

By: Zaffirini

S.B. No. 32

A BILL TO BE ENTITLED

1 AN ACT
2 relating to prohibiting certain transfers, purchases, and
3 possession of assault weapons; creating criminal offenses.

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

5 SECTION 1. Chapter 46, Penal Code, is amended by adding
6 Section 46.055 to read as follows:

7 Sec. 46.055. UNLAWFUL PURCHASE OR POSSESSION OF ASSAULT
8 WEAPON. (a) In this section, "assault weapon" means:

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

11 (A) a pistol grip that protrudes conspicuously
12 beneath the action of the firearm;

13 (B) a folding or telescoping stock;

14 (C) a thumbhole stock;

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

17 (E) a flash suppressor; or

18 (F) a grenade launcher or flare launcher;

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

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

23 (4) a semiautomatic shotgun that has the capacity to
24 accept a detachable magazine;

1 (5) a semiautomatic shotgun that has a folding or
2 telescoping stock and has:

3 (A) a thumbhole stock; or

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

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

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

10 (B) an ammunition magazine that attaches to the
11 pistol outside of the pistol grip;

12 (C) a threaded barrel capable of accepting a
13 flash suppressor, forward handgrip, or silencer; or

14 (D) a shroud that is attached to or partially or
15 completely encircles the barrel and that permits the shooter to
16 hold the firearm with the non-trigger hand without being burned;

17 (7) a semiautomatic pistol that has a fixed magazine
18 that holds more than 10 rounds of ammunition;

19 (8) a revolving cylinder shotgun; or

20 (9) a conversion kit, part, or combination of parts
21 from which an assault weapon can be assembled or with which a
22 firearm may be converted into a weapon described by Subdivision
23 (1), (2), (3), (4), (5), (6), (7), or (8).

24 (b) A person who is younger than 21 years of age commits an
25 offense if the person knowingly:

26 (1) purchases an assault weapon; or

27 (2) possesses an assault weapon.

1 (c) An offense under this section is a Class A misdemeanor.

2 (d) It is a defense to prosecution under Subsection (b)(1)
3 that the actor purchased the assault weapon for the actual
4 discharge of official duties as:

5 (1) a peace officer; or

6 (2) a member of the armed forces or state military
7 forces as defined by Section 431.001, Government Code.

8 (e) It is a defense to prosecution under Subsection (b)(2)
9 that:

10 (1) the actor possessed the assault weapon in the
11 actual discharge of official duties, or directly en route to or from
12 the person's place of assignment, as:

13 (A) a peace officer; or

14 (B) a member of the armed forces or state
15 military forces as defined by Section 431.001, Government Code; or

16 (2) the actor lawfully possessed the assault weapon on
17 August 31, 2023.

18 SECTION 2. Section 46.06, Penal Code, is amended by
19 amending Subsections (a), (c), and (d) and adding Subsection (c-1)
20 to read as follows:

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

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

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

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

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

7 (3) intentionally, knowingly, or recklessly sells a
8 firearm or ammunition for a firearm to any person who is
9 intoxicated;

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

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

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

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

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

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

27 (A) required by state or federal law for the

1 purchase, sale, or other transfer of a firearm; and

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

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

10 (c-1) It is a defense to prosecution under Subsection
11 (a)(2)(B) that the transfer was to a person who provided evidence to
12 the actor that the person is:

13 (1) a peace officer; or

14 (2) a member of the armed forces or state military
15 forces as defined by Section 431.001, Government Code.

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

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

21 (2) an offense under Subsection (a)(2)(B) is a state
22 jail felony; and

23 (3) an offense under Subsection (a)(7) is a state jail
24 felony.

25 SECTION 3. Section 46.06(b), Penal Code, is amended by
26 adding Subdivision (3) to read as follows:

27 (3) "Assault weapon" has the meaning assigned by

1 Section 46.055.

2 SECTION 4. The change in law made by this Act applies only
3 to an offense committed on or after the effective date of this Act.
4 An offense committed before the effective date of this Act is
5 governed by the law in effect on the date the offense was committed,
6 and the former law is continued in effect for that purpose. For
7 purposes of this section, an offense was committed before the
8 effective date of this Act if any element of the offense occurred
9 before that date.

10 SECTION 5. This Act takes effect September 1, 2023.