

BILL ANALYSIS

H.B. 4061
By: White, James
Homeland Security & Public Safety
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties contend that the existing prohibition against a municipality adopting regulations relating to the transfer, private ownership, keeping, transportation, licensing, or registration of firearms, air guns, ammunition, or related supplies should be expanded. Additionally, the parties have raised concerns that the Office of the Attorney General is currently the only office allowed to address a violation involving the unauthorized local regulation of firearms and ammunition and suggest that citizens should be allowed to take action against political subdivisions and officials that commit such violations. H.B. 4061 seeks to address these concerns.

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

H.B. 4061 amends the Local Government Code to extend a prohibition against a municipality adopting regulations relating to the transfer, private ownership, keeping, transportation, licensing, or registration of firearms, air guns, ammunition, or related supplies to the purchase, sale, taxation, manufacture, storage, carrying, or wearing of firearms, air guns, ammunition, or related supplies.

H.B. 4061 prohibits a political subdivision or an officer of a political subdivision from adopting or enforcing a local regulation relating to a firearm or ammunition unless authorized by state law. The bill specifies that a local regulation relating to a firearm or ammunition that is not authorized by state law is invalid. The bill establishes that it is not a defense to a suit brought under the bill's provisions alleging that a political subdivision adopted a local regulation in violation of the prohibition against adopting or enforcing an unauthorized local regulation relating to a firearm or ammunition that the political subdivision was acting in good faith or on the advice of counsel.

H.B. 4061 waives and abolishes governmental immunity to suit and liability to the extent of liability for the relief allowed under the bill's provisions for a violation of the prohibition against the adoption or enforcement of an unauthorized local regulation relating to a firearm or ammunition. The bill authorizes a person who is adversely affected by such a violation to file suit against the political subdivision in the district court in the county in which the violation occurred. The bill authorizes a district court to award a plaintiff in such a civil action declaratory

relief, injunctive relief to prevent the threatened violation or continued violation, actual damages of not more than \$100,000, and reasonable attorney's fees, court costs, and other reasonable expenses required in bringing the action. The bill makes an officer who knowingly and wilfully violates the prohibition personally liable to the state for a civil penalty of not more than \$5,000, authorizes the attorney general or a district or county attorney of the county in which the violation is alleged to have occurred to sue to collect the civil penalty, and makes the affirmative defense of official immunity unavailable to such an officer.

EFFECTIVE DATE

September 1, 2015.