

By: Johnson

S.B. No. 906

A BILL TO BE ENTITLED

AN ACT

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

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 established under 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, and may not provide that  
10 individual's information to the Federal Bureau of Investigation for  
11 removal from the National Instant Criminal Background Check System,  
12 before the 10th day after the date the individual submitted a waiver  
13 for inclusion in the registry, regardless of whether a revocation  
14 of the waiver is submitted before the expiration of that period.

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

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

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

27 Sec. 411.228. AVAILABILITY OF FORMS. The department shall

1 make available the waiver form described by Section 411.223 and the  
2 revocation form described by Section 411.225 on the department's  
3 Internet website. The Internet website must include clear  
4 instructions for:

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

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

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

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

17 (2) may only be disclosed to:

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

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

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

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

26 (2) the number of individuals who submitted  
27 revocations under Section 411.225 for removal of their information

1 from the registry; and

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

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

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

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

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

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

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

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

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

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

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

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

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



1       Sec. 411.233. CONSIDERATION IN LEGAL PROCEEDINGS  
2 PROHIBITED. A court may not consider a waiver or revocation under  
3 this subchapter as evidence in any legal proceeding other than in  
4 the prosecution of an offense under Section 46.06(a)(8), Penal  
5 Code, or an offense under this subchapter.

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

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

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

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

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

1 (1) available mental health and suicide prevention  
2 services offered by the institution or by any associated  
3 organizations or programs; ~~and~~

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

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

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

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

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

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

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

26 (4) inspecting, licensing, and enforcing regulations  
27 regarding mental health facilities, other than long-term care

1 facilities regulated by the Health and Human [~~Department of Aging~~  
2 ~~and Disability~~] Services Commission.

3 SECTION 4. 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 handgun to  
7 any person knowing that the person to whom the handgun is to be  
8 delivered intends to use it unlawfully or in the commission of an  
9 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 handgun to  
26 any person knowing that an active protective order is directed to  
27 the person to whom the handgun is to be delivered;

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

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

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

9                   (B) submitted to a licensed firearms dealer; or

10           (8) is a licensed firearms dealer and sells or  
11 otherwise transfers a firearm to a person the dealer knows is listed  
12 in the voluntary registry established under Subchapter H-1, Chapter  
13 411, Government Code ~~[, as defined by 18 U.S.C. Section 923]~~.

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

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

18           SECTION 6. (a) Not later than September 1, 2024, the  
19 Department of Public Safety of the State of Texas shall:

20                   (1) develop and make available the waiver and  
21 revocation forms and establish the voluntary registry required by  
22 Subchapter H-1, Chapter 411, Government Code, as added by this Act;

23                   (2) adopt the procedures regarding providing  
24 information under Subchapter H-1, Chapter 411, Government Code, as  
25 added by this Act, to the Federal Bureau of Investigation for use  
26 with the National Instant Criminal Background Check System; and

27                   (3) adopt procedures regarding correcting department

1 records of individuals listed in the voluntary registry under  
2 Subchapter H-1, Chapter 411, Government Code, as added by this Act.

3 (b) Section 46.06(a), Penal Code, as amended by this Act,  
4 applies only to a sale or other transfer of a firearm that occurs on  
5 or after September 1, 2024.

6 SECTION 7. This Act takes effect September 1, 2023.