

By: Anchia

H.B. No. 4037

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to certain criminal offenses concerning the unlawful  
3 transfer or purchase of certain weapons; increasing a criminal  
4 penalty.

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

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

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

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

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

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

18 (2) purchases or attempts to purchase a firearm with  
19 intent to deliver the firearm to a person knowing that the person to  
20 whom the firearm is to be delivered intends to possess the firearm  
21 unlawfully or to use the firearm unlawfully or in the commission of  
22 an unlawful act; or

23 (3) knowingly makes a materially false or misleading  
24 statement in providing information to a person for purposes of

1 complying with the national instant criminal background check  
2 system in the manner required by 18 U.S.C. Section 922.

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 (c-1) The renunciation defense described by Section  
4 15.04(a) is available as an affirmative defense to prosecution of  
5 an attempted purchase under Subsection (a)(2).

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

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

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

15 SECTION 3. Section 71.02(a), Penal Code, is amended to read  
16 as follows:

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

22 (1) murder, capital murder, arson, aggravated  
23 robbery, robbery, burglary, theft, aggravated kidnapping,  
24 kidnapping, aggravated assault, aggravated sexual assault, sexual  
25 assault, continuous sexual abuse of young child or children,  
26 solicitation of a minor, forgery, deadly conduct, assault  
27 punishable as a Class A misdemeanor, burglary of a motor vehicle, or

- 1 unauthorized use of a motor vehicle;
- 2 (2) any gambling offense punishable as a Class A  
3 misdemeanor;
- 4 (3) promotion of prostitution, aggravated promotion  
5 of prostitution, or compelling prostitution;
- 6 (4) unlawful manufacture, transportation, repair, or  
7 sale of firearms or prohibited weapons;
- 8 (5) unlawful manufacture, delivery, dispensation, or  
9 distribution of a controlled substance or dangerous drug, or  
10 unlawful possession of a controlled substance or dangerous drug  
11 through forgery, fraud, misrepresentation, or deception;
- 12 (5-a) causing the unlawful delivery, dispensation, or  
13 distribution of a controlled substance or dangerous drug in  
14 violation of Subtitle B, Title 3, Occupations Code;
- 15 (6) any unlawful wholesale promotion or possession of  
16 any obscene material or obscene device with the intent to wholesale  
17 promote the same;
- 18 (7) any offense under Subchapter B, Chapter 43,  
19 depicting or involving conduct by or directed toward a child  
20 younger than 18 years of age;
- 21 (8) any felony offense under Chapter 32;
- 22 (9) any offense under Chapter 36;
- 23 (10) any offense under Chapter 34, 35, or 35A;
- 24 (11) any offense under Section 37.11(a);
- 25 (12) any offense under Chapter 20A;
- 26 (13) any offense under Section 37.10;
- 27 (14) any offense under Section 38.06, 38.07, 38.09, or

1 38.11;

2 (15) any offense under Section 42.10;

3 (16) any offense under Section 46.06(a) [~~46.06(a)(1)~~]

4 or 46.14;

5 (17) any offense under Section 20.05 or 20.06; or

6 (18) any offense classified as a felony under the Tax  
7 Code.

8 SECTION 4. The change in law made by this Act applies only  
9 to an offense committed on or after the effective date of this Act.  
10 An offense committed before the effective date of this Act is  
11 governed by the law in effect on the date the offense was committed,  
12 and the former law is continued in effect for that purpose. For  
13 purposes of this section, an offense was committed before the  
14 effective date of this Act if any element of the offense occurred  
15 before that date.

16 SECTION 5. This Act takes effect September 1, 2017.