

BILL ANALYSIS

Senate Research Center

S.B. 2225
By: Carona
Transportation & Homeland Security
4/7/2009
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Illegal gun trafficking from Texas into Mexico is a serious problem. Access to weaponry can determine the level of violence and effectiveness of an organized criminal campaign.

As transnational gang activity along the border has rapidly increased, Texas and the United States have put pressure on Mexico to deal with the problem. However, Mexican drug cartels have transformed into well-equipped, well-organized, and technologically advanced armies. In 2007, half of the 14,111 firearms recovered in Mexico were traced back to Texas, originating from Houston and Dallas. The stream of illegal weapons across the border from Texas has contributed to transnational gangs becoming the greatest threat to the homeland security of this state. Currently, there is no state statute prohibiting the large-scale smuggling of firearms out of Texas.

As proposed, S.B. 2225 creates certain offenses relating to firearm smuggling.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 46, Penal Code, by adding Section 46.14, as follows:

Sec. 46.14. FIREARM SMUGGLING. (a) Provides that a person commits an offense if the person knowingly possesses or transports a firearm knowing that the firearm was acquired in violation of the laws of any state or of the United States; or transfers a firearm to another person knowing that the firearm was previously acquired in violation of the laws of any state or of the United States.

(b) Provides that an offense under this section is a felony of the third degree, unless it is shown on the trial of the offense that the offense was committed with respect to three or more firearms in a single criminal episode, in which event the offense is a felony of the second degree.

(c) Provides that, notwithstanding Subsection (b), the punishment prescribed for an offense under this section is increased to the punishment prescribed for the next highest category of offense if it is shown on the trial of the offense that the actor, at the time of the offense, was engaged in the business of possessing, transporting, or transferring firearms acquired in violation of the laws of any state or of the United States. Provides that for purposes of this subsection, a person is considered to have engaged in business if, on more than one occasion, the person engaged in the applicable conduct for profit or any other form of remuneration.

(d) Provides that this section does not apply to a peace officer who is engaged in the actual discharge of an official duty.

(e) Authorizes the actor, if conduct that constitutes an offense under this section also constitutes an offense under any other law, to be prosecuted under this section, the other law, or both.

SECTION 2. Amends Section 71.02(a), Penal Code, to provide that a person commits an offense if, with the intent to establish, maintain, or participate in a combination or in the profits of a combination or as a member of a criminal street gang, the person commits or conspires to commit one or more certain acts, including any felony offense under Section 46.06 (Unlawful Transfer of Certain Weapons) or 46.14. Makes nonsubstantive changes.

SECTION 3. Reenacts Article 59.01(2), Code of Criminal Procedure, as amended by Chapters 127 (S.B. 1694), 822 (H.B. 73), and 885 (H.B. 2278), Acts of the 80th Legislature, Regular Session, 2007, to redefine "contraband."

SECTION 4. Makes application of this Act prospective.

SECTION 5. Makes application of the change in law made by this Act in amending Article 59.01(2), Code of Criminal Procedure, prospective.

SECTION 6. Effective date: September 1, 2009.