

BILL ANALYSIS

Senate Research Center
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H.B. 1314
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Agriculture, Rural Affairs & Homeland Security
5/9/2013
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Second Amendment to the United States Constitution guarantees the right of American citizens to keep and bear arms. Interested parties contend that the most important aspect of this amendment is that the federal government may not seize a citizen's firearm without cause; however, the federal government has recently considered enacting measures that challenge this protection based on questionable constitutional grounds.

H.B. 1314 amends current law relating to the unlawful seizure of a firearm by a governmental officer or employee, and provides penalties.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 46, Penal Code, by adding Section 46.16, as follows:

Sec. 46.16. UNLAWFUL SEIZURE OF FIREARM. (a) Provides that a person who is an officer or employee of the United States, this state, or a political subdivision of this state commits an offense if the person, while acting under color of the person's office or employment, intentionally or knowingly seizes a firearm as permitted or required by a federal statute, order, rule, or regulation that imposes a prohibition, restriction, or other regulation on firearms that does not exist under the laws of this state.

(b) Provides that, for purposes of this section, a person acts under color of the person's office or employment if the person acts or purports to act in an official capacity or takes advantage of such actual or purported capacity.

(c) Provides that an offense under this section is a Class A misdemeanor.

(d) Provides that it is an exception to the application of this section that the person's seizure of a firearm was consistent with an explicit and applicable grant of federal statutory authority that is consistent with the United States Constitution.

(e) Authorizes the prosecution to negate the existence of the exception provided by Subsection (d) only by proving beyond a reasonable doubt that, based on a decision entered by the United States Supreme Court on or after September 1, 2013, the federal statute, order, rule, or regulation described by Subsection (a) is not within the scope of federal powers conferred by the United States Constitution.

SECTION 2. Effective date: upon passage or September 1, 2013.