

By: Nevárez

H.B. No. 545

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the prosecution of the offense of unlawful transfer of a  
3 firearm.

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

5 SECTION 1. Section 46.06, Penal Code, is amended by  
6 amending Subsection (a) and adding Subsection (e) to read as  
7 follows:

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

9 (1) sells, rents, leases, loans, or gives a handgun to  
10 any person knowing that the person to whom the handgun is to be  
11 delivered intends to use it unlawfully or in the commission of an  
12 unlawful act;

13 (2) intentionally or knowingly sells, rents, leases,  
14 or gives or offers to sell, rent, lease, or give to any child  
15 younger than 18 years of age any firearm, club, or  
16 location-restricted knife;

17 (3) intentionally, knowingly, or recklessly sells a  
18 firearm or ammunition for a firearm to any person who is  
19 intoxicated;

20 (4) knowingly sells a firearm or ammunition for a  
21 firearm to any person who has been convicted of a felony before the  
22 fifth anniversary of the later of the following dates:

23 (A) the person's release from confinement  
24 following conviction of the felony; or

1 (B) the person's release from supervision under  
2 community supervision, parole, or mandatory supervision following  
3 conviction of the felony;

4 (5) sells, rents, leases, loans, or gives a handgun to  
5 any person knowing that an active protective order is directed to  
6 the person to whom the handgun is to be delivered; ~~or~~

7 (6) knowingly purchases, rents, leases, or receives as  
8 a loan or gift from another a handgun while an active protective  
9 order is directed to the actor; or

10 (7) knowingly sells, rents, leases, loans, or gives a  
11 firearm to a person who the actor knows, or has reasonable cause to  
12 believe, is:

13 (A) a person receiving inpatient mental health  
14 services by order of a court under Chapter 574, Health and Safety  
15 Code;

16 (B) a person who has been acquitted in a criminal  
17 case by reason of insanity or lack of mental responsibility,  
18 regardless of whether the person was ordered by a court to receive  
19 inpatient treatment or residential care under Chapter 46C, Code of  
20 Criminal Procedure;

21 (C) a person who has been determined to have an  
22 intellectual disability and committed by a court for long-term  
23 placement in a residential care facility under Chapter 593, Health  
24 and Safety Code;

25 (D) an incapacitated adult for whom a court has  
26 appointed a guardian of the person under Title 3, Estates Code,  
27 based on a determination that the person lacks the mental capacity

1 to manage the person's affairs; or

2 (E) a person determined to be incompetent to  
3 stand trial under Chapter 46B, Code of Criminal Procedure.

4 (e) It is a defense to prosecution under Subsection (a)(7)  
5 that the transfer is to a person who:

6 (1) is the subject of a judicial order or finding that  
7 the person is no longer an incapacitated adult or is entitled to  
8 relief from disabilities under Section 574.088, Health and Safety  
9 Code; or

10 (2) has obtained notice of relief from disabilities  
11 under 18 U.S.C. Section 925.

12 SECTION 2. The change in law made by this Act applies only  
13 to an offense committed on or after the effective date of this Act.  
14 An offense committed before the effective date of this Act is  
15 governed by the law in effect on the date the offense was committed,  
16 and the former law is continued in effect for that purpose. For  
17 purposes of this section, an offense was committed before the  
18 effective date of this Act if any element of the offense occurred  
19 before that date.

20 SECTION 3. This Act takes effect September 1, 2019.