

By: Johnson

S.B. No. 1478

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of the Texas Do-Not-Sell Registry for firearms; creating criminal offenses.

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

SECTION 1. Chapter 411, Government Code, is amended by adding Subchapter H-1 to read as follows:

SUBCHAPTER H-1. TEXAS DO-NOT-SELL REGISTRY

Sec. 411.221. DEFINITIONS. In this subchapter:

(1) "Firearm" has the meaning assigned by Section 46.01, Penal Code.

(2) "Registry" means the Texas Do-Not-Sell Registry created by this subchapter.

Sec. 411.222. REGISTRY OF INDIVIDUALS WAIVING RIGHT TO PURCHASE OR RECEIVE TRANSFER OF FIREARM. (a) The department shall establish and maintain a secure electronic registry to collect and store information regarding individuals who have voluntarily waived the right to purchase or receive transfer of a firearm under Section 411.223.

(b) To be eligible to have the individual's waiver information included in the registry, an individual must be:

- (1) a resident of this state;
- (2) at least 18 years of age; and
- (3) not otherwise prohibited by state or federal law from possessing a firearm.

1 Sec. 411.223. WAIVER OF RIGHT TO PURCHASE OR RECEIVE
2 TRANSFER OF FIREARM. (a) An individual may submit to the
3 department, on a form prescribed by the department, a waiver of the
4 individual's right to purchase or receive transfer of a firearm.
5 The individual may submit the waiver form to the department either
6 in person or by mail and must include with the form any supplemental
7 materials required by the department under Subsection (c) to ensure
8 accuracy of information on the form.

9 (b) The waiver form must require the individual to provide
10 information sufficient to enable the department to:

11 (1) verify the individual's identity; and

12 (2) submit the information to the Federal Bureau of
13 Investigation for use with the National Instant Criminal Background
14 Check System.

15 (c) The department by rule shall require an individual to
16 submit a copy of the individual's government-issued photo
17 identification with the waiver form and may require any other
18 supplemental materials to ensure accuracy of information on the
19 form. The waiver form must include instructions on which
20 supplemental materials should accompany the waiver form, if any.

21 (d) In addition to other requirements specified by
22 department rule, the waiver form must contain the following
23 prominently displayed statement:

24 "BECAUSE YOU HAVE SUBMITTED THIS WAIVER, YOUR INFORMATION
25 WILL BE SUBMITTED TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK
26 SYSTEM WHICH WILL PREVENT YOU FROM PURCHASING OR RECEIVING TRANSFER
27 OF ANY FIREARMS WHILE THE WAIVER IS IN EFFECT. YOU MAY VOLUNTARILY

1 REVOKE THIS WAIVER AT ANY TIME BY SUBMITTING A REVOCATION FORM TO
2 THE TEXAS DEPARTMENT OF PUBLIC SAFETY."

3 (e) In submitting the waiver, the individual may provide the
4 name and contact information of a third person to be notified if the
5 individual revokes the waiver.

6 (f) The fact that an individual has submitted a waiver under
7 this section or is listed in the voluntary registry does not in
8 itself prohibit the individual from possessing a firearm under
9 state law.

10 (g) A waiver under this subchapter is valid only if the
11 waiver:

12 (1) is submitted by an individual described by Section
13 411.222(b) for the purpose of waiving that individual's right to
14 purchase or receive transfer of a firearm;

15 (2) provides all of the information required to be
16 included on the waiver form under Subsection (b); and

17 (3) includes any supplemental materials required
18 under Subsection (c).

19 Sec. 411.224. ADDITION TO REGISTRY AND NATIONAL INSTANT
20 CRIMINAL BACKGROUND CHECK SYSTEM. (a) As soon as practicable after
21 the department receives a waiver form and any accompanying
22 materials, the department shall determine whether the waiver is
23 valid and meets the requirements of Section 411.223(g).

24 (b) If the department determines that the submitted waiver
25 is valid, the department shall:

26 (1) provide the information from the waiver to the
27 Federal Bureau of Investigation for use with the National Instant

1 Criminal Background Check System; and

2 (2) notify the individual by mail that the
3 individual's information has been submitted for inclusion in the
4 National Instant Criminal Background Check System.

5 (c) If the department determines that the submitted waiver
6 is not valid, the department shall provide to the individual by
7 mail, as applicable:

8 (1) notice that there is a deficiency in the waiver
9 form or in the supplemental materials submitted with the waiver
10 form, which must include instructions that will assist the
11 individual in correcting the deficiency; or

12 (2) notice that the individual is not eligible to be
13 included on the registry.

14 Sec. 411.225. REVOCATION OF WAIVER; REMOVAL FROM REGISTRY.

15 (a) An individual who has previously submitted a valid waiver to
16 the department and whose information has been included in the
17 registry may revoke the waiver under this subchapter in person or by
18 mail by submitting a revocation to the department on a form
19 prescribed by the department.

20 (b) The revocation form must require the individual to
21 provide information sufficient to enable the department to verify
22 that the individual submitting the revocation form is the same
23 individual who submitted the waiver.

24 (c) As soon as practicable after the department receives a
25 revocation form, the department shall determine if the revocation
26 is valid.

27 (d) If the department determines that the submitted

1 revocation is valid, the department shall notify both the
2 individual who submitted the revocation form and the third person
3 designated with the submission of the waiver under Section
4 411.223(e), if applicable:

5 (1) that the department has received a revocation
6 form; and

7 (2) of the date by which the department will provide
8 the information from the form to the Federal Bureau of
9 Investigation to enable that agency to remove the individual's
10 information from the National Instant Criminal Background Check
11 System.

12 (e) If the department determines that the submitted
13 revocation is not valid, the department shall provide to the
14 individual by mail:

15 (1) notice that the revocation is deficient; and

16 (2) instructions that will assist the individual in
17 correcting the deficiency.

18 (f) A revocation under this subchapter is valid only if:

19 (1) the individual requesting the revocation submits
20 the revocation form as required by the department;

21 (2) the revocation form provides all of the
22 information required to be included on the form by the department;
23 and

24 (3) the department is able to verify the individual's
25 identity through the information provided on the revocation form.

26 (g) Except as provided by Subsection (h), as soon as
27 practicable after the date the department receives a valid

1 revocation form, the department shall:

2 (1) provide the information from the form to the
3 Federal Bureau of Investigation to enable that agency to remove the
4 individual's information from the National Instant Criminal
5 Background Check System; and

6 (2) remove the individual's information from the
7 voluntary registry.

8 (h) The department may not remove information about an
9 individual from the voluntary registry or submit that individual's
10 information to the Federal Bureau of Investigation before the 10th
11 day after the date the individual submitted a waiver for inclusion
12 in the registry, regardless of whether a revocation of the waiver is
13 submitted before the expiration of that period.

14 Sec. 411.226. WAIVERS AND REVOCATIONS BY OTHER INDIVIDUALS
15 NOT PERMITTED. (a) An individual may not submit a waiver or
16 revocation form under this subchapter on behalf of another
17 individual, regardless of the relationship between the
18 individuals.

19 (b) The department may not add or remove an individual's
20 information from the registry based on a waiver or revocation form,
21 as applicable, that is submitted by another individual.

22 Sec. 411.227. MULTIPLE WAIVERS AND REVOCATIONS PERMITTED.
23 An individual may make one or more waivers or revocations of waiver
24 under this subchapter, as the individual considers necessary or
25 appropriate.

26 Sec. 411.228. AVAILABILITY OF FORMS. The department shall
27 make available the waiver form described by Section 411.223 and the

1 revocation form described by Section 411.225 on the department's
2 Internet website. The Internet website must include clear
3 instructions for:

4 (1) completing and submitting a waiver or revocation
5 form; and

6 (2) submitting with the waiver any supplemental
7 materials needed to ensure accuracy of information on the waiver
8 form.

9 Sec. 411.229. CONFIDENTIALITY AND DISCLOSURE OF
10 INFORMATION. (a) Except as provided by Subsection (b),
11 information maintained by the department regarding an individual
12 who has voluntarily waived the right to purchase or receive
13 transfer of a firearm under this subchapter:

14 (1) is confidential and not subject to disclosure
15 under Chapter 552; and

16 (2) may only be disclosed to:

17 (A) a law enforcement officer in connection with
18 a prospective transfer of a firearm; or

19 (B) the individual who is the subject of the
20 information in the form.

21 (b) The department may release anonymized statistics
22 regarding:

23 (1) the number of individuals who submitted waivers
24 under Section 411.223 for inclusion on the registry;

25 (2) the number of individuals who submitted
26 revocations under Section 411.225 for removal of their information
27 from the registry; and

1 (3) the number of individuals whose information is
2 currently included in the registry.

3 Sec. 411.230. OFFENSE: SUBMITTING INFORMATION ON BEHALF OF
4 ANOTHER. (a) A person commits an offense if the person knowingly
5 submits to the department:

6 (1) a waiver under Section 411.223 to add the
7 information of another individual to the registry; or

8 (2) a revocation under Section 411.225 to remove the
9 information of another individual from the registry.

10 (b) An offense under this section is a Class A misdemeanor.

11 Sec. 411.231. OFFENSE: DISCRIMINATION. (a) A person
12 commits an offense if the person for any reason discriminates
13 against an individual with respect to employment, housing,
14 education, public benefits, insurance, or any other benefit or
15 service because of the individual's perceived status as:

16 (1) a person listed in the registry; or

17 (2) a person not listed in the registry.

18 (b) An offense under this section is a Class A misdemeanor.

19 Sec. 411.232. OFFENSE: REQUIRING REGISTRATION OR
20 REVOCAION OF REGISTRATION. (a) A person commits an offense if the
21 person requires, as a condition for employment, housing, education,
22 public benefits, insurance, or any other benefit or service, the
23 individual to disclose or modify the individual's status as:

24 (1) a person listed in the registry; or

25 (2) a person not listed in the registry.

26 (b) An offense under this section is a Class A misdemeanor.

27 Sec. 411.233. CONSIDERATION IN LEGAL PROCEEDINGS

1 PROHIBITED. A court may not consider a waiver or revocation under
2 this subchapter as evidence in any legal proceeding other than in
3 the prosecution of an offense under Section 46.06(a)(7), Penal
4 Code, or an offense under this subchapter.

5 Sec. 411.234. RULES. (a) The director shall adopt rules to
6 establish and maintain the secure electronic registry, including
7 rules prescribing the forms necessary for submission or revocation
8 of a waiver described by this subchapter. The rules may not
9 establish any eligibility requirements to submit a waiver or
10 revocation form other than the requirements under this subchapter.

11 (b) The department by rule shall establish procedures that
12 will enable the department to provide information from a waiver
13 form under Section 411.223 or a revocation form under Section
14 411.225 to the Federal Bureau of Investigation for use with the
15 National Instant Criminal Background Check System.

16 (c) The department by rule shall establish a procedure to
17 correct department records as necessary to accurately reflect an
18 individual's waiver status and a procedure to transmit the
19 corrected records to the Federal Bureau of Investigation.

20 SECTION 2. Section 51.9194(a), Education Code, is amended
21 to read as follows:

22 (a) A general academic teaching institution shall provide
23 to each entering full-time undergraduate, graduate, or
24 professional student, including each full-time undergraduate,
25 graduate, or professional student who transfers to the institution,
26 information about:

27 (1) available mental health and suicide prevention

1 services offered by the institution or by any associated
2 organizations or programs; ~~and~~

3 (2) an individual's ability to voluntarily waive the
4 right to purchase or receive transfer of a firearm through the
5 registry created under Subchapter H-1, Chapter 411, Government
6 Code; and

7 (3) early warning signs that are often present in and
8 appropriate intervention for a person who may be considering
9 suicide.

10 SECTION 3. Section 1001.072, Health and Safety Code, is
11 amended to read as follows:

12 Sec. 1001.072. GENERAL POWERS AND DUTIES OF DEPARTMENT
13 RELATED TO MENTAL HEALTH. The department is responsible for
14 administering human services programs regarding mental health,
15 including:

16 (1) administering and coordinating mental health
17 services at the local and state level;

18 (2) operating the state's mental health facilities;
19 ~~and~~

20 (3) incorporating an individual's ability to
21 voluntarily waive the right to purchase or receive transfer of a
22 firearm under Subchapter H-1, Chapter 411, Government Code, into
23 department training, curriculum, guidance, or other standards
24 relating to suicide prevention; and

25 (4) inspecting, licensing, and enforcing regulations
26 regarding mental health facilities, other than long-term care
27 facilities regulated by the Health and Human [~~Department of Aging~~

1 ~~and Disability]~~ Services Commission.

2 SECTION 4. Section 46.06(a), Penal Code, is amended to read
3 as follows:

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

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

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

13 (3) intentionally, knowingly, or recklessly sells a
14 firearm or ammunition for a firearm to any person who is
15 intoxicated;

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

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

21 (B) the person's release from supervision under
22 community supervision, parole, or mandatory supervision following
23 conviction of the felony;

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

27 (6) knowingly purchases, rents, leases, or receives as

1 a loan or gift from another a handgun while an active protective
2 order is directed to the actor; or

3 (7) is a licensed firearms dealer and sells or
4 otherwise transfers a firearm to a person the dealer knows is listed
5 in the voluntary registry created under Subchapter H-1, Chapter
6 411, Government Code.

7 SECTION 5. Section 46.06(b), Penal Code, is amended by
8 adding Subdivision (3) to read as follows:

9 (3) "Licensed firearms dealer" means a person who is
10 licensed as a firearms dealer under 18 U.S.C. Section 923.

11 SECTION 6. (a) Not later than September 1, 2022, the
12 Department of Public Safety of the State of Texas shall:

13 (1) develop and make available the waiver and
14 revocation forms and create the voluntary registry required by
15 Subchapter H-1, Chapter 411, Government Code, as added by this Act;

16 (2) adopt the procedures regarding submitting
17 information under Subchapter H-1, Chapter 411, Government Code, as
18 added by this Act, to the Federal Bureau of Investigation for use
19 with the National Instant Criminal Background Check System; and

20 (3) adopt procedures regarding correcting department
21 records of individuals listed in the voluntary registry under
22 Subchapter H-1, Chapter 411, Government Code, as added by this Act.

23 (b) Not later than September 1, 2022, the Texas Board of
24 Nursing, the Texas Medical Board, and the Texas Behavioral Health
25 Executive Council shall notify all individuals licensed by those
26 entities of the existence of the voluntary registry created under
27 Subchapter H-1, Chapter 411, Government Code, as added by this Act.

1 (c) Section 46.06(a), Penal Code, as amended by this Act,
2 applies only to a sale or other transfer of a firearm that occurs on
3 or after September 1, 2022.

4 SECTION 7. This Act takes effect September 1, 2021.