

BILL ANALYSIS

Senate Research Center

S.B. 473
By: Perry et al.
State Affairs
5/29/2015
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The National Firearms Act (NFA) of 1934 classified short barreled rifles and shotguns, suppressors and machine guns as “restricted.” However, law-abiding citizens can still obtain these weapons through a lengthy, thorough process that includes sending to the Bureau of Alcohol, Tobacco, Firearms and Explosives (BATFE) a set of fingerprints and two passport photos for an FBI background check. Additionally, individuals must pay a \$200 federal tax and have their local chief law enforcement officer (CLEO) sign off on their paperwork.

Under current Texas law, these items are illegal; however, the fact that the item is registered and processed pursuant to the NFA may be used as a defense of prosecution for violating state law.

Unfortunately, at a glance, current law is difficult for law enforcement officers to understand, meaning Texans who possess these weapons are at risk of incurring legal fees, the humiliation of arrest, and the hassle of having their lawfully owned firearms confiscated for months.

S.B. 473 simply brings Texas into conformity with federal law and the laws of 40 other states by breaking them out in the Penal Code and adding an exception for weapons that have been properly processed through BATFE in accordance with the NFA.

S.B. 473 amends current law relating to defenses and exceptions to the prosecution of the criminal offense of the possession, manufacture, transport, repair, or sale of certain prohibited explosive weapons, firearms, and related items.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 46.05(a) and (e), Penal Code, as follows:

(a) Provides that a person commits an offense if the person intentionally or knowingly possesses, manufactures, transports, repairs, or sells:

(1) any of the following items, unless the item is registered in the National Firearms Registration and Transfer Record maintained by the Bureau of Alcohol, Tobacco, Firearms and Explosives or classified as a curio or relic by the United States Department of Justice:

- (A) an explosive weapon;
- (B) a machine gun;
- (C) a short-barrel firearm; or
- (D) a firearm silencer;

- (2) knuckles;
- (3) armor-piercing ammunition;
- (4) a chemical dispensing device;
- (5) a zip gun; or
- (6) a tire deflation device.

(e) Provides that an offense under Subsection (a)(1), (3), (4), or (5) is a felony of the third degree, that an offense under Subsection (a)(6) is a state jail felony, and that an offense under Subsection (a)(2) is a Class A misdemeanor.

Realigns and redesignates certain subdivisions and paragraphs of these subsections to accommodate the amended provisions of this Act.

SECTION 2. Repealer: Section 46.05(c) (providing that it is a defense to prosecution under this section that the actor's possession was pursuant to registration pursuant to the National Firearms Act, as amended), Penal Code.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2015.