

UNITED STATES GOVERNMENT

Memorandum

TO : SAC DALLAS (100 10461)

DATE: January 30, 1964

FROM : SA PAUL E. WULFF

SUBJECT: STATE OF TEXAS STATUTES--
RELATING TO FIREARMS

The following statutes are contained in Volume I,
Vernon's Texas Penal Code, Chapter Four, captioned Unlawfully
Carrying Arms, under articles 483 through 489c.

Article 483. 475.338,318 - Unlawfully carrying arms

Whoever shall carry on or about his person, saddle or
in his saddlebags, or in his portfolio or purse any pistol, dirk,
dagger, slung shot, blackjack, hand chain, night stick, pipe
stick, sword cane, spear, knuckles made of any metal or any
hard substance, bowie knife, switch blade knife, spring blade
knife, throw blade knife, a knife with a blade over five and one
half (5½) inches in length, or any other knife manufactured or
sold for the purposes of offense or defense shall be punished
by a fine of not less than One Hundred Dollars (\$100) nor more
than Five Hundred Dollars (\$500) or by confinement in jail for
not less than one (1) month nor more than one (1) year. As
amended Acts 1957, 55th Leg., p. 806, ch. 304, Sec. 1.

Article 484. 476,339,319 Not applicable

The preceding article shall not apply to a person in
actual service as a militiaman, nor to any peace officer in the
actual discharge of his official duty, nor to the carrying of
arms on one's own premises or place of business, nor to persons
traveling, nor to any deputy constable, or special policeman who
receives a compensation of forty dollars or more per month for
his services as such officer, and who is appointed in conformity
with the statutes authorizing such appointment; nor to the Game,
Fish and Oyster Commissioner, nor to any deputy, when in the
actual discharge of his duties as such, nor to any game warden,
or local deputy Game, Fish and Oyster Commissioner when in the
actual discharge of his duties in the county of his residence,
nor shall it apply to any game warden or deputy Game, Fish and
Oyster Commissioner who actually receives from the State fees
or compensation for his services. Acts 1871, p. 25, Acts 1819,
p. 194.

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Article 485. 477,340 Carrying arms in any assembly

If any person shall go into any church or any religious assembly, any schoolroom, ballroom, or other place where persons are assembled for amusement or for educational or scientific purposes, or into any circus, show or public exhibition of any kind, or social gathering, or to any election on the day or days of any election where any portion of the people of this State are collected to vote at an election, or to any other place where people may be assembled to muster or perform any other public duties, and shall have or carry about his person any pistol or other firearm, dirk, dagger, slung shot, sword cane, spear, brass knuckel, bowie knife, or any other kind of a knife made and manufactured for the purpose of offense and defense, he shall be fined not less than one hundred nor more than five hundred dollars, or be confined in jail not less than thirty days nor more than twelve months, or both. Acts 1871, p. 25; Acts 1915, p. 132.

Article 486. 478,341 Not applicable to whom

The preceding article shall not apply to peace officers or other persons authorized or permitted by law to carry arms at the places therein designated. Acts 1871, p. 25. Revision 1879.

Article 487. 479, 342 Arrest without warrant

Any person violating any article of this chapter may be arrested without warrant by any peace officer and carried before the nearest justice of the peace. Any peace officer who shall fail or refuse to arrest such person on his own knowledge, or upon information from some reliable person, shall be fined not exceeding five hundred dollars. Acts 1871, p. 26.

Article 488. Dope seller carrying arms

Whoever shall carry on or about his person a pistol or any other weapon or arm mentioned in the first article of this chapter while possessing for the purpose of unlawful sale, furnishing or giving away any drug, narcotic, derivative or preparation or marijuana mentioned in article 720 of this Code, shall be confined in the penitentiary for not less than one nor more than ten years. Act June 18, 1923, p. 164.

Article 489. 1048 Sale of weapon to minor

Section 1. Whoever shall knowingly sell, or offer for sale, give or barter, or cause to be sold, given or bartered to any person within this State, a switch blade knife, spring blade knife or throw blade knife, or knuckles made of metal or any hard substance shall be punished by a fine of not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200) or be imprisoned in jail for a period of time not to exceed one (1) year or by both such fine and imprisonment. It shall be a defense to this Act if such switch blade knife, spring blade knife or throw blade knife shall be an antique bought and sold by collectors of such items.

