

By: Reynolds

H.B. No. 38

A BILL TO BE ENTITLED

AN ACT

relating to the creation of certain criminal offenses concerning  
firearm sales at gun shows; authorizing a fee.

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

SECTION 1. Section 46.01, Penal Code, is amended by adding  
Subdivisions (21) and (22) to read as follows:

(21) "Gun show" means a place other than a permanent  
retail store, including a driveway, sidewalk or walkway, parking  
lot, or other parking area, or an event at which:

(A) three or more individuals assemble to display  
firearms or firearm components to the public; and

(B) a fee is charged for the privilege of  
displaying the firearms or firearm components or a fee is charged  
for admission to the area where the firearms or components are  
displayed.

(22) "Gun show promoter" means a person who organizes,  
plans, promotes, or operates a gun show.

SECTION 2. Chapter 46, Penal Code, is amended by adding  
Sections 46.065 and 46.066 to read as follows:

Sec. 46.065. CERTAIN REQUIREMENTS RELATING TO SALES AT GUN  
SHOWS. (a) A person commits an offense if the person knowingly  
sells a firearm to another person in exchange for money or other  
consideration at a gun show without complying with the National  
Instant Criminal Background Check System in the manner required by

1 18 U.S.C. Section 922 before completing the sale. A person who  
2 conducts a criminal background check as required by this subsection  
3 may charge a fee in an amount equal to the cost incurred by the  
4 person to obtain the background check.

5 (b) A person commits an offense if the person knowingly  
6 sells a firearm to another person in exchange for money or other  
7 consideration at a gun show and the person does not maintain a  
8 record of the sale.

9 (c) It is an exception to the application of Subsection (a)  
10 that the person to whom the firearm is sold is:

11 (1) a peace officer; or

12 (2) a person who is licensed to carry a handgun under  
13 Subchapter H, Chapter 411, Government Code.

14 (d) An offense under this section is a Class A misdemeanor.

15 Sec. 46.066. CERTAIN REQUIREMENTS RELATING TO GUN SHOW  
16 PROMOTER. (a) A gun show promoter commits an offense if the  
17 promoter, with criminal negligence, permits the sale of a firearm  
18 to a person at a gun show organized, planned, promoted, or operated  
19 by the promoter without complying with the National Instant  
20 Criminal Background Check System in the manner required by 18  
21 U.S.C. Section 922 before completion of the sale.

22 (b) It is an exception to the application of Subsection (a)  
23 that the person to whom the firearm is sold is:

24 (1) a peace officer; or

25 (2) a person who is licensed to carry a handgun under  
26 Subchapter H, Chapter 411, Government Code.

27 (c) Not later than the 30th day before the date on which a

1 gun show is held, the gun show promoter shall provide written notice  
2 of the date, time, and place of the gun show to the local law  
3 enforcement agency of the county or municipality in which the gun  
4 show will be held.

5 (d) A gun show promoter shall conduct, or arrange for a  
6 person who is a licensed firearms dealer under 18 U.S.C. Section 923  
7 to conduct, an instant criminal background check in the manner  
8 required by 18 U.S.C. Section 922 on any person who purchases a  
9 firearm at a gun show organized, planned, promoted, or operated by  
10 the promoter from another person who is not a licensed firearms  
11 dealer under 18 U.S.C. Section 923. A person who conducts a  
12 criminal background check as required by this subsection may charge  
13 a fee in an amount equal to the cost incurred by the person to obtain  
14 the background check.

15 (e) A gun show promoter shall prominently post a notice in a  
16 form prescribed by the Department of Public Safety stating the  
17 requirements under this section and Section 46.065 relating to an  
18 instant criminal background check.

19 (f) A gun show promoter commits an offense if the promoter  
20 violates Subsection (c), (d), or (e).

21 (g) An offense under this section is a Class A misdemeanor.

22 (h) If conduct constituting an offense under this section  
23 also constitutes an offense under Section 46.065, the actor may be  
24 prosecuted under either section or under both sections.

25 SECTION 3. The change in law made by Section 46.066(c),  
26 Penal Code, as added by this Act, applies only to a gun show held on  
27 or after December 1, 2021.

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1           SECTION 4. This Act takes effect on the 91st day after the  
2 last day of the legislative session.