

By: Kolkhorst, et al.

S.B. No. 476

A BILL TO BE ENTITLED

AN ACT

relating to the duties of certain law enforcement officials under procedures regulating the making or transfer of firearms.

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. CERTIFICATION TO MAKE OR TRANSFER FIREARM

Sec. 411.221. DEFINITIONS. In this section:

(1) "Certification" means the process by which a chief law enforcement officer provides the certificate required by 27 C.F.R. Section 479.63 or 479.85 for the approval of an application to make or transfer a firearm.

(2) "Chief law enforcement officer" means any law enforcement official the Bureau of Alcohol, Tobacco, Firearms and Explosives, or any of its successor agencies, identifies by regulation or otherwise as eligible to provide a required certification for the making or transfer of a firearm.

(3) "Firearm" has the meaning assigned by 26 U.S.C. Section 5845(a).

Sec. 411.222. CERTIFICATION. (a) A chief law enforcement officer shall provide certification not later than the 15th day after the date of receipt of a request for certification unless the chief law enforcement officer is unable to state on the certificate that:

1           (1) the identification requirements of 27 C.F.R.  
2 Section 479.63 or 479.85, as appropriate, are satisfied; or

3           (2) the officer has no information that:

4                 (A) possession of a firearm by the maker or  
5 transferee would violate state or local law; or

6                 (B) the maker or transferee would use the firearm  
7 for other than a lawful purpose.

8           (b) If the chief law enforcement officer is unable to  
9 provide certification under Subsection (a), the chief law  
10 enforcement officer shall provide the person who requested the  
11 certification with a written notification of the denial, including  
12 the reason for the denial under 27 C.F.R. Section 479.63 or 479.85.

13           Sec. 411.223. APPEAL FROM DENIAL. (a) If a chief law  
14 enforcement officer denies a request for certification, the person  
15 who requested the certification may appeal the chief law  
16 enforcement officer's decision to the district court of the county  
17 in which the person resides.

18           (b) The review of the chief law enforcement officer's  
19 decision to deny the certification shall be by trial de novo.

20           (c) If the court finds that no substantial evidence supports  
21 the chief law enforcement officer's determination that the chief  
22 law enforcement officer cannot legally make the certification, the  
23 court shall:

24                 (1) order the chief law enforcement officer to issue  
25 the certification; and

26                 (2) award court costs and reasonable attorney's fees  
27 to the person who requested the certification.

1       Sec. 411.224. IMMUNITY FROM LIABILITY. A chief law  
2 enforcement officer or an employee of a chief law enforcement  
3 officer who, in good faith, provides a certification as described  
4 by Section 411.222 is immune from civil or criminal liability  
5 resulting from the certification.

6       SECTION 2. This Act takes effect September 1, 2015.