This Act shall not apply to antique or curio firearms which were manufactured prior to 1898 and which may have, as an integral part, a folding knife blade or other characteristics of items prohibited by this Act.

Section 2. Whoever shall knowingly sell, give or barter, or cause to be sold, given or bartered to any minor a pistol, dirk, dagger, slung shot, blackjack, hand chain, night stick, pipe stick, sword cane, spear, bowie knife or a knife with a blade over five and one half (5½) inches in length, without the written consent of the parent or guardian of such minor, or of someone standing in lieu thereof, shall be fined not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200), or be imprisoned in jail for a period of time not to exceed one year or by both such fine and imprisonment. As amended Acts 1961, 57th Leg., p. 558, ch. 261, Sec. 1.

Article 489b. Machine guns

Definition

Section 1. "Machine gun" applies to and includes a weapon of any description by whatever name known, loaded or unloaded, from which more than five (5) shots or bullets may be automatically discharged from a magazine by a single functioning of the firing device.

"Person" applies to and includes firm, partnership, association or corporation.

Penalty

Section 2. Whosoever shall possess or use a machine gun, as defined in Section 1, shall be guilty of a felony and upon conviction thereof, shall be confined in the State Penitentiary, for not less than two (2) nor more than ten (10) years.

Sale, penalty

Section 3. Whoever shall sell, lease, give, barter, exchange, or trade, or cause to be sold, leased, given, bartered, exchanged, or traded, a machine gun as hereinabove defined to any person shall be guilty of a felony and upon conviction thereof, shall be confined to the State Penitentiary, for not less than two (2) nor more than ten (10) years.

Exception of peace officers and others

Section 4. Nothing contained in Section 2 of this Act shall prohibit or interfere with:

1. The possession of machine guns by the military forces or the peace officers of the United States or of any political subdivision thereof, or the transportation required for that purpose.

2. The possession of a machine gun for scientific purpose, or the possession of a machine gun not usable as a weapon and possessed as a curiosity, ornament, or keepsake.

3. The possession of machine guns by officials and employees of the Texas State Prison System.

Sale to certain officers as not prohibited

Section 5. Nothing contained in this Act shall prohibit or interfere with the sale, lease, barter, exchange or gift of a machine gun as defined in this Act, or the transportation required for such purpose to the Adjutant General of the State of Texas, the duly qualified and commissioned Sheriff of a county in Texas, to a duly qualified and commissioned Chief of Police of any municipality within the State of Texas, the duly authorized purchasing agent for the Texas State Prison System, the military forces or peace officers of the United States. Acts 1933, 43rd Leg., 1st C.S., p. 219, ch. 82.

Article 489c. Possession of firearms by persons convicted of felony involving use of firearm

Section 1. It shall be unlawful for any person who has been convicted of burglary or robbery, or of a felony involving an act of violence with a firearm under the laws of the United States or of the State of Texas, or of any other state, and who has served a term in the penitentiary for such conviction, to have in his possession away from the premises upon which he lives any pistol, revolver or any other firearm capable of being concealed upon the person. As amended Acts 1957, 55th Leg., p. 50, ch. 28, Sec. 1.

Section 2. Anyone violating any of the provisions of this Act shall be guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the penitentiary for not less than one (1) nor more than five (5) years.

Section 3. Definitions. The following words and phrases when used in this Act are defined as follows, to wit:

(a) "Pistol," "revolver" and "firearm" means a weapon capable of being concealed upon the person and shall include all firearms having a barrel of less than twelve (12) inches in length.

(b) The use of the masculine gender includes the feminine gender.

Section 4. The penal provisions of this Act shall not apply to any person commissioned as a peace officer, employed as a guard or watchman nor to any person who has not been convicted of a penal offense during the five-year period next immediately following his discharge or release from the penitentiary. Acts 1949, 51st Leg., p. 1186, ch. 599, Sec. 1.

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