

By: Gutierrez

S.B. No. 74

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to prohibiting the transfer of certain semiautomatic  
3 rifles to certain recipients; creating a criminal offense;  
4 increasing a criminal penalty.

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

6 SECTION 1. Section 46.06, Penal Code, is amended by  
7 amending Subsections (a), (c), and (d) and adding Subsection (c-1)  
8 to read as follows:

9 (a) A person commits an offense if the person:

10 (1) sells, rents, leases, loans, or gives a handgun to  
11 any person knowing that the person to whom the handgun is to be  
12 delivered intends to use it unlawfully or in the commission of an  
13 unlawful act;

14 (2) intentionally or knowingly sells, rents, leases,  
15 or gives or offers to sell, rent, lease, or give:

16 (A) to a ~~any~~ child younger than 18 years of age  
17 a ~~any firearm,~~ club, ~~or~~ location-restricted knife, or firearm  
18 other than a semiautomatic rifle described by Paragraph (B); or

19 (B) to a person younger than 21 years of age a  
20 semiautomatic rifle that is capable of accepting a detachable  
21 magazine and that has a caliber greater than .22;

22 (3) intentionally, knowingly, or recklessly sells a  
23 firearm or ammunition for a firearm to any person who is  
24 intoxicated;

1           (4) knowingly sells a firearm or ammunition for a  
2 firearm to any person who has been convicted of a felony before the  
3 fifth anniversary of the later of the following dates:

4                   (A) the person's release from confinement  
5 following conviction of the felony; or

6                   (B) the person's release from supervision under  
7 community supervision, parole, or mandatory supervision following  
8 conviction of the felony;

9           (5) sells, rents, leases, loans, or gives a handgun to  
10 any person knowing that an active protective order is directed to  
11 the person to whom the handgun is to be delivered;

12           (6) knowingly purchases, rents, leases, or receives as  
13 a loan or gift from another a handgun while an active protective  
14 order is directed to the actor; or

15           (7) while prohibited from possessing a firearm under  
16 state or federal law, knowingly makes a material false statement on  
17 a form that is:

18                   (A) required by state or federal law for the  
19 purchase, sale, or other transfer of a firearm; and

20                   (B) submitted to a firearms dealer licensed under  
21 18 U.S.C. Section 923.

22           (c) It is an affirmative defense to prosecution under  
23 Subsection (a)(2)(A) [~~(a)(2)~~] that the transfer was to a minor  
24 whose parent or the person having legal custody of the minor had  
25 given written permission for the sale or, if the transfer was other  
26 than a sale, the parent or person having legal custody had given  
27 effective consent.

1        (c-1) It is an exception to the application of Subsection  
2 (a)(2)(B) that:

3            (1) the semiautomatic rifle is transferred to a  
4 recipient who:

5                    (A) is a peace officer; or

6                    (B) is currently serving in or has been honorably  
7 discharged from the United States armed forces; or

8            (2) the transfer of the semiautomatic rifle is a  
9 temporary loan to a person who is to carry or use the semiautomatic  
10 rifle only:

11                    (A) while in the presence of the transferor;

12                    (B) while on property owned or leased by the  
13 transferor;

14                    (C) on the premises of a sport shooting range, as  
15 defined by Section 250.001, Local Government Code, and solely for  
16 the purpose of shooting targets at the range; or

17                    (D) at a lawful competition involving the use of  
18 a firearm.

19        (d) An offense under this section is a Class A misdemeanor,  
20 except that:

21            (1) an offense under Subsection (a)(2)(A) [~~(a)(2)~~] is  
22 a state jail felony if the weapon that is the subject of the offense  
23 is a handgun; and

24            (2) an offense under Subsection (a)(2)(B) or (a)(7) is  
25 a state jail felony.

26        SECTION 2. The change in law made by this Act applies only  
27 to an offense committed on or after the effective date of this Act.

1 An offense committed before the effective date of this Act is  
2 governed by the law in effect on the date the offense was committed,  
3 and the former law is continued in effect for that purpose. For  
4 purposes of this section, an offense was committed before the  
5 effective date of this Act if any element of the offense occurred  
6 before that date.

7 SECTION 3. This Act takes effect on the 91st day after the  
8 last day of the legislative session.