

By: Reynolds

H.B. No. 761

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting the transfer of an assault weapon to certain recipients; creating a criminal offense; increasing a criminal penalty.

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

SECTION 1. Section 46.06, Penal Code, is amended to read as follows:

Sec. 46.06. UNLAWFUL TRANSFER OF CERTAIN WEAPONS. (a) A person commits an offense if the person:

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

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

(A) a [to any child younger than 18 years of age any firearm,] club, [or] location-restricted knife, or firearm other than an assault weapon to a child younger than 18 years of age; or

(B) an assault weapon to a person younger than 21 years of age;

(3) intentionally, knowingly, or recklessly sells a firearm or ammunition for a firearm to any person who is 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 licensed firearms dealer, as
21 defined by 18 U.S.C. Section 923.

22 (b) In this section:

23 (1) "Intoxicated" means substantial impairment of
24 mental or physical capacity resulting from introduction of any
25 substance into the body.

26 (2) "Active protective order" means a protective order
27 issued under Title 4, Family Code, that is in effect. The term does

not include a temporary protective order issued before the court holds a hearing on the matter.

(3) "Assault weapon" means:

(A) a semiautomatic centerfire rifle that has the capacity to accept a detachable magazine and has:

(i) a pistol grip that protrudes conspicuously beneath the action of the firearm;

(ii) a folding or telescoping stock;

(iii) a thumbhole stock;

(iv) a second handgrip or a protruding grip that can be held by the non-trigger hand;

(v) a flash suppressor; or

(vi) a grenade launcher or flare launcher;

(B) a semiautomatic centerfire rifle that has a fixed magazine that holds more than 10 rounds of ammunition;

(C) a semiautomatic centerfire rifle that has an overall length of less than 30 inches;

(D) a semiautomatic shotgun that has the capacity to accept a detachable magazine;

(E) a semiautomatic shotgun that has a folding or telescoping stock and has:

(i) a thumbhole stock; or

(ii) a second handgrip or a protruding grip that can be held by the non-trigger hand;

(F) a semiautomatic pistol that has the capacity to accept a detachable magazine and has:

(i) a second handgrip or a protruding grip

1 that can be held by the non-trigger hand;

2 (ii) an ammunition magazine that attaches
3 to the pistol outside of the pistol grip;

4 (iii) a threaded barrel capable of
5 accepting a flash suppressor, forward handgrip, or silencer; or

6 (iv) a shroud that is attached to or
7 partially or completely encircles the barrel and that permits the
8 shooter to hold the firearm with the non-trigger hand without being
9 burned;

10 (G) a semiautomatic pistol that has a fixed
11 magazine that holds more than 10 rounds of ammunition;

12 (H) a revolving cylinder shotgun; or

13 (I) a conversion kit, part, or combination of
14 parts from which an assault weapon can be assembled or with which a
15 firearm may be converted into a weapon described by Paragraph (A),
16 (B), (C), (D), (E), (F), (G), or (H).

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

23 (c-1) It is an exception to the application of Subsection
24 (a)(2)(B) that the transfer of the assault weapon is necessary for
25 the actual discharge of the recipient's official duties as a member
26 of the armed forces or state military forces, as defined by Section
27 [437.001](#), Government Code.

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

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

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

SECTION 2. The change in law made by this Act applies only
to an offense committed on or after the effective date of this Act.
An offense committed before the effective date of this Act is
governed by the law in effect on the date the offense was committed,
and the former law is continued in effect for that purpose. For
purposes of this section, an offense was committed before the
effective date of this Act if any element of the offense occurred
before that date.

SECTION 3. This Act takes effect September 1, 2023.