

By: Goodwin

H.B. No. 220

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the offense of unlawful transfer of handguns and other
3 firearms and to the duties of certain entities with respect to
4 handgun licenses that are active, suspended, or revoked; creating a
5 criminal offense.

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

7 SECTION 1. Subchapter H, Chapter 411, Government Code, is
8 amended by adding Section 411.1805 to read as follows:

9 Sec. 411.1805. DATABASE OF SUSPENDED AND REVOKED LICENSES.

10 (a) The department shall maintain a current record of license
11 numbers with respect to each unexpired license to carry a handgun
12 that is suspended or revoked under this subchapter.

13 (b) Notwithstanding Section 411.192, the department shall
14 make available on the department's publicly accessible Internet
15 website a searchable database of license numbers that allows a
16 person transferring a firearm to determine whether the person to
17 whom the firearm is being transferred may use the license as a
18 permit described by 18 U.S.C. Section 922(t). The department may
19 not include any information that would otherwise identify the
20 person to whom the license was issued.

21 (c) Not later than the fifth working day after the
22 applicable period of suspension ends for a license, the department
23 shall update the database under Subsection (b) to reflect that the
24 license is no longer suspended.

1 (d) If a revoked license is reinstated, the department shall
2 update the database under Subsection (b) to reflect that
3 reinstatement not later than the fifth working day after the
4 reinstatement occurs.

5 (e) The director may adopt rules to implement this section.

6 SECTION 2. Section 411.186, Government Code, is amended by
7 amending Subsection (b) and adding Subsection (b-1) to read as
8 follows:

9 (b) If a peace officer believes a reason listed in
10 Subsection (a) to revoke a license exists, the officer shall
11 prepare an affidavit on a form provided by the department stating
12 the reason for the revocation of the license and giving the
13 department all of the information available to the officer at the
14 time of the preparation of the form. The officer shall attach the
15 officer's reports relating to the license holder to the form and
16 send the form and attachments to the appropriate division of the
17 department at its Austin headquarters not later than the fifth
18 working day after the date the form is prepared. The officer shall
19 send a copy of the form and the attachments to the license holder.
20 If the license holder has not surrendered the license or the license
21 was not seized as evidence or otherwise in conjunction with a legal
22 proceeding, the license holder shall surrender the license to the
23 appropriate division of the department not later than the 10th day
24 after the date the license holder receives the notice of revocation
25 from the department, unless the license holder requests a hearing
26 from the department. The license holder may request that the
27 justice court in the justice court precinct in which the license

1 holder resides review the revocation as provided by Section
2 [411.180](#). If a request is made for the justice court to review the
3 revocation and hold a hearing, the license holder shall surrender
4 the license on the date an order of revocation is entered by the
5 justice court.

6 (b-1) If an officer of the court seizes or accepts surrender
7 of a license under Section 411.2065, the officer shall submit the
8 license to the department at its Austin headquarters not later than
9 the fifth working day after the date the license is seized or
10 surrendered. The officer shall include a copy of any court order,
11 judgment, or other documentation relevant to the reason for the
12 seizure or surrender of the license.

13 SECTION 3. Section [411.187](#), Government Code, is amended by
14 amending Subsection (b) and adding Subsection (b-1) to read as
15 follows:

16 (b) If a peace officer believes a reason listed in
17 Subsection (a) to suspend a license exists, the officer shall
18 prepare an affidavit on a form provided by the department stating
19 the reason for the suspension of the license and giving the
20 department all of the information available to the officer at the
21 time of the preparation of the form. The officer shall attach the
22 officer's reports relating to the license holder to the form and
23 send the form and the attachments to the appropriate division of the
24 department at its Austin headquarters not later than the fifth
25 working day after the date the form is prepared. The officer shall
26 send a copy of the form and the attachments to the license holder.
27 If the license holder has not surrendered the license or the license

1 was not seized as evidence or otherwise in conjunction with a legal
2 proceeding, the license holder shall surrender the license to the
3 appropriate division of the department not later than the 10th day
4 after the date the license holder receives the notice of suspension
5 from the department unless the license holder requests a hearing
6 from the department. The license holder may request that the
7 justice court in the justice court precinct in which the license
8 holder resides review the suspension as provided by Section
9 411.180. If a request is made for the justice court to review the
10 suspension and hold a hearing, the license holder shall surrender
11 the license on the date an order of suspension is entered by the
12 justice court.

13 (b-1) If an officer of the court seizes or accepts surrender
14 of a license under Section 411.2065, the officer shall submit the
15 license to the department at its Austin headquarters not later than
16 the fifth working day after the date the license is seized or
17 surrendered. The officer shall include a copy of any court order,
18 judgment, or other documentation relevant to the reason for the
19 seizure or surrender of the license.

