

By: Coleman

H.B. No. 3325

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the regulation or prohibition of certain assault  
3 weapons; imposing a tax and a license fee; providing a civil  
4 penalty.

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

6 SECTION 1. Chapter 411, Government Code, is amended by  
7 adding Subchapter H-1 to read as follows:

8 SUBCHAPTER H-1. LICENSE TO PURCHASE ASSAULT WEAPON

9 Sec. 411.221. DEFINITION OF ASSAULT WEAPON. (a) In this  
10 subchapter, "assault weapon" means:

11 (1) a semiautomatic rifle that has the capacity to  
12 accept a detachable magazine that holds more than five rounds of  
13 ammunition and has:

14 (A) a pistol grip that protrudes conspicuously  
15 beneath the action of the firearm;

16 (B) a folding or telescoping stock;

17 (C) a thumbhole stock;

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

20 (E) a flash suppressor, muzzle break, muzzle  
21 compensator, or threaded barrel designed to accommodate a flash  
22 suppressor, muzzle break, or muzzle compensator; or

23 (F) a grenade launcher;

24 (2) a semiautomatic shotgun that has a fixed magazine,

1 or the capacity to accept a detachable magazine, that holds more  
2 than five rounds of ammunition and has:

3 (A) a folding or telescoping stock;

4 (B) a thumbhole stock;

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

7 (D) a fixed magazine that holds more than seven  
8 rounds of ammunition;

9 (3) a semiautomatic pistol that has the capacity to  
10 accept a detachable magazine and has:

11 (A) a folding or telescoping stock;

12 (B) a thumbhole stock;

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

15 (D) an ammunition magazine that attaches to the  
16 pistol outside of the pistol grip;

17 (E) a threaded barrel capable of accepting a  
18 flash suppressor, barrel extender, forward handgrip, or silencer;

19 (F) a shroud that is attached to or partially or  
20 completely encircles the barrel and that permits the shooter to  
21 hold the firearm with the non-trigger hand without being burned;

22 (G) a manufactured weight of 50 ounces or more  
23 when the firearm is unloaded; or

24 (H) a semiautomatic version of an automatic  
25 rifle, shotgun, or other firearm; or

26 (4) a revolving cylinder shotgun.

27 (b) For purposes of this subchapter, "assault weapon" does

1 not include:

2 (1) any rifle, shotgun, or pistol that:

3 (A) is manually operated by bolt, pump, lever, or  
4 slide action;

5 (B) has been rendered permanently inoperable; or

6 (C) is an antique firearm; or

7 (2) any revolving cylinder shotgun that was in the  
8 possession of its owner before September 1, 2013.

9 Sec. 411.222. APPLICATION; ELIGIBILITY. (a) A person may  
10 apply to the department for a license to purchase an assault weapon.

11 (b) A person is eligible for a license to purchase an  
12 assault weapon if the person:

13 (1) submits to the department all of the application  
14 materials required for a license to carry a concealed handgun under  
15 Section 411.174, except that:

16 (A) the nonrefundable application and license  
17 fee is in the amount of \$200; and

18 (B) in lieu of the evidence of handgun  
19 proficiency, the applicant must submit evidence satisfactory to the  
20 department of the applicant's ability to exercise sound judgment  
21 with respect to the proper use and storage of an assault weapon; and

22 (2) is found by the department, following a review of  
23 the application materials conducted in the manner described by  
24 Section 411.176, to fulfill all the eligibility requirements for a  
25 license to carry a concealed handgun under Section 411.172.

26 Sec. 411.223. ISSUANCE OR DENIAL OF LICENSE. (a) The  
27 department shall issue a license to purchase an assault weapon to an

1 applicant if the applicant meets all of the eligibility  
2 requirements and submits all of the application materials. The  
3 department may not deny an application on the basis of a capricious  
4 or arbitrary decision by the department.

5 (b) The department shall, not later than the 60th day after  
6 the date of receipt of the completed application materials:

7 (1) issue the license;

8 (2) notify the applicant in writing that the  
9 application was denied because the applicant failed to:

10 (A) submit evidence satisfactory to the  
11 department of the applicant's ability to exercise sound judgment  
12 with respect to the proper use and storage of an assault weapon; or

13 (B) fulfill all of the eligibility requirements;  
14 or

15 (3) notify the applicant in writing that the  
16 department is unable to make a determination regarding the issuance  
17 or denial of a license to the applicant within the 60-day period  
18 prescribed by this subsection and include in that notification an  
19 explanation of the reason for the inability and an estimation of the  
20 amount of time the department will need to make the determination.

21 (c) Failure of the department to issue or deny a license for  
22 a period of more than 30 days after the department is required to  
23 act under Subsection (b) constitutes denial.

