

BILL ANALYSIS

Senate Research Center
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S.B. 717
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DIGEST

Currently, the gun industry is not federally regulated, and firearms have constitutional protection. Lawsuits, such as those which claim the industry is negligent for failing to include more safety features, serve as the only type of regulation over the gun industry. However, numerous lawsuits harm gun makers because of the cost of defending suits which seek damages for governmental units' expenses involving emergency services, hospital treatments, police services, and prosecutions related to gun violence. Theories behind these lawsuits include failing the risk/utility test regarding the design defect doctrine, and negligent marketing. Texas would avoid following the precedent that gun companies are legally responsible for harm caused by their products through S.B. 717, which prohibits a governmental unit from filing a lawsuit against firearms or ammunition manufacturers, trade associations, or sellers without express consent of the legislature.

PURPOSE

As proposed, S.B. 717 limits suits by a governmental unit to recover damages or injunctive relief or abatement of a nuisance relating to firearms or ammunition, against firearms or ammunition manufacturers, trade associations, and sellers.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 6, Civil Practice and Remedies Code, by adding Chapter 128, as follows:

CHAPTER 128. LIMITATION ON SUITS AGAINST FIREARMS OR AMMUNITION MANUFACTURER, TRADE ASSOCIATION, OR SELLER

Sec. 128.001. **LIMITATION ON RIGHT TO BRING SUIT OR RECOVER DAMAGES.** Defines "governmental unit." Prohibits a governmental unit from bringing a suit against certain firearms or ammunition-related entities for recovery of damages resulting from the lawful industries of those entities such as design, manufacture, marketing, and sales of firearms or ammunition, except as provided by Subsection (c). Authorizes a governmental unit or the attorney general to bring a suit against firearms or ammunition-related entities if the suit is previously approved by the legislature through certain methods. Clarifies that this subsection does not create a cause of action, and that a governmental unit is not prohibited from bringing a suit for breach of contract or warranty regarding firearms or ammunition which a governmental unit purchases.

SECTION 2. Effective date: September 1, 1999.
Makes application of this Act retroactive.

SECTION 3. Emergency clause.