

**SUBJECT:** Prohibiting enforcement of federal law regulating firearm suppressors

**COMMITTEE:** State Affairs — favorable, without amendment

**VOTE:** 11 ayes — Phelan, Deshotel, Guerra, Harless, Holland, Hunter, P. King, Parker, Raymond, E. Rodriguez, Springer

0 nays

2 absent — Hernandez, Smithee

**WITNESSES:** For — Rachel Malone, Gun Owners of America; Rick Briscoe, Open Carry Texas; Gary Groppe, Silencer Shop; Tom Glass, Texas Constitutional Enforcement; Walter Barnes; Jack DuBose; Warren Flick; Andrew Holley; Eric Schafer; (*Registered, but did not testify*: Matt Long and Angela Smith, Fredericksburg Tea Party; Justin Delosh and Amos Postell, Lone Star Gun Rights; James Dickey, Republican Party of Texas; Terry Holcomb, Texas Carry; and 12 individuals)

Against — Chris Jones, Combined Law Enforcement Associations of Texas; Melanie Greene, Moms Demand Action for Gun Sense in America; (*Registered, but did not testify*: Jennifer Price, Moms Demand Action for Gun Sense in America; Jimmy Rodriguez, San Antonio Police Officers Association; Maria Person)

**BACKGROUND:** Penal Code sec. 46.05(a)(7) makes it a crime to intentionally or knowingly possess, manufacture, transport, repair, or sell a firearm silencer, unless it is classified as a curio or relic by the U.S. Department of Justice or the person otherwise acts in compliance with federal law.

Concerns have been raised about the criminal consequences of certain conduct involving a firearm suppressor, a device that reduces the noise of a gunshot. Some have suggested that since suppressors may help lawful gun owners reduce the potential for hearing loss associated with firearm use, the adoption of measures to enforce federal restrictions on the use of these devices should be prevented at the state and local levels.

DIGEST:

HB 2286 would repeal the offense of intentionally or knowingly possessing, manufacturing, transporting, repairing, or selling a firearm suppressor under Penal Code sec. 46.05(a)(7). This offense could not be prosecuted after the bill's effective date, and if on the effective date a criminal action was pending, it would be dismissed.

The bill would prohibit an entity from adopting a rule, order, ordinance, or policy under which it enforced a federal statute, order, rule, or regulation related to a firearm suppressor if it imposed a regulation that did not exist under state law.

HB 2286 would define a firearm suppressor as any device designed, made, or adapted to muffle the report of a firearm.

An entity to whom the bill applied would include:

- an entity that was in any branch of state government and created by the Texas Constitution or a statute, including a university system or system of higher education;
- the governing body of a city, county, or special district or authority;
- an employee or officer of a city, county, or special district or authority, including a sheriff, city police department, or a city or county attorney; and
- a district attorney or criminal district attorney.

An entity could not receive state grant funds if it enforced federal law regulating a firearm suppressor. State grant funds would be denied for the fiscal year following the year in which a final judicial determination in an action brought under the bill was made.

Any citizen residing in the jurisdiction of an entity in violation of the bill could file a complaint with the attorney general if the citizen offered evidence to support an allegation.

If the attorney general determined that a complaint was valid, to compel

the entity's compliance with the bill, the attorney general could file a petition for a writ of mandamus or apply for other equitable relief in a district court in Travis County or in a county in which the principal office of the entity was located. The attorney general could recover reasonable expenses incurred in obtaining relief, including court costs, attorney's fees, investigative costs, witness fees, and deposition costs.

An appeal of a suit would be governed by the procedures for accelerated appeals in civil cases under the Texas Rules of Appellate Procedure. The appellate court would have to render its final order or judgment with the least possible delay.

HB 2286 would control over another bill enacted by the 86th Legislature, Regular Session, 2019, to the extent of any conflict relating to nonsubstantive additions to and corrections in enacted codes.

The bill would take effect September 1, 2019,

**NOTES:**

According to the Legislative Budget Board, the fiscal implications of the bill could not be determined as the number of entities that would be prohibited from receiving state grants is unknown.