, and destruction or
17 serious damage of vital public and private buildings, civilian,
18 police, and military vehicles, power generation and transmission
19 facilities, petrochemical production and storage facilities, and
20 transportation infrastructure. The legislature further finds and
21 declares that the manufacture, distribution, transport,
22 importation, and sale of unserialized firearms pose a threat to the
23 health, safety, and security of all residents of, and visitors to,
24 this state and impede law enforcement activities, and that the
25 manufacture, distribution, transport, importation, and sale of
26 firearm precursor parts and kits are contributing to the
27 proliferation of unserialized firearms in this state.

1 (d) It is the intent of the legislature in enacting this Act
2 to further restrict in this state the manufacture, distribution,
3 transportation, importation, sale, loan, and transfer of assault
4 weapons, .50 caliber rifles, and unserialized firearms and further
5 restrict the proliferation of firearms to and among those under 21
6 years of age by creating new civil law prohibitions and a civil
7 enforcement mechanism, independent of existing law. This Act may
8 not be construed to limit in any way the enforceability of existing
9 laws concerning firearms, including Chapter 46, Penal Code.

10 (e) The legislature has defined "assault weapon" to include
11 the types, series, and models listed in the definition of that term
12 because it is the most effective way to identify and restrict a
13 specific class of semiautomatic weapons. The legislature finds a
14 significant public purpose in exempting from the definition of
15 "assault weapon" pistols that are designed expressly for use in
16 Olympic target shooting events. Therefore, those pistols that are
17 sanctioned by the International Olympic Committee and by USA
18 Shooting, the national governing body for international shooting
19 competition in the United States, and that were used for Olympic
20 target shooting purposes as of January 1, 2001, and that would
21 otherwise fall within the definition of "assault weapon" under this
22 Act, are exempt as provided by this Act.

23 SECTION 2. Subtitle A, Title 9, Health and Safety Code, is
24 amended by adding Chapter 770 to read as follows:

CHAPTER 770. MANUFACTURE, DISTRIBUTION, TRANSPORTATION,
IMPORTATION, SALE, LOAN, OR TRANSFER OF FIREARMS AND PRECURSOR
PARTS

Sec. 770.001. DEFINITIONS. In this chapter:

(1) ".50 caliber rifle" means a centerfire rifle that
can fire a .50 caliber cartridge and is not already an assault
weapon or a machine gun. The term does not include an antique
firearm, curio, or relic, as defined by 27 C.F.R. Section 478.11.

(2) "Assault weapon":

(A) includes:

(i) all of the following specified rifles:

(a) all AK series, including the
models identified as:

(1) made in China AK, AKM, AKS,
AK47, AK47S, 56, 56S, 84S, and 86S;

(2) Norinco 56, 56S, 84S, and
86S;

(3) Poly Technologies AKS and
AK47; and

(4) MAADI AK47 and ARM;

(b) UZI and Galil;

(c) Beretta AR-70;

(d) CETME Sporter;

(e) Colt AR-15 series;

(f) Daewoo K-1, K-2, Max 1, Max 2, AR
100, and AR 110C;

(g) Fabrique Nationale FAL, LAR, FNC,

1 308 Match, and Sporter;
2
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4 HK-PSG-1;
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7 sM10 and sM11; and
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11 551;
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13 SAR-48;
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23 pistols:
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(h) MAS 223;
(i) HK-91, HK-93, HK-94, and
(j) the following MAC types:
(1) RPB Industries Incorporated
(2) SWD Incorporated M11;
(k) SKS with detachable magazine;
(l) SIG AMT, PE-57, SG 550, and SG
(m) Springfield Armory BM59 and
(n) Sterling MK-6;
(o) Steyer AUG;
(p) Valmet M62S, M71S, and M78S;
(q) Armalite AR-180;
(r) Bushmaster Assault Rifle;
(s) Calico M-900;
(t) J&R ENG M-68; and
(u) Weaver Arms Nighthawk;
(ii) all of the following specified
(a) UZI;
(b) Encom MP-9 and MP-45; and
(c) the following MAC types:
(1) RPB Industries Incorporated

