

By: West

S.B. No. 1348

A BILL TO BE ENTITLED

AN ACT

relating to certain criminal offenses concerning the unlawful transfer or purchase of certain weapons.

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

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

Sec. 46.06. UNLAWFUL TRANSFER OR PURCHASE OF CERTAIN WEAPONS.

SECTION 2. Section 46.06, Penal Code, is amended by amending Subsections (a), (c), and (d) and adding Subsections (a-1) and (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 the firearm ~~[it]~~ unlawfully or in the commission of an unlawful act;

(2) purchases or offers to purchase a firearm with intent to deliver the firearm to a person knowing that the person to whom the firearm is to be delivered intends to use the firearm unlawfully or in the commission of an unlawful act;

(3) knowingly makes a materially false or misleading statement in providing information to a person for purposes of complying with the national instant criminal background check system in the manner required by 18 U.S.C. Section 922; or

1 (4) knowingly conducts, promotes, or facilitates an
2 activity under Subdivision (1), (2), or (3).

3 (a-1) A person commits an offense if the person:

4 (1) [~~(2)~~] intentionally or knowingly sells, rents,
5 leases, or gives or offers to sell, rent, lease, or give to any
6 child younger than 18 years any firearm, club, or illegal knife;

7 (2) [~~(3)~~] intentionally, knowingly, or recklessly
8 sells a firearm or ammunition for a firearm to any person who is
9 intoxicated;

10 (3) [~~(4)~~] knowingly sells a firearm or ammunition for
11 a firearm to any person who has been convicted of a felony before
12 the 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 (4) [~~(5)~~] sells, rents, leases, loans, or gives a
19 handgun to any person knowing that an active protective order is
20 directed to the person to whom the handgun is to be delivered; or

21 (5) [~~(6)~~] knowingly purchases, rents, leases, or
22 receives as a loan or gift from another a handgun while an active
23 protective order is directed to the actor.

24 (c) It is an affirmative defense to prosecution under
25 Subsection (a-1)(1) [~~(a)(2)~~] that the transfer was to a minor whose
26 parent or the person having legal custody of the minor had given
27 written permission for the sale or, if the transfer was other than a

1 sale, the parent or person having legal custody had given effective
2 consent.

3 (d) An offense under Subsection (a) is a felony of the third
4 degree, except that the offense is punishable by a maximum term of
5 imprisonment of 15 years if it is shown on the trial of the offense
6 that the actor directed, managed, or supervised five or more
7 individuals engaged in an activity described by Subsection (a)(1),
8 (2), or (3).

9 (e) An offense under Subsection (a-1) [~~this section~~] is a
10 Class A misdemeanor, except that an offense under Subsection
11 (a-1)(1) [~~(a)(2)~~] is a state jail felony if the weapon that is the
12 subject of the offense is a handgun.

13 SECTION 3. The change in law made by this Act applies only
14 to an offense committed on or after the effective date of this Act.
15 An offense committed before the effective date of this Act is
16 governed by the law in effect on the date the offense was committed,
17 and the former law is continued in effect for that purpose. For
18 purposes of this section, an offense was committed before the
19 effective date of this Act if any element of the offense occurred
20 before that date.

21 SECTION 4. This Act takes effect September 1, 2013.