

Texas State Law  
TX Codes Ann. (Vernon's)

Title 10, Chapter 46:  
Texas Penal Code - Weapons

**46.01. Chapter definitions.** In this chapter: \* \* \* \*

(2) "**Explosive weapon**" means any explosive or incendiary bomb, grenade, rocket, or mine, that is designed, made, or adapted for the purpose of inflicting serious bodily injury, death, or substantial property damage, or for the principal purpose of causing such a loud report as to cause undue public alarm or terror, and includes a device designed, made, or adapted for delivery or shooting an explosive weapon.

(3) "**Firearm**" means any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use. Firearm does not include antique or curio firearms that were manufactured prior to 1899 and that may have, as an integral part, a folding knife blade or other characteristics of weapons made illegal by this chapter.

(4) "**Firearm silencer**" means any device designed, made, or adapted to muffle the report of a firearm.

(5) "**Handgun**" means any firearm that is designed, made, or adapted to be fired with one hand. \* \* \* \*

(9) "**Machinegun**" means any firearm that is capable of shooting more than two shots automatically, without manual reloading, by a single function of the trigger.

(10) "**Short-barrel firearm**" means a rifle with a barrel length of less than 16 inches or a shotgun with a barrel length of less than 18 inches, or any weapon made from a shotgun or rifle if, as altered, it has an overall length of less than 26 inches. \* \* \* \*

(12) "**Armor-piercing ammunition**" means handgun ammunition that is designed primarily for the purpose of penetrating metal or body armor and to be used principally in pistols and revolvers. \* \* \* \*

(16) "**Zip gun**" means a device or combination of devices that was not originally a firearm and is adapted to expel a projectile through a smooth-bore or rifled-bore barrel by using the energy generated by an explosion or burning substance.

**46.04. Unlawful possession of firearm by felon.**

(a) A person who has been convicted of a felony commits an offense if he possesses a firearm:

(1) after conviction and before the fifth anniversary of the person's release from confinement following conviction of the felony or the person's release from supervision under community supervision, parole, or mandatory supervision, whichever date is later; or

(2) after the period described by Subdivision (1) at any location other than the premises at which the person lives.

(b) An offense under this section is a felony of the third degree.

#### **46.05. Prohibited weapons.**

(a) A person commits an offense if he intentionally or knowingly possesses, manufactures, transports, repairs, or sells:

- (1) an explosive weapon;
- (2) a machinegun;
- (3) a short-barrel firearm;
- (4) a firearm silencer; \* \* \* or
- (7) armor-piercing ammunition; \* \* \*
- (9) a zip gun.

(b) It is a defense to prosecution under this section that the actor's conduct was incidental to the performance of official duty by the armed forces or national guard, a governmental law enforcement agency, or a correctional facility.

(c) It is a defense to prosecution under this section that the actor's possession was pursuant to registration pursuant to registration pursuant to the National Firearms Act, as amended.

(d) It is an affirmative defense to prosecution under this section that the actor's conduct:

- (1) was incidental to dealing with a \* \* \* short-barrel firearm solely as an antique or curio; or
- (2) was incidental to dealing with armor-piercing ammunition solely for the purpose of making the ammunition available to an organization, agency, or institution listed in Subsection (b).

(e) An offense under this section is a felony of the third degree unless it is committed under Subsection (a)(5) or (a)(6), in which event, it is a Class A misdemeanor.

#### **46.06. Unlawful transfer of certain weapons.**

(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 any firearm \* \* \*; or
- (3) intentionally, knowingly, or recklessly sells a firearm or ammunition for a firearm to any person who is intoxicated; or
- (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 following conviction of the felony; or
  - (B) the person's release from supervision under community supervision, parole, or mandatory supervision following conviction of the felony.
- (5) sells, rents, leases, loans, or gives a handgun to any person knowing that an active protective order is directed to the person to whom the handgun is to be delivered.