24 Sec. 411.224. EXPIRATION AND RENEWAL OF LICENSE. (a) A  
25 license issued under this subchapter expires on the second  
26 anniversary of the date of issuance.

27 (b) To renew a license, a license holder must submit to the

1 department:

2 (1) an application for renewal on a form provided by  
3 the department;

4 (2) payment of a nonrefundable renewal fee of \$25.

5 (c) The director by rule shall adopt a renewal application  
6 form requiring an update of the information on the original  
7 completed application with respect to:

8 (1) the applicant's state and federal criminal history  
9 record information and eligibility under applicable federal and  
10 state law to possess a firearm; and

11 (2) whether the applicant is currently restricted  
12 under a court protective order or subject to a restraining order.

13 (d) The department shall renew the license of a license  
14 holder who meets the eligibility requirements and submits the  
15 renewal materials. Not later than the 45th day after receipt of the  
16 renewal materials, the department shall issue the renewal or notify  
17 the license holder in writing that the renewal application was  
18 denied.

19 Sec. 411.225. STANDARDS AND PROCEDURAL REQUIREMENTS;  
20 RULES. (a) The following provisions apply to a license issued  
21 under this subchapter, except to the extent that the provisions are  
22 inapplicable by their nature:

23 (1) notification of denial, revocation, or suspension  
24 of license; review (Section 411.180);

25 (2) notice of change of address or name (Section  
26 411.181);

27 (3) notice (Section 411.182);

- (4) modification (Section 411.184);
- (5) revocation (Section 411.186);
- (6) suspension of license (Section 411.187); and
- (7) confidentiality of records (Section 411.192).

(b) The department shall adopt any other rule or establish any other procedure necessary or appropriate to administer this subchapter.

SECTION 2. Title 99, Business & Commerce Code, is amended by adding Chapter 2005 to read as follows:

CHAPTER 2005. TRANSFER OF ASSAULT WEAPONS

Sec. 2005.001. DEFINITIONS. In this chapter:

(1) "Assault weapon" has the meaning assigned by Section 411.221, Government Code.

(2) "Department" means the Department of Public Safety.

(3) "Local law enforcement authority" means the office of the chief of police of a municipality or the office of the sheriff of a county.

Sec. 2005.002. PREREQUISITES TO PURCHASE. Before a person may purchase an assault weapon in this state, the person must:

(1) obtain a license issued under Subchapter H-1, Chapter 411, Government Code; and

(2) in accordance with Section 2005.003, register with and obtain a written statement from the local law enforcement authority in:

(A) the municipality in which the person resides;

or

1           (B) the county in which the person resides, if  
2 the person does not reside within a municipality.

3           Sec. 2005.003. REGISTRATION WITH AND STATEMENT FROM LOCAL  
4 LAW ENFORCEMENT AUTHORITY. (a) A person who holds a license issued  
5 under Subchapter H-1, Chapter 411, Government Code, and who  
6 registers with the local law enforcement authority in the  
7 municipality or county in which the person resides, as applicable,  
8 may request the local law enforcement authority to provide the  
9 person with a written and dated statement confirming that a check of  
10 the person's criminal history record information indicates the  
11 person may lawfully possess a firearm.

12           (b) A local law enforcement authority that receives a  
13 request under Subsection (a) shall:

14                   (1) verify that the person holds a license issued  
15 under Subchapter H-1, Chapter 411, Government Code;

16                   (2) obtain from the person an application for  
17 registration that includes:

18                           (A) the person's full name, date of birth, social  
19 security number, and driver's license number;

20                           (B) the address where the person resides; and

21                           (C) a recent photograph of the person and a  
22 complete set of the person's fingerprints;

23                   (3) conduct a check of state and national criminal  
24 history record information to verify whether the person may  
25 lawfully possess a firearm; and

26                   (4) on receipt of the results of the criminal history  
27 record check, provide the person with the requested statement or

1 notify the person that the person is prohibited from purchasing a  
2 firearm.

3 Sec. 2005.004. QUALIFIED SELLER. A person may sell an  
4 assault weapon in this state only if the person is licensed as a  
5 firearms dealer under the National Firearms Act.

6 Sec. 2005.005. REQUIREMENTS FOR COMPLETION OF PURCHASE AND  
7 SALE. Before completing a sale of an assault weapon in this state,  
8 the seller must:

9 (1) require the person making the purchase to display:

10 (A) a license issued to the person under  
11 Subchapter H-1, Chapter 411, Government Code; and

12 (B) a statement from the person's local law  
13 enforcement authority provided to the person under Section  
14 2005.003;

15 (2) ensure that the statement from the person's local  
16 law enforcement authority under Subdivision (1)(B) is dated:

17 (A) not earlier than 90 days before the date of  
18 purchase; and

19 (B) not later than 30 days before the date of  
20 purchase; and

21 (3) collect from the person together with the purchase  
22 price of the weapon the tax imposed under Section 166.051, Tax Code,  
23 and remit the tax to the comptroller.