1 sM10 and sM11;
2 (2) SWD Incorporated M-11;
3 (3) Advance Armament
4 Incorporated M-11;
5 (4) Military Armament
6 Corporation Ingram M-11;
7 (5) Intratec TEC-9;
8 (6) Sites Spectre;
9 (7) Sterling MK-7;
10 (8) Calico M-950; and
11 (9) Bushmaster Pistol;
12 (iii) all of the following specified
13 shotguns:
14 (a) Franchi SPAS 12 and LAW 12;
15 (b) Striker 12; and
16 (c) the Streetsweeper type S/S
17 Incorporated SS/12;
18 (iv) any firearm declared to be an assault
19 weapon by a court;
20 (v) a semiautomatic centerfire rifle that
21 does not have a fixed magazine but has any one of the following:
22 (a) a pistol grip that protrudes
23 conspicuously beneath the action of the weapon;
24 (b) a thumbhole stock;
25 (c) a folding or telescoping stock;
26 (d) a grenade launcher or flare
27 launcher;

1 (e) a flash suppressor; or

2 (f) a forward pistol grip;

3 (vi) a semiautomatic centerfire rifle that
4 has a fixed magazine with the capacity to accept more than 10
5 rounds;

6 (vii) a semiautomatic centerfire rifle that
7 has an overall length of less than 30 inches;

8 (viii) a semiautomatic pistol that does not
9 have a fixed magazine but has any one of the following:

10 (a) a threaded barrel, capable of
11 accepting a flash suppressor, forward handgrip, or silencer;

12 (b) a second handgrip;

13 (c) a shroud that is attached to, or
14 partially or completely encircles, the barrel that allows the
15 bearer to fire the weapon without burning the bearer's hand, except
16 a slide that encloses the barrel; or

17 (d) the capacity to accept a
18 detachable magazine at some location outside of the pistol grip;

19 (ix) a semiautomatic pistol with a fixed
20 magazine that has the capacity to accept more than 10 rounds;

21 (x) a semiautomatic shotgun that has both
22 of the following:

23 (a) a folding or telescoping stock;
24 and

25 (b) a pistol grip that protrudes
26 conspicuously beneath the action of the weapon, thumbhole stock, or
27 vertical handgrip;

1 (xi) a semiautomatic shotgun that does not
2 have a fixed magazine;

3 (xii) any shotgun with a revolving
4 cylinder;

5 (xiii) a semiautomatic centerfire firearm
6 that is not a rifle, pistol, or shotgun and does not have a fixed
7 magazine but has any one of the following:

8 (a) a pistol grip that protrudes
9 conspicuously beneath the action of the weapon;

10 (b) a thumbhole stock;

11 (c) a folding or telescoping stock;

12 (d) a grenade launcher or flare
13 launcher;

14 (e) a flash suppressor;

15 (f) a forward pistol grip;

16 (g) a threaded barrel, capable of
17 accepting a flash suppressor, forward handgrip, or silencer;

18 (h) a second handgrip;

19 (i) a shroud that is attached to, or
20 partially or completely encircles, the barrel that allows the
21 bearer to fire the weapon without burning the bearer's hand, except
22 a slide that encloses the barrel; or

23 (j) the capacity to accept a
24 detachable magazine at some location outside of the pistol grip;

25 (xiv) a semiautomatic centerfire firearm
26 that is not a rifle, pistol, or shotgun and has a fixed magazine
27 with the capacity to accept more than 10 rounds; and

1 (xv) a semiautomatic centerfire firearm
2 that is not a rifle, pistol, or shotgun and has an overall length of
3 less than 30 inches; and

4 (B) does not include:

5 (i) any antique firearm; or

6 (ii) any of the following pistols that are
7 sanctioned by the International Olympic Committee and by USA
8 Shooting, the national governing body for international shooting
9 competition in the United States, and that were used for Olympic
10 target shooting purposes as of January 1, 2001:

11 (a) a Benelli MP90 .22 caliber long
12 rifle;

13 (b) a Benelli MP90 .32 caliber Smith &
14 Wesson long;

15 (c) a Benelli MP95 .22 caliber long
16 rifle;

17 (d) a Benelli MP95 .32 caliber Smith &
18 Wesson long;

19 (e) a Hammerli 280 .22 caliber long
20 rifle;

21 (f) a Hammerli 280 .32 caliber Smith &
22 Wesson long;

23 (g) a Hammerli SP20 .22 caliber long
24 rifle;

25 (h) a Hammerli SP20 .32 caliber Smith
26 & Wesson long;

27 (i) a Pardini GPO .22 caliber short;

