

By: Goodwin

H.B. No. 781

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting the transfer of firearms other than handguns 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 by amending Subsections (a), (c), and (d) and adding Subsections (c-1) and (c-2) to read as follows:

(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 handgun to a
child younger than 18 years of age; or

(B) a firearm other than a handgun 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;

(4) knowingly sells a firearm or ammunition for a

firearm to any person who has been convicted of a felony before the fifth anniversary of the later of the following dates:

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

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

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

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

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

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

(B) submitted to a ~~[licensed]~~ firearms dealer licensed under ~~[, as defined by]~~ 18 U.S.C. Section 923.

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

(c-1) It is a defense to prosecution under Subsection

1 (a)(2)(B) that the transfer of the firearm is necessary for the
2 actual discharge of the recipient's official duties as a member of
3 the armed forces or state military forces, as defined by Section
4 437.001, Government Code.

5 (c-2) It is an affirmative defense to prosecution under
6 Subsection (a)(2)(B) that the firearm is transferred to a recipient
7 who:

8 (1) is 18 years of age or older; and

9 (2) not more than one year before the date of the
10 transfer, successfully completed a hunter education course
11 described by Section 62.014, Parks and Wildlife Code.

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

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

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

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

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