20 SECTION 4. The heading to Section 411.206, Government Code,
21 is amended to read as follows:

22 Sec. 411.206. SEIZURE OF HANDGUN AND LICENSE BY PEACE
23 OFFICER.

24 SECTION 5. Section 411.206, Government Code, is amended by
25 adding Subsection (a-1) to read as follows:

26 (a-1) A peace officer may seize a license holder's suspended
27 or revoked license. A peace officer who seizes a license under this

1 subsection shall, not later than the fifth working day after the
2 date of the seizure, return the license to the department or, if the
3 officer seizes the license as evidence of an offense, notify the
4 department that the license was seized.

5 SECTION 6. Subchapter H, Chapter 411, Government Code, is
6 amended by adding Section 411.2065 to read as follows:

7 Sec. 411.2065. SEIZURE OF LICENSE BY AND SURRENDER OF
8 LICENSE TO COURT OFFICER. (a) If a license holder is convicted of
9 or charged with an offense or becomes the subject of a protective
10 order and that conviction, charge, or order disqualifies the person
11 from possessing a firearm or continuing to hold a license under this
12 chapter, an officer of the court shall accept voluntary surrender
13 of the license or otherwise seize the license, as appropriate.

14 (b) An officer who seizes or accepts surrender of a license
15 under this section shall, not later than the fifth working day after
16 the date of the seizure or acceptance, submit to the department the
17 license and copies of the relevant court documentation as provided
18 by Section 411.186(b-1) or 411.187(b-1), as applicable.

19 SECTION 7. Chapter 411, Government Code, is amended by
20 adding Subchapter H-1 to read as follows:

21 SUBCHAPTER H-1. REQUIREMENTS FOR CERTAIN FIREARM TRANSFERS

22 Sec. 411.221. DEFINITIONS. In this subchapter:

23 (1) "License" means a license to carry a handgun
24 issued under Subchapter H.

25 (2) "Licensed firearms dealer" means a person who is
26 licensed as a firearms dealer under 18 U.S.C. Section 923.

27 Sec. 411.222. REQUIREMENTS FOR CERTAIN FIREARM TRANSFERS.

1 (a) A licensed firearms dealer may not sell or otherwise transfer a
2 firearm to a person who presents an apparently valid unexpired
3 license as a permit described by 18 U.S.C. Section 922(t) unless the
4 dealer first verifies that the license is not currently suspended
5 or revoked.

6 (b) The licensed firearms dealer may verify the status of
7 the person's license under Subsection (a) either by direct
8 communication with the department or by referencing the database of
9 licenses that is maintained on the department's Internet website
10 under Section 411.1805.

11 (c) If the licensed firearms dealer determines under
12 Subsection (a) that the license is suspended or revoked, the
13 dealer:

14 (1) may not consider the fact that the person
15 previously held a valid license and the fact that the person no
16 longer holds a valid license in determining whether transferring a
17 firearm to that person is prohibited by state or federal law; and

18 (2) not later than the fifth working day after the date
19 of the determination, shall notify the department that:

20 (A) during the applicable transaction, the
21 person presented a license to the dealer in lieu of submitting to
22 the national instant criminal background check in accordance with
23 18 U.S.C. Section 922;

24 (B) the license was suspended or revoked; and

25 (C) either the person:

26 (i) failed the national instant criminal
27 background check; or

1 (ii) refused to complete the sale or
2 transfer after presenting the suspended or revoked license.

3 SECTION 8. Section 46.06(a), Penal Code, is amended to read
4 as follows:

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

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

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

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

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

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

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

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

1 delivered;

2 (6) knowingly purchases, rents, leases, or receives as
3 a loan or gift from another a firearm [~~handgun~~] while an active
4 protective order is directed to the actor; [~~or~~]

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

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

10 (B) submitted to a [~~licensed~~] firearms dealer
11 licensed under [~~, as defined by~~] 18 U.S.C. Section 923; or

12 (8) knows that the person's license to carry a handgun
13 has been suspended or revoked and that the person is prohibited by
14 state or federal law from possessing a firearm and, for the purpose
15 of obtaining a firearm, knowingly presents the suspended or revoked
16 license as evidence that the person is not prohibited by state or
17 federal law from possessing a firearm.

18 SECTION 9. The Department of Public Safety shall establish
19 the database required under Section 411.1805, Government Code, as
20 added by this Act, and make the database available on the
21 department's Internet website not later than January 1, 2024.

22 SECTION 10. Subchapter H-1, Chapter 411, Government Code,
23 as added by this Act, applies only to a firearm transfer that occurs
24 on or after January 1, 2024.

25 SECTION 11. Section 46.06, Penal Code, as amended by this
26 Act, applies only to an offense committed on or after the effective
27 date of this Act. An offense committed before the effective date of

1 this Act is governed by the law in effect on the date the offense was
2 committed, and the former law is continued in effect for that
3 purpose. For purposes of this section, an offense was committed
4 before the effective date of this Act if any element of the offense
5 occurred before that date.

6 SECTION 12. This Act takes effect September 1, 2023.