1 (j) a Pardini GPO-Schumann .22
2 caliber short;
3 (k) a Pardini HP .32 caliber Smith &
4 Wesson long;
5 (l) a Pardini MP .32 caliber Smith &
6 Wesson long;
7 (m) a Pardini SP .22 caliber long
8 rifle;
9 (n) a Pardini SPE .22 caliber long
10 rifle;
11 (o) a Walther GSP .22 caliber long
12 rifle;
13 (p) a Walther GSP .32 caliber Smith &
14 Wesson long;
15 (q) a Walther OSP .22 caliber short;
16 or
17 (r) a Walther OSP-2000 .22 caliber
18 short.

19 (3) "Federally regulated firearm precursor part"
20 means any firearm precursor part considered to be a firearm under 18
21 U.S.C. Chapter 44 and regulations issued under that chapter, and
22 that has been imprinted with a serial number by a federal licensee
23 authorized to serialize firearms in compliance with all applicable
24 federal laws and regulations.

25 (4) "Firearm" means a device, designed to be used as a
26 weapon, from which a projectile is expelled through a barrel by the
27 force of an explosion or other form of combustion.

1 (5) "Firearm precursor part" means any forging,
2 casting, printing, extrusion, machined body, or similar article
3 that has reached a stage in manufacture where the article may
4 readily be completed, assembled, or converted to be used as the
5 frame or receiver of a functional firearm, or that is marketed or
6 sold to the public to become or be used as the frame or receiver of a
7 functional firearm once completed, assembled, or converted. The
8 term does not include firearm parts that can only be used on antique
9 firearms.

10 (6) "Fixed magazine" means an ammunition feeding
11 device contained in, or permanently attached to, a firearm in such a
12 manner that the device cannot be removed without disassembly of the
13 firearm action.

14 (7) "Series" includes all other models that are only
15 variations, with minor differences, of those models listed in
16 Subdivision (2)(A)(i) regardless of the manufacturer.

17 (8) "Unserialized firearm" means a firearm that does
18 not have a serial number as required by law or has had its serial
19 number altered or obliterated.

20 Sec. 770.002. MANUFACTURE, DISTRIBUTION, TRANSPORTATION,
21 IMPORTATION, SALE, LOAN, OR TRANSFER OF CERTAIN FIREARMS AND
22 PRECURSOR PARTS. (a) Notwithstanding any other law and except as
23 provided by Subsections (f) and (g) and Section 770.003, a person
24 within this state may not manufacture or cause to be manufactured,
25 distribute, transport, or import into this state, or cause to be
26 distributed, transported, or imported into this state, keep for
27 sale, offer or expose for sale, or give or lend any assault weapon,

1 .50 caliber rifle, or unserialized firearm.

2 (b) Except by operation of law, a person may not purchase,
3 sell, offer to sell, or transfer ownership of any firearm precursor
4 part in this state that is not a federally regulated firearm
5 precursor part. This subsection does not apply to:

6 (1) the purchase of a firearm precursor part that is
7 not a federally regulated firearm precursor part by a federally
8 licensed firearms manufacturer or importer, or by a federal
9 licensee authorized to serialize firearms;

10 (2) the sale, offer to sell, or transfer of ownership
11 of a firearm precursor part that is not a federally regulated
12 firearm precursor part to a federally licensed firearms
13 manufacturer or importer, or to a federal licensee authorized to
14 serialize firearms; or

15 (3) a common carrier licensed under state law, or a
16 motor carrier, air carrier, or carrier affiliated with an air
17 carrier through common controlling interest that is subject to
18 Title 49, United States Code, or an authorized agent of any such
19 carrier, when acting in the course and scope of duties incident to
20 the receipt, processing, transportation, or delivery of property.