(b) In this section:

(2) "**Active protective order**" means a protective order issued under Chapter 71, Family Code, that is in effect. The term does not include a temporary protective order issued before the court holds a hearing on the matter.

(c) It is an affirmative defense to prosecution under Subsection (a)(2) of this section that the transfer was to a minor whose parent or the person having legal custody of the minor had given written permission for the sale or, if the transfer was other than a sale, the parent or person having legal custody had given effective consent. \* \* \*

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

#### **46.13. Making a firearm accessible to a child.**

(a) In this section:

(1) **"Child"** means a person younger than 17 year of age.

(2) **"Readily dischargeable firearm"** means a firearm that is loaded with ammunition, whether or not a round is in the chamber.

(3) **"Secure"** means to take steps that a reasonable person would take to prevent the access to a readily dischargeable firearm by a child, including but not limited to placing a firearm in a locked container or temporarily rendering the firearm inoperable by a trigger lock or other means.

(b) A person commits an offense if a child gains access to a readily dischargeable firearm and the person with criminal negligence:

(1) failed to secure the firearm; or

(2) left the firearm in a place to which the person knew or should have known the child would gain access.

(c) It is an affirmative defense to prosecution under this section that the child's access to the firearm:

(1) was supervised by a person older than 18 years of age and was for hunting, sporting, or other lawful purposes;

(2) consisted of lawful defense by the child of people or property;

(3) was gained by entering property in violation of this code; or

(4) occurred during a time when the actor was engaged in an agricultural enterprise.

(d) Except as provided by Subsection (e), an offense under this section is a Class C misdemeanor.

(e) An offense under this section is a Class A misdemeanor if the child discharges the firearm and causes death or serious bodily injury to himself or another person.

(g) A dealer of firearms shall post in a conspicuous position on the premises where the dealer conducts business a sign that contains the following warning in block letters not less than one inch in height:

**"IT IS UNLAWFUL TO STORE, TRANSPORT, OR ABANDON AN UNSECURED FIREARM IN A PLACE WHERE CHILDREN ARE LIKELY TO BE AND CAN OBTAIN ACCESS TO THE FIREARM."**

### **Texas Local Government Code**

#### **Chapter 215: Municipal Regulation of Miscellaneous Businesses and other Activities**

##### **Subchapter A. Regulation by Municipalities in General**

##### **215.001. Firearms; Explosives.**

(a) A municipality may not adopt regulations relating to the transfer, private ownership, keeping, transportation, licensing, or registration of firearms, ammunition, or firearm supplies.

(b) Subsection (a) does not affect the authority a municipality has under another law to:

(1) require residents or public employees to be armed for personal or national defense, law enforcement, or another lawful purpose;

(2) regulate the discharge of firearms within the limits of the municipality;

(3) regulate the use of property, the location of a business, or uses at a business under the municipality's fire code, zoning ordinance, or land-use regulations as long as the code, ordinance, or regulations are not used to circumvent the intent of Subsection (a) or Subdivision (5) of this subsection;

(4) regulate the use of firearms in the case of an insurrection, riot, or natural disaster if the municipality finds the regulations necessary to protect public health and safety;

(5) regulate the storage or transportation of explosives to protect public health and safety, except that 25 pounds or less of black powder for each private residence and 50 pounds or less of black powder for each retail dealer are not subject to regulations; or

(6) regulate the carrying of a firearm by a person licensed to carry a concealed handgun under Article 4413(29ee), Revised Statutes, at a:

(A) public park;

(B) public meeting of a municipality, county, or other governmental body;

(C) political rally, parade, or official political meeting; or

(D) nonfirearms-related schools, college, or professional athletic event.

(G) The exception provided by Subsection (b)(6) does not apply if the firearm is in or is carried to or from an area designated for use in a lawful hunting, fishing, or other sporting event and the firearm is of the type commonly used in the activity. \* \* \* \*