

By: Rosenthal

H.B. No. 1343

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting carrying a firearm while intoxicated;  
creating a criminal offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 46, Penal Code, is amended by adding  
Section 46.022 to read as follows:

Sec. 46.022. UNLAWFUL CARRYING OF FIREARM WHILE  
INTOXICATED. (a) A person commits an offense if, while  
intoxicated, the person carries on or about his or her person a  
firearm, including a handgun or long gun, in a public place.

(b) An offense under this section is a Class C misdemeanor.

(c) This section does not apply to:

(1) a special investigator under Article 2.122, Code  
of Criminal Procedure, or a peace officer regardless of whether the  
special investigator or peace officer is engaged in the actual  
discharge of the investigator's or officer's duties while carrying  
the firearm; or

(2) a person who carries a firearm that is unloaded and  
encased in a container.

(d) It is not a defense to prosecution under this section  
that the actor carried a handgun under the authority of Subchapter  
H, Chapter 411, Government Code, or carried a firearm under another  
law authorizing the carrying of that firearm by a person not  
otherwise prohibited by state or federal law from carrying a

1 firearm.

2 (e) In this section, "intoxicated" has the meaning assigned  
3 by Section 49.01.

4 (f) For purposes of this section, "public place" does not  
5 include:

6 (1) the interior of a motor vehicle not used for mass  
7 transit; or

8 (2) the actor's private residence, including the  
9 curtilage of that residence.

10 SECTION 2. Section 125.0015(a), Civil Practice and Remedies  
11 Code, is amended to read as follows:

12 (a) A person who maintains a place to which persons  
13 habitually go for the following purposes and who knowingly  
14 tolerates the activity and furthermore fails to make reasonable  
15 attempts to abate the activity maintains a common nuisance:

16 (1) discharge of a firearm in a public place as  
17 prohibited by the Penal Code;

18 (2) reckless discharge of a firearm as prohibited by  
19 the Penal Code;

20 (3) engaging in organized criminal activity as a  
21 member of a combination as prohibited by the Penal Code;

22 (4) delivery, possession, manufacture, or use of a  
23 substance or other item in violation of Chapter 481, Health and  
24 Safety Code;

25 (5) gambling, gambling promotion, or communicating  
26 gambling information as prohibited by the Penal Code;

27 (6) prostitution as described by Section 43.02, Penal

1 Code, solicitation of prostitution as described by Section 43.021,  
2 Penal Code, promotion of prostitution as described by Section  
3 43.03, Penal Code, or aggravated promotion of prostitution as  
4 described by Section 43.04, Penal Code;

5 (7) compelling prostitution as prohibited by the Penal  
6 Code;

7 (8) commercial manufacture, commercial distribution,  
8 or commercial exhibition of obscene material as prohibited by the  
9 Penal Code;

10 (9) aggravated assault as described by Section 22.02,  
11 Penal Code;

12 (10) sexual assault as described by Section 22.011,  
13 Penal Code;

14 (11) aggravated sexual assault as described by Section  
15 22.021, Penal Code;

16 (12) robbery as described by Section 29.02, Penal  
17 Code;

18 (13) aggravated robbery as described by Section 29.03,  
19 Penal Code;

20 (14) unlawfully carrying a weapon as described by  
21 Section 46.02, Penal Code, or unlawfully carrying a firearm while  
22 intoxicated as described by Section 46.022, Penal Code;

23 (15) murder as described by Section 19.02, Penal Code;

24 (16) capital murder as described by Section 19.03,  
25 Penal Code;

26 (17) continuous sexual abuse of young child or  
27 disabled individual as described by Section 21.02, Penal Code;

1           (18) massage therapy or other massage services in  
2 violation of Chapter 455, Occupations Code;

3           (19) employing or entering into a contract for the  
4 performance of work or the provision of a service with an individual  
5 younger than 21 years of age for work or services performed at a  
6 sexually oriented business as defined by Section 243.002, Local  
7 Government Code;

8           (20) trafficking of persons as described by Section  
9 20A.02, Penal Code;

10           (21) sexual conduct or performance by a child as  
11 described by Section 43.25, Penal Code;

12           (22) employment harmful to a child as described by  
13 Section 43.251, Penal Code;

14           (23) criminal trespass as described by Section 30.05,  
15 Penal Code;

16           (24) disorderly conduct as described by Section 42.01,  
17 Penal Code;

18           (25) arson as described by Section 28.02, Penal Code;

19           (26) criminal mischief as described by Section 28.03,  
20 Penal Code, that causes a pecuniary loss of \$500 or more;

21           (27) a graffiti offense in violation of Section 28.08,  
22 Penal Code; or

23           (28) permitting an individual younger than 18 years of  
24 age to enter the premises of a sexually oriented business as defined  
25 by Section 243.002, Local Government Code.

26           SECTION 3. Section 9.31(b), Penal Code, is amended to read  
27 as follows:

1 (b) The use of force against another is not justified:

2 (1) in response to verbal provocation alone;

3 (2) to resist an arrest or search that the actor knows  
4 is being made by a peace officer, or by a person acting in a peace  
5 officer's presence and at his direction, even though the arrest or  
6 search is unlawful, unless the resistance is justified under  
7 Subsection (c);

8 (3) if the actor consented to the exact force used or  
9 attempted by the other;

10 (4) if the actor provoked the other's use or attempted  
11 use of unlawful force, unless:

12 (A) the actor abandons the encounter, or clearly  
13 communicates to the other his intent to do so reasonably believing  
14 he cannot safely abandon the encounter; and

15 (B) the other nevertheless continues or attempts  
16 to use unlawful force against the actor; or

17 (5) if the actor sought an explanation from or  
18 discussion with the other person concerning the actor's differences  
19 with the other person while the actor was:

20 (A) carrying a weapon in violation of Section  
21 [46.02](#); [~~or~~]

22 (B) carrying a firearm while intoxicated in  
23 violation of Section 46.022; or

24 (C) possessing or transporting a weapon in  
25 violation of Section [46.05](#).

26 SECTION 4. Section [46.02](#)(a-6), Penal Code, is repealed.

27 SECTION 5. The change in law made by this Act applies only

1 to an offense committed on or after the effective date of this Act.  
2 An offense committed before the effective date of this Act is  
3 governed by the law in effect on the date the offense was committed,  
4 and the former law is continued in effect for that purpose. For  
5 purposes of this section, an offense was committed before the  
6 effective date of this Act if any element of the offense occurred  
7 before that date.

8 SECTION 6. This Act takes effect September 1, 2023.