21 (c) A person may not sell, supply, deliver, or give
22 possession or control of a firearm to any person who is under 21
23 years of age. This subsection does not apply to or affect the sale,
24 supply, delivery, or giving of possession or control of a firearm
25 that:

26 (1) is not a handgun or a semiautomatic centerfire
27 rifle to a person 18 years of age or older who possesses a valid,

unexpired hunting license issued by the Parks and Wildlife Department;

(2) is not a handgun, semiautomatic centerfire rifle, completed frame or receiver, or firearm precursor part to a person who is 18 years of age or older and provides proper identification of being an honorably discharged member of the United States Armed Forces, the National Guard, the Air National Guard, or the active reserve components of the United States; or

(3) is not a handgun to a person who is 18 years of age or older and:

(A) is an active peace officer, as described by Article 2A.001, Code of Criminal Procedure, who is authorized to carry a firearm in the course and scope of employment;

(B) is an active federal officer or law enforcement agent who is authorized to carry a firearm in the course and scope of employment;

(C) is a reserve peace officer who is authorized to carry a firearm in the course and scope of employment as a reserve peace officer; or

(D) provides proper identification of active membership in the United States Armed Forces, the National Guard, the Air National Guard, or the active reserve components of the United States.

(d) For purposes of Subsection (c)(2), proper identification includes a military identification card or other written documentation certifying that the person is an honorably discharged member.

1 (e) The prohibitions described by Subsections (a), (b), and
2 (c) apply regardless of whether the firearm or firearm precursor
3 part is misused or is intended to be misused in a criminal or
4 unlawful manner.

5 (f) Subsections (a), (b), and (c) do not apply to the sale of
6 an assault weapon, .50 caliber rifle, unserialized firearm, or
7 firearm precursor part to, or the purchase, transportation,
8 importation, sale or other transfer, or manufacture of an assault
9 weapon, .50 caliber rifle, unserialized firearm, or firearm
10 precursor part by, any law enforcement agency or public entity that
11 employs peace officers, or any authorized law enforcement
12 representative thereof, if that agency, entity, or representative
13 is not prohibited by law from possessing an assault weapon, .50
14 caliber rifle, unserialized firearm, or firearm precursor part,
15 including the Texas Department of Criminal Justice, a police
16 department or sheriff's or marshal's office, the Department of
17 Public Safety, a district attorney's office, the Parks and Wildlife
18 Department, the military or naval forces of this state or of the
19 United States, a law enforcement or military agency of another
20 state, any federal law enforcement agency, or any foreign
21 government or agency approved by the United States Department of
22 State, for use in the discharge of the official duties of those
23 entities.

24 (g) Subsections (a) and (b) do not apply to a person who is
25 the executor or administrator of an estate that includes an assault
26 weapon or a .50 caliber rifle that is disposed of as authorized by
27 the probate court.

1 Sec. 770.003. SERVICING OR REPAIR OF CERTAIN FIREARMS AND
2 PRECURSOR PARTS; TRANSPORTATION; RELINQUISHMENT. (a)
3 Notwithstanding Section 770.002, a firearms dealer may take
4 possession of any assault weapon or .50 caliber rifle from any
5 person who may legally possess the assault weapon or rifle, or of
6 any firearm precursor part, for the purpose of servicing or repair.

7 (b) Notwithstanding Section 770.002, a firearms dealer may
8 transfer possession of any assault weapon, .50 caliber rifle, or
9 firearm precursor part received under Subsection (a) to a gunsmith
10 for the purpose of servicing or repair. A transfer is permissible
11 only to the following persons:

12 (1) a gunsmith employed by the dealer; or

13 (2) a gunsmith with whom the dealer has contracted for
14 gunsmithing services.

15 (c) Subsection (b)(2) applies only if the gunsmith
16 receiving the assault weapon, .50 caliber rifle, or firearm
17 precursor part meets both of the following qualifications:

18 (1) the gunsmith holds a dealer license issued under
19 18 U.S.C. Chapter 44 and the regulations issued under that chapter;
20 and

21 (2) the gunsmith holds any business license required
22 by a state or local governmental entity.

23 (d) A firearms dealer who lawfully possesses an assault
24 weapon, .50 caliber rifle, or firearm precursor part in accordance
25 with this section may:

26 (1) transport the firearm or firearm precursor part
27 between dealers or out of this state if that person is permitted

under the National Firearms Act; or

(2) sell the firearm or firearm precursor part to a resident outside this state.

(e) A firearm or firearm precursor part that is transported under this section or Section 770.002 must be:

(1) transported in a motor vehicle while:

(A) locked in the vehicle's trunk; or

(B) in a locked container in the vehicle that:

(i) is secure and fully enclosed and locked by a padlock, keylock, combination lock, or similar device; and

(ii) is not a utility or glove compartment of the vehicle; and

(2) carried directly to or from the motor vehicle in the locked container described by Subdivision (1)(B).

