

By: Bernal

H.B. No. 308

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 October 1, 2023.

1 SECTION 4. This Act takes effect September 1, 2023.