

1-1 By: West S.B. No. 1348
1-2 (In the Senate - Filed March 7, 2013; March 13, 2013, read
1-3 first time and referred to Committee on Criminal Justice;
1-4 April 22, 2013, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 7, Nays 0; April 22, 2013,
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Whitmire	X		
1-10	Huffman	X		
1-11	Carona	X		
1-12	Hinojosa	X		
1-13	Patrick	X		
1-14	Rodriguez	X		
1-15	Schwertner	X		

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 1348 By: Patrick

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to certain criminal offenses concerning the unlawful
1-20 transfer or purchase of certain weapons.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. The heading to Section 46.06, Penal Code, is
1-23 amended to read as follows:

1-24 Sec. 46.06. UNLAWFUL TRANSFER OR PURCHASE OF CERTAIN
1-25 WEAPONS.

1-26 SECTION 2. Section 46.06, Penal Code, is amended by
1-27 amending Subsections (a), (c), and (d) and adding Subsections
1-28 (a-1), (e), and (f) to read as follows:

1-29 (a) A person commits an offense if the person:

1-30 (1) sells, rents, leases, loans, or gives a firearm
1-31 ~~[handgun]~~ to any person knowing that the person to whom the firearm
1-32 ~~[handgun]~~ is to be delivered intends to use the firearm ~~[it]~~
1-33 unlawfully or in the commission of an unlawful act;

1-34 (2) purchases or offers to purchase a firearm with
1-35 intent to deliver the firearm to a person knowing that the person to
1-36 whom the firearm is to be delivered intends to use the firearm
1-37 unlawfully or in the commission of an unlawful act; or

1-38 (3) knowingly makes a materially false or misleading
1-39 statement in providing information to a person for purposes of
1-40 complying with the national instant criminal background check
1-41 system in the manner required by 18 U.S.C. Section 922.

1-42 (a-1) A person commits an offense if the person:

1-43 (1) ~~[(2)]~~ intentionally or knowingly sells, rents,
1-44 leases, or gives or offers to sell, rent, lease, or give to any
1-45 child younger than 18 years any firearm, club, or illegal knife;

1-46 (2) ~~[(3)]~~ intentionally, knowingly, or recklessly
1-47 sells a firearm or ammunition for a firearm to any person who is
1-48 intoxicated;

1-49 (3) ~~[(4)]~~ knowingly sells a firearm or ammunition for
1-50 a firearm to any person who has been convicted of a felony before
1-51 the fifth anniversary of the later of the following dates:

1-52 (A) the person's release from confinement
1-53 following conviction of the felony; or

1-54 (B) the person's release from supervision under
1-55 community supervision, parole, or mandatory supervision following
1-56 conviction of the felony;

1-57 (4) ~~[(5)]~~ sells, rents, leases, loans, or gives a
1-58 handgun to any person knowing that an active protective order is
1-59 directed to the person to whom the handgun is to be delivered; or

1-60 (5) [(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.

(c) It is an affirmative defense to prosecution under Subsection (a-1)(1) [~~(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.

(d) An offense under Subsection (a) is a felony of the third degree.

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

(f) To the extent of any conflict between this section and a federal law related to the unlawful transfer or purchase of weapons, the federal law prevails.

SECTION 3. Subsection (a), Section 71.02, Penal Code, as amended by Chapters 68 (S.B. 934) and 223 (H.B. 260), Acts of the 82nd Legislature, Regular Session, 2011, is reenacted and amended to read as follows:

(a) A person commits an offense if, with the intent to establish, maintain, or participate in a combination or in the profits of a combination or as a member of a criminal street gang, the person commits or conspires to commit one or more of the following:

(1) murder, capital murder, arson, aggravated robbery, robbery, burglary, theft, aggravated kidnapping, kidnapping, aggravated assault, aggravated sexual assault, sexual assault, forgery, deadly conduct, assault punishable as a Class A misdemeanor, burglary of a motor vehicle, or unauthorized use of a motor vehicle;

(2) any gambling offense punishable as a Class A misdemeanor;

(3) promotion of prostitution, aggravated promotion of prostitution, or compelling prostitution;

(4) unlawful manufacture, transportation, repair, or sale of firearms or prohibited weapons;

(5) unlawful manufacture, delivery, dispensation, or distribution of a controlled substance or dangerous drug, or unlawful possession of a controlled substance or dangerous drug through forgery, fraud, misrepresentation, or deception;

(5-a) causing the unlawful delivery, dispensation, or distribution of a controlled substance or dangerous drug in violation of Subtitle B, Title 3, Occupations Code;

(6) any unlawful wholesale promotion or possession of any obscene material or obscene device with the intent to wholesale promote the same;

(7) any offense under Subchapter B, Chapter 43, depicting or involving conduct by or directed toward a child younger than 18 years of age;

(8) any felony offense under Chapter 32;

(9) any offense under Chapter 36;

(10) any offense under Chapter 34, 35, or 35A;

(11) any offense under Section 37.11(a);

(12) any offense under Chapter 20A;

(13) any offense under Section 37.10;

(14) any offense under Section 38.06, 38.07, 38.09, or 38.11;

(15) any offense under Section 42.10;

(16) any offense under Section 46.06(a) [~~46.06(a)(1)~~] or 46.14; ~~or~~

(17) any offense under Section 20.05; or

(18) [~~(17)~~] any offense classified as a felony under the Tax Code.

SECTION 4. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed,

3-1 and the former law is continued in effect for that purpose. For
3-2 purposes of this section, an offense was committed before the
3-3 effective date of this Act if any element of the offense occurred
3-4 before that date.

3-5 SECTION 5. To the extent of any conflict, this Act prevails
3-6 over another Act of the 83rd Legislature, Regular Session, 2013,
3-7 relating to nonsubstantive additions to and corrections in enacted
3-8 codes.

3-9 SECTION 6. This Act takes effect September 1, 2013.

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