(f) Notwithstanding Section 770.002, and provided that the firearm or firearm precursor part is transported in compliance with Subsection (e), an individual may:

(1) arrange in advance to relinquish an assault weapon, .50 caliber rifle, unserialized firearm, or firearm precursor part to a police or sheriff's department;

(2) sell, deliver, or transfer an assault weapon, .50 caliber rifle, unserialized firearm, or firearm precursor part to an authorized representative of a municipality, municipality and county, county, or state government, or of the federal government, provided that the entity is acquiring the weapon as part of an authorized, voluntary program in which the entity is buying or receiving weapons from private individuals; or

1 (3) transfer, relinquish, or dispose of a firearm or
2 firearm precursor part.

3 Sec. 770.004. LIMITATIONS ON PUBLIC ENFORCEMENT. (a)
4 Notwithstanding any other law, the requirements of this chapter
5 shall be enforced exclusively through the private civil actions
6 described by Section 770.005. Enforcement of this chapter may not
7 be taken or threatened by this state, a political subdivision of
8 this state, a district, county, or municipal attorney, or an
9 executive or administrative officer or employee of this state or a
10 political subdivision of this state against any person, except as
11 provided by Section 770.005.

12 (b) The fact that conduct violates this chapter is not an
13 independent basis for enforcement of any other law of this state, or
14 the denial, revocation, suspension, or withholding of any right or
15 privilege conferred by the law of this state or a political
16 subdivision of this state, or a threat to do the same, by this
17 state, a political subdivision of this state, a district, county,
18 or municipal attorney, or an executive or administrative officer or
19 employee of this state or a political subdivision of this state, or
20 a board, commission, or similar body assigned authority to do so
21 under law, against any person, except as provided by Section
22 770.005. A civil action predicated on a violation of this chapter
23 may not be brought by this state, a political subdivision of this
24 state, a district, county, or municipal attorney, or an executive
25 or administrative officer or employee of this state or a political
26 subdivision of this state. For avoidance of doubt, the rights and
27 privileges described by this section include any business licenses

1 and permits issued under a law of this state. This subsection may
2 not be construed to prevent or limit enforcement of any other law
3 regulating conduct that also violates this chapter.

4 (c) Subsections (a) and (b) may not be construed to:

5 (1) legalize the conduct prohibited by this chapter;

6 (2) limit or affect the availability of a remedy
7 established by Section 770.005; or

8 (3) limit the enforceability of any other laws that
9 regulate or prohibit any conduct relating to firearms or firearm
10 precursor parts.

11 Sec. 770.005. CIVIL LIABILITY FOR VIOLATION OR AIDING AND
12 ABETTING VIOLATION. (a) Any person, other than an officer or
13 employee of this state or political subdivision of this state, may
14 bring a civil action against any person who:

15 (1) knowingly violates Section 770.002;

16 (2) knowingly engages in conduct that aids or abets
17 another person in violating Section 770.002, regardless of whether
18 the person knew or should have known that the person aided or
19 abetted would be violating Section 770.002; or

20 (3) knowingly commits an act with the intent to engage
21 in the conduct described by Subdivision (1) or (2).

22 (b) If a claimant prevails in an action brought under this
23 section, the court shall award:

24 (1) injunctive relief sufficient to prevent the
25 defendant from violating this chapter or engaging in acts that aid
26 or abet a violation of this chapter;

27 (2) statutory damages in an amount of not less than

\$10,000 for each weapon or firearm precursor part as to which the defendant violated Section 770.002, and for each weapon or firearm precursor part as to which the defendant aided or abetted a violation of Section 770.002; and

(3) attorney's fees and costs.

(c) Notwithstanding Subsection (b), a court may not award relief under this section in response to conduct described by Subsection (a) if the defendant demonstrates that the defendant previously paid the full amount of any monetary award under Subsection (b)(2) in a previous action for each firearm or firearm precursor part as to which the defendant violated, or aided or abetted a violation of, Section 770.002 or committed an act with the intent to violate or aid or abet a violation of that section.

(d) Notwithstanding any other law, a cause of action under this section is extinguished unless the action is brought not later than the fourth anniversary of the day the cause of action accrues.

(e) An act or omission in violation of Section 770.002 shall be considered an injury in fact to all residents of, and visitors to, this state, and any such person shall have standing to bring an action under this section. Damages under Subsection (b)(2) may not be considered exemplary damages for purposes of Chapter 41, Civil Practice and Remedies Code.

