

By: Blanco

S.B. No. 168

A BILL TO BE ENTITLED

AN ACT

relating to the acquisition or attempted acquisition of a firearm by a person prohibited from possessing a firearm; creating a criminal offense.

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

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

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

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

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

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

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

(A) the person's release from confinement

1 following conviction of the felony; or

2 (B) the person's release from supervision under
3 community supervision, parole, or mandatory supervision following
4 conviction of the felony;

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

8 (6) knowingly purchases, rents, leases, or receives as
9 a loan or gift from another a handgun while an active protective
10 order is directed to the actor; ~~or~~

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

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

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

18 (8) knowingly acquires or attempts to acquire a
19 firearm while the actor is prohibited from possessing a firearm by a
20 state law or a federal law other than 18 U.S.C. Section 922(g)(4).

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

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

26 (2) an offense under Subsection (a)(7) is a state jail
27 felony.

1 (e) A firearms dealer licensed under 18 U.S.C. Section 923
2 who declines to transfer a firearm to a prospective transferee
3 because the National Instant Criminal Background Check System
4 indicates that the prospective transferee is prohibited from
5 possessing a firearm shall notify the Department of Public Safety.

6 SECTION 2. Subchapter D, Chapter 411, Government Code, is
7 amended by adding Section 411.0525 to read as follows:

8 Sec. 411.0525. INVESTIGATION OF LICENSED FIREARMS DEALER
9 NOTIFICATION. (a) If the department receives a notification under
10 Section 46.06(e), Penal Code, from a firearms dealer licensed under
11 18 U.S.C. Section 923, the department shall initiate an
12 investigation.

13 (b) If the department's investigation under this section
14 produces evidence that a person may have violated Section 46.06,
15 Penal Code, the department shall refer the case to the appropriate
16 local authorities for further investigation and possible
17 prosecution.

18 SECTION 3. The change in law made by this Act applies only
19 to an offense committed on or after the effective date of this Act.
20 An offense committed before the effective date of this Act is
21 governed by the law in effect on the date the offense was committed,
22 and the former law is continued in effect for that purpose. For
23 purposes of this section, an offense was committed before the
24 effective date of this Act if any element of the offense occurred
25 before that date.

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