

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 476  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The National Firearms Act of 1934 classified short barreled rifles and shotguns, suppressors, and machine guns as "restricted" (Title III). To legally own one, an applicant must go through a rigorous application process that averages three to nine months. Applicants must pay a \$200 federal tax, submit a set of fingerprints along with two passport-sized photos for an FBI background check, and have their local chief law enforcement officer sign off on their application.

In some Texas counties, chief law enforcement officers (CLEOs) will refuse to sign off on any National Firearms Act paperwork. This effectively creates a ban on a Title III firearm for individuals who live in that area.

S.B. 476 requires a CLEO to provide certification of an application to make or transfer a firearm within 15 days of receipt. A CLEO may deny certification if they can show that the applicant cannot legally own a firearm or the applicant would use it for an unlawful purpose. If an application is denied, the CLEO would be required to provide a written notification of the denial, including the reason for a denial to the applicant. An applicant may appeal a denial to the district court of the county in which the applicant resides. The appeal would be heard in a trial de novo. A CLEO is immune from civil or criminal liability for any good faith approval of an application which resulted in court action.

As proposed, S.B. 476 amends current law relating to the duties of certain law enforcement officials under procedures regulating the making or transfer of firearms.

### **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 411, Government Code, by adding Subchapter H-1, as follows:

#### **SUBCHAPTER H-1. CERTIFICATION TO MAKE OR TRANSFER FIREARM**

Sec. 411.221. DEFINITIONS. Defines "certification," "chief law enforcement officer," and "firearm."

Sec. 411.222. CERTIFICATION. (a) Requires a chief law enforcement officer to 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 the identification requirements of 27 C.F.R. Section 479.63 or 479.85, as appropriate, are satisfied; or that the officer has no information that possession of a firearm by the maker or transferee would violate state or local law; or the maker or transferee would use the firearm for other than a lawful purpose.

(b) Provides that if the chief law enforcement officer is unable to provide certification under Subsection (a), the chief law enforcement officer is required to

provide the person who requested the certification with a written notification of the denial, including the reason for the denial under 27 C.F.R. Section 479.63 or 479.85.

Sec. 411.223. APPEAL FROM DENIAL. (a) Provides that if a chief law enforcement officer denies a request for certification, the person who requested the certification is authorized to appeal the chief law enforcement officer's decision to the district court of the county in which the person resides.

(b) Requires that the review of the chief law enforcement officer's decision to deny the certification be by trial de novo.

(c) Requires the court, if the court finds that no substantial evidence supports the chief law enforcement officer's determination that the chief law enforcement officer cannot legally make the certification, to order the chief law enforcement officer to issue the certification, and award court costs and reasonable attorney's fees to the person who requested the certification.

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

SECTION 2. Effective date: September 1, 2015.