(f) Notwithstanding any other law, none of the following is a defense to an action brought under this section:

(1) a defendant's ignorance or mistake of law;

(2) a defendant's belief that the requirements of this chapter are unconstitutional or were unconstitutional;

1 (3) a defendant's reliance on any court decision that
2 has been overruled on appeal or by a subsequent court, even if that
3 court decision had not been overruled when the defendant engaged in
4 conduct that violates this chapter;

5 (4) a defendant's reliance on any state or federal
6 court decision that is not binding on the court in which the action
7 has been brought;

8 (5) a nonmutual issue preclusion or nonmutual claim
9 preclusion;

10 (6) any claim that the enforcement of this chapter or
11 the imposition of civil liability against the defendant will
12 violate a constitutional right of a third party;

13 (7) a defendant's assertion that this chapter
14 proscribes conduct that is separately prohibited by the Penal Code
15 or any other law of this state, or that this chapter proscribes
16 conduct beyond that which is already prohibited by the Penal Code or
17 any other law of this state; or

18 (8) any claim that the firearm or firearm precursor
19 part at issue was not misused, or was not intended to be misused, in
20 a criminal or unlawful manner.

21 (g) The following are affirmative defenses to an action
22 brought under this section:

23 (1) a person sued under Subsection (a)(2) reasonably
24 believed, after conducting a reasonable investigation, that the
25 person aided or abetted was complying with this chapter; and

26 (2) a person sued under Subsection (a)(3) reasonably
27 believed, after conducting a reasonable investigation, that the

1 person was complying with this chapter or was aiding or abetting
2 another who was complying with this chapter.

3 (h) The defendant in an action under this section has the
4 burden of proving an affirmative defense under Subsection (g) by a
5 preponderance of the evidence.

6 (i) This section may not be construed to impose liability on
7 any speech or conduct protected by the First Amendment to the United
8 States Constitution, as made applicable to the states through the
9 United States Supreme Court's interpretation of the Fourteenth
10 Amendment to the United States Constitution, or by Section 8,
11 Article I, Texas Constitution.

12 (j) Notwithstanding any other law, this state, a state
13 official, or a district, county, or municipal attorney may not
14 intervene in an action brought under this section. However, this
15 subsection does not prohibit a person described by this subsection
16 from filing an amicus curiae brief in the action.

17 (k) Notwithstanding any other law, a court may not award
18 attorney's fees or costs to a defendant in an action brought under
19 this section.

20 (l) An action may not be brought under this section against
21 a federal government, state, or political subdivision, or an
22 employee of a federal government, state, or political subdivision
23 on the basis of acts or omissions in the course of discharge of
24 official duties.

25 Sec. 770.006. STANDING TO ASSERT CERTAIN DEFENSES. (a) A
26 defendant against whom an action is brought under Section 770.005
27 does not have standing to assert the right of another individual to

1 keep and bear arms under the Second Amendment to the United States
2 Constitution as a defense to liability under that section unless:

3 (1) the United States Supreme Court holds that the
4 courts of this state must confer standing on that defendant to
5 assert the third-party rights of other individuals in state court
6 as a matter of federal constitutional law; or

7 (2) the defendant has standing to assert the rights of
8 other individuals under the tests for third-party standing
9 established by the United States Supreme Court.

10 (b) A defendant in an action brought under Section 770.005
11 may assert an affirmative defense to liability under this section
12 if the defendant:

13 (1) has standing to assert the third-party right of an
14 individual to keep and bear arms in accordance with Subsection (a);
15 and

16 (2) demonstrates that the relief sought by the
17 claimant will violate the third party's rights under the Second
18 Amendment to the United States Constitution as defined by clearly
19 established case law of the United States Supreme Court.

20 (c) This section may not be construed to limit or preclude a
21 defendant from asserting the defendant's personal constitutional
22 rights as a defense to liability under Section 770.005. A court may
23 not award relief under Section 770.005 if the conduct for which the
24 defendant has been sued was an exercise of a state or federal
25 constitutional right that personally belongs to the defendant.

