

BILL ANALYSIS

C.S.H.B. 2622
By: Holland
State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Second Amendment to the U.S. Constitution guarantees an individual's right of the people to keep and bear arms. While the state protects these rights, there are concerns that federal officials may enact measures to erode Texans' Second Amendment rights. C.S.H.B. 2622 seeks to be proactive in protecting Texans' Second Amendment rights by enacting the Second Amendment Sanctuary State Act, which prohibits the enforcement of certain federal regulations on firearms, firearm accessories, or ammunition that are not in state law.

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. 2622 amends the Penal Code to prohibit a state agency, a political subdivision, a law enforcement officer, or any other person employed by a state agency or political subdivision from contracting with or in any other manner providing assistance to a federal agency or official with respect to the enforcement of a federal statute, order, rule, or regulation that imposes a prohibition, restriction, or other regulation that does not exist under state law and that relates to at least one of the following regarding a firearm, firearm accessory, or ammunition:

- a registry requirement;
- a requirement to possess a license as a condition of owning, possessing, or carrying the item;
- a requirement that a background check be conducted for a private sale or transfer;
- a program for confiscating such an item from a person who is not otherwise prohibited from possessing it under state law; or
- a program that requires an owner to sell the item.

This prohibition does not apply to a contract or agreement to provide assistance in the enforcement of a federal statute, order, rule, or regulation in effect on January 19, 2021.

C.S.H.B. 2622 prohibits a political subdivision that enters into a contract or that, by adopted rule, order, ordinance, or policy, or by consistent actions, requires or assists with the enforcement of such a federal statute, order, rule, or regulation, as defined by the bill, from receiving state funds and requires the subdivision's state funds to be denied for the fiscal year following the year in which a final judicial determination is made that the political subdivision has required or assisted with the enforcement of the federal statute, order, rule, or regulation.

C.S.H.B. 2622 authorizes any individual residing in the jurisdiction of a political subdivision to file a complaint with the attorney general if the individual offers and includes with the complaint evidence to support an allegation that the political subdivision has entered into a contract or has, by adopted rule, order, ordinance, or policy or by consistent actions, required or assisted with the enforcement of such a federal statute, order, rule, or regulation. The bill authorizes the attorney general, on determining the complaint is valid, to file a petition for a writ of mandamus or to apply for other appropriate equitable relief in an appropriate district court to compel the political subdivision to comply with the bill's prohibition against providing enforcement assistance. The bill authorizes the attorney general to recover reasonable expenses incurred in obtaining relief and sets out provisions relating to the appeal of such a suit. The bill requires the attorney general to defend any state agency in a suit brought against the agency by the federal government for an action or omission consistent with the bill's requirements.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2622 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes a provision establishing that the bill may be cited as the Second Amendment Sanctuary State Act.

The substitute does not include the reference to a federal regulation such as a capacity or size limitation as a specific example of a federal regulation that may not be enforced if it does not exist under state law. However, the substitute includes provisions listing the types of federal regulations on firearms, firearm accessories, or ammunition that, if not in state law, may not be enforced, including a regulation that relates to a registry requirement for a firearm, a firearm accessory, or ammunition.

The original prohibited a political subdivision from receiving state funds on adoption of a rule, order, ordinance, or policy under which enforcement of an applicable federal statute, order, rule, or regulation was required. The substitute expands application of the prohibition to include a political subdivision entering into a contract under which such a federal action is required and also to include a rule, order, ordinance, or policy of the political subdivision that assists with the enforcement of an applicable federal action.

The substitute expands the state funds that a subdivision that violates the bill's provisions is prohibited from receiving from only state grant funds to any money appropriated by the legislature or under the control or direction of an applicable state agency.

The substitute changes the individuals who may file a complaint with the attorney general from the citizens residing in an applicable political subdivision's jurisdiction to any individual residing in that jurisdiction.