

By: Ortega

H.B. No. 231

A BILL TO BE ENTITLED

1 AN ACT
2 relating to prohibiting the transfer of an assault weapon to
3 certain recipients; creating a criminal offense; increasing a
4 criminal penalty.

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

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

8 Sec. 46.06. UNLAWFUL TRANSFER OF CERTAIN WEAPONS. (a) A
9 person commits an offense if the person:

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

14 (2) intentionally or knowingly sells, rents, leases,
15 or gives or offers to sell, rent, lease, or give:

16 (A) a [to any child younger than 18 years of age
17 any firearm,] club, [or] location-restricted knife, or firearm
18 other than an assault weapon to a child younger than 18 years of
19 age; or

20 (B) an assault weapon to a person younger than 21
21 years of age;

22 (3) intentionally, knowingly, or recklessly sells a
23 firearm or ammunition for a firearm to any person who is
24 intoxicated;

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

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

6 (B) the person's release from supervision under
7 community supervision, parole, or mandatory supervision following
8 conviction of the felony;

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

12 (6) knowingly purchases, rents, leases, or receives as
13 a loan or gift from another a handgun while an active protective
14 order is directed to the actor.

15 (b) In this section:

16 (1) "Intoxicated" means substantial impairment of
17 mental or physical capacity resulting from introduction of any
18 substance into the body.

19 (2) "Active protective order" means a protective order
20 issued under Title 4, Family Code, that is in effect. The term does
21 not include a temporary protective order issued before the court
22 holds a hearing on the matter.

23 (3) "Assault weapon" means:

24 (A) a semiautomatic centerfire rifle that has the
25 capacity to accept a detachable magazine and has:

26 (i) a pistol grip that protrudes
27 conspicuously beneath the action of the firearm;

- 1 (ii) a folding or telescoping stock;
2 (iii) a thumbhole stock;
3 (iv) a second handgrip or a protruding grip
4 that can be held by the non-trigger hand;
5 (v) a flash suppressor; or
6 (vi) a grenade launcher or flare launcher;
7 (B) a semiautomatic centerfire rifle that has a
8 fixed magazine that holds more than 10 rounds of ammunition;
9 (C) a semiautomatic centerfire rifle that has an
10 overall length of less than 30 inches;
11 (D) a semiautomatic shotgun that has the capacity
12 to accept a detachable magazine;
13 (E) a semiautomatic shotgun that has a folding or
14 telescoping stock and has:
15 (i) a thumbhole stock; or
16 (ii) a second handgrip or a protruding grip
17 that can be held by the non-trigger hand;
18 (F) a semiautomatic pistol that has the capacity
19 to accept a detachable magazine and has:
20 (i) a second handgrip or a protruding grip
21 that can be held by the non-trigger hand;
22 (ii) an ammunition magazine that attaches
23 to the pistol outside of the pistol grip;
24 (iii) a threaded barrel capable of
25 accepting a flash suppressor, forward handgrip, or silencer; or
26 (iv) a shroud that is attached to or
27 partially or completely encircles the barrel and that permits the

1 shooter to hold the firearm with the non-trigger hand without being
2 burned;

3 (G) a semiautomatic pistol that has a fixed
4 magazine that holds more than 10 rounds of ammunition;

5 (H) a revolving cylinder shotgun; or

6 (I) a conversion kit, part, or combination of
7 parts from which an assault weapon can be assembled or with which a
8 firearm may be converted into a weapon described by Paragraph (A),
9 (B), (C), (D), (E), (F), (G), or (H).

10 (c) It is an affirmative defense to prosecution under
11 Subsection (a)(2)(A) [~~(a)(2)~~] that the transfer was to a minor
12 whose parent or the person having legal custody of the minor had
13 given written permission for the sale or, if the transfer was other
14 than a sale, the parent or person having legal custody had given
15 effective consent.

16 (c-1) It is an exception to the application of Subsection
17 (a)(2)(B) that the transfer of the assault weapon is necessary for
18 the actual discharge of the recipient's official duties as a member
19 of the armed forces or state military forces, as defined by Section
20 437.001, Government Code.

21 (d) An offense under this section is a Class A misdemeanor,
22 except that:

23 (1) an offense under Subsection (a)(2)(A) [~~(a)(2)~~] is
24 a state jail felony if the weapon that is the subject of the offense
25 is a handgun; and

26 (2) an offense under Subsection (a)(2)(B) is a state
27 jail felony.

1 SECTION 2. The change in law made by this Act applies only
2 to an offense committed on or after the effective date of this Act.
3 An offense committed before the effective date of this Act is
4 governed by the law in effect on the date the offense was committed,
5 and the former law is continued in effect for that purpose. For
6 purposes of this section, an offense was committed before the
7 effective date of this Act if any element of the offense occurred
8 before that date.

9 SECTION 3. This Act takes effect September 1, 2021.