

By: Reynolds

H.B. No. 76

A BILL TO BE ENTITLED

AN ACT

relating to reporting the loss or theft of a firearm; creating a criminal offense.

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

SECTION 1. Chapter 42, Code of Criminal Procedure, is amended by adding Article 42.0184 to read as follows:

Art. 42.0184. NOTICE OF FAILURE TO REPORT LOST OR STOLEN FIREARM. Not later than the fifth day after the date a person is convicted of or placed on deferred adjudication community supervision for an offense under Section 46.135, Penal Code, the clerk of the court in which the judgment of conviction or order of deferred adjudication community supervision is entered shall provide to the Department of Public Safety written notice of the conviction or deferred adjudication, including the following information as established by the record in the case:

(1) the name of the defendant and any available information about the firearm that was lost or stolen;

(2) the date that the defendant became aware the firearm was lost or stolen; and

(3) the date by which the defendant should have reported the loss or theft to a peace officer or law enforcement agency.

SECTION 2. Subchapter D, Chapter 411, Government Code, is amended by adding Section 411.056 to read as follows:

1 Sec. 411.056. REPORT TO DEPARTMENT OF LOST OR STOLEN
2 FIREARM. (a) A peace officer who receives a report from the owner
3 of a firearm or the owner's agent that the firearm was lost or
4 stolen shall report the loss or theft to the department. The report
5 must include the following information:

6 (1) the name of the owner and any available
7 information about the firearm; and

8 (2) the date that the owner became aware the firearm
9 was lost or stolen.

10 (b) The department shall maintain a report received under
11 Subsection (a) or notice received under Article 42.0184, Code of
12 Criminal Procedure, until the fifth anniversary of the date that
13 the owner whose firearm is the subject of the report became aware
14 the firearm was lost or stolen.

15 SECTION 3. Section 411.172(a), Government Code, is amended
16 to read as follows:

17 (a) A person is eligible for a license to carry a handgun if
18 the person:

19 (1) is a legal resident of this state for the six-month
20 period preceding the date of application under this subchapter or
21 is otherwise eligible for a license under Section 411.173(a);

22 (2) is at least 21 years of age;

23 (3) has not been convicted of a felony;

24 (4) is not charged with the commission of a Class A or
25 Class B misdemeanor or equivalent offense, or of an offense under
26 Section 42.01, Penal Code, or equivalent offense, or of a felony
27 under an information or indictment;

1 (5) is not a fugitive from justice for a felony or a
2 Class A or Class B misdemeanor or equivalent offense;

3 (6) is not a chemically dependent person;

4 (7) is not incapable of exercising sound judgment with
5 respect to the proper use and storage of a handgun;

6 (8) has not, in the five years preceding the date of
7 application, been convicted of a Class A or Class B misdemeanor or
8 equivalent offense, ~~or~~ of an offense under Section 42.01, Penal
9 Code, or equivalent offense, or of an offense under Section 46.135,
10 Penal Code;

11 (9) is fully qualified under applicable federal and
12 state law to purchase a handgun;

13 (10) has not been finally determined to be delinquent
14 in making a child support payment administered or collected by the
15 attorney general;

16 (11) has not been finally determined to be delinquent
17 in the payment of a tax or other money collected by the comptroller,
18 the tax collector of a political subdivision of the state, or any
19 agency or subdivision of the state;

20 (12) is not currently restricted under a court
21 protective order or subject to a restraining order affecting the
22 spousal relationship, other than a restraining order solely
23 affecting property interests;

24 (13) has not, in the 10 years preceding the date of
25 application, been adjudicated as having engaged in delinquent
26 conduct violating a penal law of the grade of felony; and

27 (14) has not made any material misrepresentation, or

1 failed to disclose any material fact, in an application submitted
2 pursuant to Section 411.174.

3 SECTION 4. Section 411.176(a), Government Code, is amended
4 to read as follows:

5 (a) On receipt of application materials by the department at
6 its Austin headquarters, the department shall conduct the
7 appropriate criminal history record check of the applicant through
8 its computerized criminal history system and shall review any
9 records received under Article 42.0184, Code of Criminal Procedure,
10 that concern the applicant. Not later than the 30th day after the
11 date the department receives the application materials, the
12 department shall forward the materials to the director's designee
13 in the geographical area of the applicant's residence so that the
14 designee may conduct the investigation described by Subsection (b).
15 For purposes of this section, the director's designee may be a
16 noncommissioned employee of the department.

17 SECTION 5. Section 411.186(a), Government Code, is amended
18 to read as follows:

19 (a) The department shall revoke a license under this section
20 if the license holder:

21 (1) was not entitled to the license at the time it was
22 issued;

23 (2) made a material misrepresentation or failed to
24 disclose a material fact in an application submitted under this
25 subchapter;

26 (3) subsequently becomes ineligible for a license
27 under Section 411.172, unless the sole basis for the ineligibility

1 is that the license holder is charged with the commission of a Class
2 A or Class B misdemeanor or equivalent offense, or of an offense
3 under Section 42.01, Penal Code, or equivalent offense, or of a
4 felony under an information or indictment;

5 (4) is convicted of an offense under Section 46.135,
6 Penal Code;

7 (5) is determined by the department to have engaged in
8 conduct constituting a reason to suspend a license listed in
9 Section 411.187(a) after the person's license has been previously
10 suspended twice for the same reason; or

11 (6) [~~5~~] submits an application fee that is
12 dishonored or reversed if the applicant fails to submit a cashier's
13 check or money order made payable to the "Department of Public
14 Safety of the State of Texas" in the amount of the dishonored or
15 reversed fee, plus \$25, within 30 days of being notified by the
16 department that the fee was dishonored or reversed.

17 SECTION 6. Chapter 46, Penal Code, is amended by adding
18 Section 46.135 to read as follows:

19 Sec. 46.135. FAILURE TO REPORT LOST OR STOLEN FIREARM. (a)
20 A person commits an offense if the person:

21 (1) owns a firearm that is subsequently lost by or
22 stolen from the person; and

23 (2) fails to report the loss or theft, or cause a
24 report of the loss or theft to be made, to a peace officer or law
25 enforcement agency on or before the fifth day after the date the
26 person became aware the firearm was lost or stolen.

27 (b) An offense under this section is a Class C misdemeanor.

1 (c) If conduct constituting an offense under this section
2 also constitutes an offense under another section of this code, the
3 actor may be prosecuted under either section or under both
4 sections.

5 SECTION 7. Sections 411.172(a)(8) and 411.186(a)(4),
6 Government Code, as amended by this Act, and Section 46.135, Penal
7 Code, as added by this Act, apply only to a firearm that is lost or
8 stolen on or after the effective date of this Act. A firearm that
9 was lost or stolen before the effective date of this Act is governed
10 by the law in effect on the date the firearm was lost or stolen, and
11 the former law is continued in effect for that purpose.

12 SECTION 8. This Act takes effect September 1, 2023.