

SUBJECT: Possession and regulation of firearm suppressors

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 8 ayes — Paddie, Harless, P. King, Metcalf, Raymond, Shaheen, Slawson, Smithee

2 nays — Hernandez, Deshotel

3 absent — Howard, Hunter, Lucio

WITNESSES: For — Destiny Hallman and Rachel Malone, Gun Owners of America; John Bolgiano, Llano County Patriots; Rick Briscoe, Open Carry Texas; Tom Glass, Texas Constitutional Enforcement; and 13 individuals; (*Registered, but did not testify*: Ruth York, Tea Party Patriots of Eastland County and Texas Family Defense Committee; Mark Borskey, Texas State Rifle Association; Jason Vaughn, Texas Young Republicans; Shelia Franklin, True Texas Project; and 25 individuals)

Against — (*Registered, but did not testify*: Bill Kelly, City of Houston Mayor's Office; Susana Carranza, League of Women Voters of Texas; and 10 individuals)

On — (*Registered, but did not testify*: Tom Maddox, Sheriffs Association of Texas)

BACKGROUND: Penal Code sec. 46.05 establishes a criminal offense for an individual to intentionally or knowingly possess, manufacture, transport, repair, or sell certain weapons, including a firearm silencer, unless the silencer is classified as a curio or relic by the U.S. Department of Justice or the individual otherwise possesses, manufactures, transports, repairs, or sells the silencer in compliance with federal law.

Concerns have been raised that Texas' prohibition on possessing firearm silencers is unnecessary and infringes on the rights of Texans and that the state should not enforce federal laws and regulations that could restrict

access to firearm suppressors made and sold in Texas.

DIGEST:

HB 957 would remove firearm silencers from the list of prohibited weapons in Penal Code sec. 46.05 so that it would no longer be an offense to possess a silencer. The bill also would state that a firearm suppressor that was manufactured and remained in Texas would not be subject to federal law or federal regulation under the authority of the United States Congress to regulate interstate commerce.

Defining suppressors made in Texas. Firearm suppressors would be considered to have been manufactured in state if they were manufactured in Texas from basic materials and without any part imported from another state other than a generic and insignificant part. A firearm suppressor would be considered manufactured in this state if it met these criteria without regard to whether a firearm imported into Texas from another state was attached to or used with the suppressor.

The bill also would state that basic material from which a firearm suppressor is manufactured in Texas, including unmachined steel, would not be a firearm suppressor and would not be subject to federal regulation under the authority of the United States Congress to regulate interstate commerce as if it actually were a firearm suppressor.

Firearm suppressors manufactured and sold in Texas would have to have "Made in Texas" stamped on them.

Upon written notification to the Texas attorney general by a U.S. citizen living in Texas of the citizen's intent to manufacture a firearm suppressor that would fall under the bill, the attorney general would be required to seek a declaratory judgment from a federal district court in Texas that the provisions in the bill covering suppressors manufactured in Texas was consistent with the U.S. Constitution.

Enforcement of federal laws concerning suppressors. The bill would prohibit the state of Texas and other entities listed in the bill from adopting a rule, order, ordinance, or policy under which the entity

enforced, or allowed the enforcement of, a federal statute, order, rule, or regulation that purported to regulate a firearm suppressor if it imposed a prohibition, restriction, or other regulation that did not exist under Texas laws. In addition, no entity listed in the bill could enforce or attempt to enforce such a federal statute, order, rule, or regulation, and entities could not receive state grant funds if they adopted a rule, order, or policy under which they enforced such a federal law.

The prohibition would apply to:

- the state of Texas, including an agency, department, commission, board, office, court, or other entity that was in any branch of state government and that was created by the constitution or a Texas statute, including a university system or a system of higher education;
- the governing body of a municipality, county, or special district or authority;
- an officer, employee, or other body that was part of a municipality, county, or special district or authority, including a sheriff, municipal police department, municipal attorney, or county attorney; and
- a district attorney or criminal district attorney.

Complaint process. Citizens living in the jurisdiction of an entity that fell under the bill could file a complaint with the attorney general if the citizen offered evidence to support an allegation that the entity was in violation of the bill's provisions relating to adopting certain policies or allowing the enforcement of certain federal laws. Any evidence the citizen had to support the complaint would have to be included with the complaint.

If the attorney general determined a complaint was valid certain actions could be taken to compel compliance with the bill. The attorney general could apply for relief in a district court in Travis County or a county in which the principal office of the entity was located.

Effective dates. The bill would take effect September 1, 2021. Offenses

relating to prohibited firearm silencers could not be prosecuted after the bill's effective date, and criminal actions pending on that date would be dismissed. Final convictions that existed on the bill's effective date would be unaffected by the bill. Other provisions relating to firearm suppressors manufactured in Texas would apply to firearm suppressors manufactured on or after the bill's effective date.