26 Sec. 770.007. CONSTRUCTION OF CHAPTER. This chapter may
27 not be construed to:

1 (1) authorize the initiation of an action under this
2 chapter against a person purchasing, obtaining, or attempting to
3 purchase or obtain an assault weapon, .50 caliber rifle,
4 unserialized firearm, or firearm precursor part from a person
5 acting in violation of this chapter;

6 (2) wholly or partly repeal, either expressly or by
7 implication, any other statute that regulates or prohibits any
8 conduct relating to firearms or firearm precursor parts; or

9 (3) restrict a political subdivision from regulating
10 or prohibiting conduct relating to assault weapons, .50 caliber
11 rifles, unserialized firearms, or firearm precursor parts in a
12 manner that is at least as stringent as the laws of this state.

13 Sec. 770.008. VENUE. (a) Notwithstanding any other law, an
14 action brought under Section 770.005 shall be brought in:

15 (1) the county in which all or a substantial part of
16 the events or omissions giving rise to the claim occurred;

17 (2) the county of residence of any natural person
18 defendant at the time the cause of action accrued;

19 (3) the county of the principal office in this state of
20 any defendant that is not a natural person; or

21 (4) the county of residence for the claimant if the
22 claimant is a natural person residing in this state.

23 (b) Notwithstanding any other law, if an action is brought
24 under Section 770.005 in one of the venues described by Subsection
25 (a), the action may not be transferred to a different venue without
26 the written consent of all parties.

27 Sec. 770.009. SOVEREIGN, GOVERNMENTAL, AND OFFICIAL

1 IMMUNITY PRESERVED. (a) Notwithstanding any other law, this state
2 has sovereign immunity, a political subdivision of this state has
3 governmental immunity, and each officer and employee of this state
4 or a political subdivision of this state has official immunity in
5 any action, claim, or counterclaim or any type of legal or equitable
6 action that challenges the validity of any provision or application
7 of this chapter, on constitutional grounds or otherwise.

8 (b) A provision of state law may not be construed to waive or
9 abrogate an immunity described by Subsection (a) unless the
10 provision expressly waives immunity under this section.

11 Sec. 770.010. SEVERABILITY. (a) It is the intent of the
12 legislature that every provision, section, subdivision, sentence,
13 clause, phrase, and word in this chapter, and every application of
14 the provisions of this chapter, are severable from each other.

15 (b) If any application of any provision in this chapter to
16 any person, group of persons, or circumstances is found by a court
17 to be invalid or unconstitutional, the remaining applications of
18 that provision to all other persons and circumstances shall be
19 severed and may not be affected. All constitutionally valid
20 applications of this chapter shall be severed from any applications
21 that a court finds to be invalid, leaving the valid applications in
22 force, because it is the legislature's intent and priority that the
23 valid applications be allowed to stand alone. Even if a reviewing
24 court finds a provision of this chapter to impose an
25 unconstitutional burden in a large or substantial fraction of
26 relevant cases, the applications that do not present an
27 unconstitutional burden shall be severed from the remaining

applications and shall remain in force, and shall be treated as if the legislature had enacted a statute limited to the persons, group of persons, or circumstances for which the statute's application does not present an unconstitutional burden. If any court declares or finds a provision of this chapter facially unconstitutional, when discrete applications of that provision can be enforced against a person, group of persons, or circumstances without violating the United States Constitution and the Texas Constitution, those applications shall be severed from all remaining applications of the provision, and the provision shall be interpreted as if the legislature had enacted a provision limited to the persons, group of persons, or circumstances for which the provision's application will not violate the United States Constitution and the Texas Constitution.

(c) The legislature further declares that it would have enacted this chapter, and each provision, section, subdivision, sentence, clause, phrase, and word, and all constitutional applications of this chapter, irrespective of the fact that any provision, section, subdivision, sentence, clause, phrase, or word, or application of this chapter, were to be declared unconstitutional or to represent an unconstitutional burden.

(d) If any provision of this chapter is found by any court to be unconstitutionally vague, then the applications of that provision that do not present constitutional vagueness problems shall be severed and remain in force.

(e) A court may not decline to enforce the severability requirements of this section on the ground that severance would

rewrite the statute or involve the court in legislative or lawmaking activity. A court that declines to enforce or enjoins a state official from enforcing a statutory provision of this chapter does not rewrite a statute, as the statute continues to contain the same words as before the court's decision. A judicial injunction or declaration of unconstitutionality of a provision of this chapter:

(1) is nothing more than an edict prohibiting enforcement that may subsequently be vacated by a later court if that court has a different understanding of the requirements of the Texas Constitution or the United States Constitution;

(2) is not a formal amendment of the language in a statute; and

(3) does not rewrite a statute any more than a decision by the executive not to enforce a duly enacted statute in a limited and defined set of circumstances.

