

By: Moody

H.B. No. 854

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the prosecution of the offense of making a firearm
3 accessible to a child; increasing a criminal penalty.

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

5 SECTION 1. Section 46.13(a)(1), Penal Code, is amended to
6 read as follows:

7 (1) "Child" means a person younger than 18 [~~17~~] years
8 of age.

9 SECTION 2. Section 46.13, Penal Code, is amended by
10 amending Subsections (c), (d), and (e) and adding Subsections (c-1)
11 and (e-1) to read as follows:

12 (c) It is an affirmative defense to prosecution under this
13 section that the child's access to the firearm:

14 (1) [~~was supervised by a person older than 18 years of~~
15 ~~age and was for hunting, sporting, or other lawful purposes,~~

16 [~~(2)~~] consisted of lawful defense by the child of
17 people or property;

18 (2) [~~(3)~~] was gained by entering property in violation
19 of this code; or

20 (3) [~~(4)~~] occurred during a time when the actor was
21 engaged in an agricultural enterprise.

22 (c-1) It is an exception to the application of this section
23 that the child's access to the firearm was authorized by the child's
24 parent or guardian and was for hunting, sporting, or other lawful

1 purposes.

2 (d) Except as provided by Subsections [~~Subsection~~] (e) and
3 (e-1), an offense under this section is a Class C misdemeanor.

4 (e) An offense under this section is a Class A misdemeanor
5 if the child discharges the firearm and causes death or serious
6 bodily injury to himself or another person who resides with the
7 child.

8 (e-1) An offense under this section is a felony of the third
9 degree if the child discharges the firearm and causes death or
10 serious bodily injury to another person who does not reside with the
11 child.

12 SECTION 3. 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 4. This Act takes effect September 1, 2019.