

BILL ANALYSIS

S.B. 476
By: Kolkhorst
Homeland Security & Public Safety
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties assert that federal law restricts the authority to make or transfer certain firearms and accessories to a person who meets various requirements, including filing an application, submitting fingerprints, passing a background check, paying a federal tax, and attaining certification of the application by a chief law enforcement officer with the federal authority to certify such an application. The parties note that the process generally lasts from three to nine months and contend that some chief law enforcement officers refuse to certify any such application, effectively creating a ban on those firearms and accessories for residents of a particular area. S.B. 476 seeks to address these issues by helping to expedite the application and certification process.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 476 amends the Government Code to require a chief law enforcement officer, defined by the bill as any law enforcement official the Bureau of Alcohol, Tobacco, Firearms and Explosives or any of its successor agencies identify by regulation or otherwise as eligible to provide a federally required certificate for approval of an application to make or transfer a firearm, 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 applicable federal identification requirements 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 that the maker or transferee would use the firearm for other than a lawful purpose. The bill defines "certification" to mean the process by which a chief law enforcement officer provides a certificate required by specified federal regulation for the approval of an application to make or transfer a firearm and defines "firearm" with the meaning assigned by federal law.

S.B. 476 requires a chief law enforcement officer who is unable to provide such certification to provide the person who requested the certification with a written notification of the denial, including the reason for the denial under specified federal law. The bill authorizes the person who requested the certification to appeal the officer's decision to the district court of the county in which the person resides if a chief law enforcement officer denies the request. The bill requires the review of the officer's decision to deny the certification to be by trial de novo. The bill requires the court to order the chief law enforcement officer to issue the certification and to

award court costs and reasonable attorney's fees to the person who requested the certification if the court finds that no substantial evidence supports the officer's determination that the officer cannot legally make the certification.

S.B. 476 grants immunity from civil or criminal liability resulting from the certification to a chief law enforcement officer or an employee of a chief law enforcement officer who, in good faith, provides a certification as described by the bill's provisions.

EFFECTIVE DATE

September 1, 2015.