Sec. 770.011. OPERATION OF CHAPTER. This chapter becomes inoperative on invalidation of Subchapter H, Chapter 171, in its entirety by a final decision of the United States Supreme Court or Texas Supreme Court.

SECTION 3. Chapter 30, Civil Practice and Remedies Code, is amended by adding Section 30.023 to read as follows:

Sec. 30.023. AWARD OF ATTORNEY'S FEES IN ACTIONS CHALLENGING FIREARMS LAW. (a) Notwithstanding any other law, any person, including an entity, attorney, or law firm, that seeks declaratory or injunctive relief to prevent this state, a political subdivision of this state, a governmental entity or public official in this state, or a person in this state from enforcing any statute,

1 ordinance, rule, regulation, or other type of law that regulates or
2 restricts firearms, or that represents any litigant seeking that
3 relief, is jointly and severally liable to pay the attorney's fees
4 and costs of the prevailing party.

5 (b) For purposes of this section, a party is considered a
6 prevailing party if a court:

7 (1) dismisses any claim or cause of action brought by
8 the party seeking the declaratory or injunctive relief described by
9 Subsection (a), regardless of the reason for the dismissal; or

10 (2) enters judgment in favor of the party opposing the
11 declaratory or injunctive relief described by Subsection (a), on
12 any claim or cause of action.

13 (c) Regardless of whether a prevailing party sought to
14 recover attorney's fees or costs in the underlying action, a
15 prevailing party under this section may bring a civil action to
16 recover attorney's fees and costs against a person, including an
17 entity, attorney, or law firm, that sought declaratory or
18 injunctive relief described by Subsection (a) not later than the
19 third anniversary of the date on which, as applicable:

20 (1) the dismissal or judgment described by Subsection
21 (b) becomes final on the conclusion of appellate review; or

22 (2) the time for seeking appellate review expires.

23 (d) None of the following is a defense to an action brought
24 under Subsection (c):

25 (1) a prevailing party under this section failed to
26 seek recovery of attorney's fees or costs in the underlying action;

27 (2) the court in the underlying action declined to

1 recognize or enforce the requirements of this section; or

2 (3) the court in the underlying action held that any
3 provision of this section is invalid, unconstitutional, or
4 preempted by federal law, notwithstanding the doctrines of issue or
5 claim preclusion.

6 (e) Any person, including an entity, attorney, or law firm,
7 that seeks declaratory or injunctive relief as described by
8 Subsection (a) may not be considered a prevailing party under this
9 section or any other provision of this chapter.

10 SECTION 4. Subchapter C, Chapter 311, Government Code, is
11 amended by adding Section 311.037 to read as follows:

12 Sec. 311.037. CONSTRUCTION OF FIREARMS STATUTES. (a) A
13 statute that regulates or prohibits firearms may not be construed
14 to repeal any other statute that regulates or prohibits firearms,
15 either wholly or partly, unless the later-enacted statute
16 explicitly states that it is repealing the other statute.

17 (b) A statute may not be construed to restrict a political
18 subdivision from regulating or prohibiting firearms in a manner
19 that is at least as stringent as the laws of this state, unless the
20 statute explicitly states that political subdivisions are
21 prohibited from regulating or prohibiting firearms in the manner
22 described by the statute.

23 (c) Every statute that regulates or prohibits firearms is
24 severable in each of its applications to every person and
25 circumstance. If any statute that regulates or prohibits firearms
26 is found by any court to be unconstitutional, either on its face or
27 as applied, then all applications of that statute that do not

1 violate the United States Constitution and Texas Constitution shall
2 be severed from the unconstitutional applications and shall remain
3 enforceable, notwithstanding any other law, and the statute shall
4 be interpreted as if containing language limiting the statute's
5 application to the persons, group of persons, or circumstances for
6 which the statute's application will not violate the United States
7 Constitution and Texas Constitution.

8 SECTION 5. Section 770.005, Health and Safety Code, as
9 added by this Act, applies only to a cause of action that accrues on
10 or after the effective date of this Act.

11 SECTION 6. This Act takes effect September 1, 2025.