

AN ACT

relating to municipal regulation of the discharge of firearms and certain other weapons.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subdivision (1), Section 251.002, Agriculture Code, is amended to read as follows:

(1) "Agricultural operation" includes [~~but it is not limited to~~] the following activities:

(A) cultivating the soil;

(B) producing crops for human food, animal feed, planting seed, or fiber;

(C) floriculture;

(D) viticulture;

(E) horticulture;

(F) silviculture;

(G) wildlife management;

(H) raising or keeping livestock or poultry; and

(I) planting cover crops or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure.

SECTION 2. Section 251.005, Agriculture Code, is amended by amending Subsection (c) and adding Subsection (c-1) to read as follows:

(c) A governmental requirement of a city does not apply to

1 any agricultural operation situated outside the corporate
2 boundaries of the city on the effective date of this chapter. If an
3 agricultural operation so situated is subsequently annexed or
4 otherwise brought within the corporate boundaries of the city, the
5 governmental requirements of the city do not apply to the
6 agricultural operation unless the requirement is reasonably
7 necessary to protect persons who reside in the immediate vicinity
8 or persons on public property in the immediate vicinity of the
9 agricultural operation from the danger of:

10 (1) explosion, flooding, vermin, insects, physical
11 injury, contagious disease, removal of lateral or subjacent
12 support, contamination of water supplies, radiation, storage of
13 toxic materials, ~~[discharge of firearms,~~ or traffic hazards; or

14 (2) discharge of firearms or other weapons, subject to
15 the restrictions in Section 229.002, Local Government Code.

16 (c-1) A governmental requirement may be imposed under
17 Subsection (c) [this subsection] only after the governing body of
18 the city makes findings by resolution that the requirement is
19 necessary to protect public health. Before making findings as to
20 the necessity of the requirement, the governing body of the city
21 must use the services of the city health officer or employ a
22 consultant to prepare a report to identify the health hazards
23 related to agricultural operations and determine the necessity of
24 regulation and manner in which agricultural operations should be
25 regulated.

26 SECTION 3. Section 43.002, Local Government Code, is
27 amended by amending Subsection (c) and adding Subsection (d) to

1 read as follows:

2 (c) This section does not prohibit a municipality from
3 imposing:

4 (1) a regulation relating to the location of sexually
5 oriented businesses, as that term is defined by Section 243.002;

6 (2) a municipal ordinance, regulation, or other
7 requirement affecting colonias, as that term is defined by Section
8 2306.581, Government Code;

9 (3) a regulation relating to preventing imminent
10 destruction of property or injury to persons;

11 (4) a regulation relating to public nuisances;

12 (5) a regulation relating to flood control;

13 (6) a regulation relating to the storage and use of
14 hazardous substances; or

15 (7) a regulation relating to the sale and use of
16 fireworks [~~, or~~

17 [~~(8) a regulation relating to the discharge of~~
18 ~~firearms]~~.

19 (d) A regulation relating to the discharge of firearms or
20 other weapons is subject to the restrictions in Section 229.002.

21 SECTION 4. Chapter 229, Local Government Code, is amended
22 by adding Section 229.002 to read as follows:

23 Sec. 229.002. REGULATION OF DISCHARGE OF WEAPON. A
24 municipality may not apply a regulation relating to the discharge
25 of firearms or other weapons in the extraterritorial jurisdiction
26 of the municipality or in an area annexed by the municipality after
27 September 1, 1981, if the firearm or other weapon is:

1 (1) a shotgun, air rifle or pistol, BB gun, or bow and
2 arrow discharged:

3 (A) on a tract of land of 10 acres or more and
4 more than 150 feet from a residence or occupied building located on
5 another property; and

6 (B) in a manner not reasonably expected to cause
7 a projectile to cross the boundary of the tract; or

8 (2) a center fire or rim fire rifle or pistol of any
9 caliber discharged:

10 (A) on a tract of land of 50 acres or more and
11 more than 300 feet from a residence or occupied building located on
12 another property; and

13 (B) in a manner not reasonably expected to cause
14 a projectile to cross the boundary of the tract.

15 SECTION 5. This Act takes effect immediately if it receives
16 a vote of two-thirds of all the members elected to each house, as
17 provided by Section 39, Article III, Texas Constitution. If this
18 Act does not receive the vote necessary for immediate effect, this
19 Act takes effect September 1, 2005.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 734 passed the Senate on March 31, 2005, by the following vote: Yeas 28, Nays 0; and that the Senate concurred in House amendments on April 25, 2005, by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 734 passed the House, with amendments, on April 21, 2005, by the following vote: Yeas 138, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor