

By: Ortega

H.B. No. 129

A BILL TO BE ENTITLED

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

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

6 SECTION 1. Section 46.06, Penal Code, is amended by
7 amending Subsections (a), (c), and (d) and adding Subsection (c-1)
8 to read as follows:

9 (a) A 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) to a [any] child younger than 18 years of age
17 a [any firearm], club, [or] location-restricted knife, or firearm
18 other than a semiautomatic rifle described by Paragraph (B); or

19 (B) to a person younger than 21 years of age a
20 semiautomatic rifle that is capable of accepting a detachable
21 magazine and that has a caliber greater than .22;

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;

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; or

15 (7) while prohibited from possessing a firearm under
16 state or federal law, knowingly makes a material false statement on
17 a form that is:

18 (A) required by state or federal law for the
19 purchase, sale, or other transfer of a firearm; and

20 (B) submitted to a [~~licensed~~] firearms dealer
21 licensed under [~~as defined by~~] 18 U.S.C. Section 923.

22 (c) It is an affirmative defense to prosecution under
23 Subsection (a)(2)(A) [~~(a)(2)~~] that the transfer was to a minor
24 whose parent or the person having legal custody of the minor had
25 given written permission for the sale or, if the transfer was other
26 than a sale, the parent or person having legal custody had given
27 effective consent.

1 (c-1) It is an exception to the application of Subsection
2 (a)(2)(B) that:

3 (1) the transfer of the semiautomatic rifle is
4 necessary for the actual discharge of the recipient's official
5 duties as a member of the armed forces or state military forces, as
6 defined by Section 437.001, Government Code; or

7 (2) the semiautomatic rifle is transferred to a
8 recipient who:

9 (A) is 18 years of age or older; and

10 (B) holds a hunting license under Chapter 42,
11 Parks and Wildlife Code.

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

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

17 (2) an offense under Subsection (a)(2)(B) or (a)(7) is
18 a state jail felony.

19 SECTION 2. The change in law made by this Act applies only
20 to an offense committed on or after the effective date of this Act.
21 An offense committed before the effective date of this Act is
22 governed by the law in effect on the date the offense was committed,
23 and the former law is continued in effect for that purpose. For
24 purposes of this section, an offense was committed before the
25 effective date of this Act if any element of the offense occurred
26 before that date.

27 SECTION 3. This Act takes effect September 1, 2023.