

By: Burnam

H.B. No. 130

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution of the offense of unlawful transfer of certain weapons.

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

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

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

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

(2) negligently [~~intentionally or knowingly~~] sells, rents, leases, or gives or offers to sell, rent, lease, or give to any child younger than 18 years any firearm, club, or illegal knife;

(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

1 community supervision, parole, or mandatory supervision following
2 conviction of the felony;

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

7 (6) knowingly purchases, rents, leases, or receives as
8 a loan or gift from another a firearm [~~handgun~~] while an active
9 protective order is directed to the actor.

10 (c) It is an affirmative defense to prosecution under
11 Subsection (a)(2) that:

12 (1) the transfer, unless the transfer is by sale,
13 rent, or lease, was to a minor whose parent or the person having
14 legal custody of the minor had given [~~written permission for the~~
15 ~~sale or, if the transfer was other than a sale, the parent or person~~
16 ~~having legal custody had given~~] effective consent for the transfer;
17 and

18 (2) the weapon transferred was a handgun.

19 (e) It is an exception to the application of Subsection
20 (a)(2) that:

21 (1) the transfer, unless the transfer is by sale,
22 rent, or lease, was to a minor whose parent or the person having
23 legal custody of the minor had given effective consent for the
24 transfer; and

25 (2) the weapon transferred was a rifle or shotgun
26 other than a short-barrel firearm.

27 SECTION 2. This Act takes effect September 1, 2003, and

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