24 Sec. 2005.0051. REQUIREMENTS FOR PURCHASE AND SALE  
25 COMPLETED BEFORE JANUARY 2014. (a) To complete the sale of an  
26 assault weapon in this state before January 1, 2014, the seller  
27 must:

1           (1) require the person making the purchase to display:

2                   (A) a license issued to the person under  
3 Subchapter H, Chapter 411, Government Code; and

4                   (B) a statement from the person's local law  
5 enforcement authority confirming that a check of the person's  
6 criminal history record information indicates the person may  
7 lawfully possess a firearm;

8           (2) ensure that the statement from the person's local  
9 law enforcement authority under Subdivision (1)(B) is dated:

10                   (A) not earlier than the 90th day before the date  
11 of purchase; and

12                   (B) not later than the 30th day before the date of  
13 purchase; and

14           (3) collect from the person together with the purchase  
15 price of the weapon the tax imposed under Section 166.051, Tax Code,  
16 and remit the tax to the comptroller.

17           (b) A local law enforcement authority that receives a  
18 request for a written statement under Subsection (a)(1)(B) shall  
19 comply with the requirements described by Section 2005.003(b),  
20 except that the local law enforcement authority shall verify that  
21 the person holds a license issued under Subchapter H, Chapter 411,  
22 Government Code, in lieu of verifying that the person holds a  
23 license issued under Subchapter H-1 of that chapter.

24           (c) This section expires January 1, 2014.

25           Sec. 2005.006. CIVIL PENALTY. (a) A person who purchases or  
26 sells an assault weapon without meeting the requirements of this  
27 chapter is liable for a civil penalty of not more than \$500 for each

1 violation.

2 (b) Each sale of a single assault weapon constitutes a  
3 separate violation for the purposes of this section.

4 (c) The attorney general may enforce the requirements of  
5 this chapter and may sue to collect the civil penalty. The attorney  
6 general may recover reasonable expenses incurred in obtaining  
7 relief under this section, including court costs, reasonable  
8 attorney's fees, investigation costs, witness fees, and deposition  
9 expenses.

10 SECTION 3. Subtitle E, Title 2, Tax Code, is amended by  
11 adding Chapter 166 to read as follows:

12 CHAPTER 166. ASSAULT WEAPON TAX

13 SUBCHAPTER A. GENERAL PROVISIONS

14 Sec. 166.001. DEFINITION. In this chapter, "assault  
15 weapon" has the meaning assigned by Section 411.221, Government  
16 Code.

17 Sec. 166.002. RULES. The comptroller may adopt rules  
18 necessary for the administration of this chapter.

19 SUBCHAPTER B. IMPOSITION AND COLLECTION OF TAX

20 Sec. 166.051. TAX IMPOSED ON ASSAULT WEAPONS. (a) A tax is  
21 imposed on each sale of an assault weapon in this state.

22 (b) The amount of the tax is \$200 for each sale of a single  
23 assault weapon.

24 Sec. 166.052. APPLICATION OF OTHER LAW. Except as provided  
25 by this chapter:

26 (1) the tax imposed by this chapter is administered,  
27 imposed, collected, and enforced in the same manner as the tax under

1 Chapter 151 is administered, imposed, collected, and enforced; and  
2 (2) the provisions of Chapter 151 applicable to the  
3 sales tax imposed under Subchapter C, Chapter 151, apply to the tax  
4 imposed by this chapter.

5 SECTION 4. (a) Not later than December 1, 2013, the  
6 Department of Public Safety shall adopt the rules and establish the  
7 procedures required by Section 411.225(b), Government Code, as  
8 added by this Act.

9 (b) A license issued under this Act before January 1, 2014,  
10 is not effective until January 1, 2014. A license issued before  
11 January 1, 2014, shall be clearly marked to reflect the date on  
12 which it becomes effective, and the Department of Public Safety  
13 shall inform each recipient of a license before that date that the  
14 license is not effective until that date.

15 SECTION 5. (a) Except as provided by Subsection (b) of this  
16 section, Chapter 2005, Business & Commerce Code, as added by this  
17 Act, takes effect September 1, 2013.

18 (b) Sections 2005.002, 2005.003, and 2005.005, Business &  
19 Commerce Code, as added by this Act, take effect January 1, 2014.

20 SECTION 6. This Act takes effect immediately if it receives  
21 a vote of two-thirds of all the members elected to each house, as  
22 provided by Section 39, Article III, Texas Constitution. If this  
23 Act does not receive the vote necessary for immediate effect, this  
24 Act takes effect September 1, 2013.