

BILL ANALYSIS

H.B. 1257
By: Allen
Law Enforcement
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Texas weapons laws have been added to Chapter 46 of the Penal Code, “Weapons”, through various pieces of legislation over a period of years. As a result, the chapter is not currently well organized or clear, leading to citizen confusion and difficulties for law enforcement personnel and prosecutors. The purpose of House Bill 1257 is to recodify Section 46 of the Penal Code in order to achieve clarity and continuity without changing the substance of current law.

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

SECTION 1. Amends Section 46.01, Penal Code, to add the definitions of the following terms to the list of definitions applicable to the chapter: amusement park, license holder, premises, and secured area. Deletes the definitions of these terms from their current locations in subsequent sections of this bill. Alphabetizes and renumbers the list of definitions.

SECTION 2. Amends Section 46.02, Penal Code, to delete the pronoun “he” and replace it with the neutral language “the person.”

SECTION 3. Adds Section 46.021, Penal Code, “Applicability of Unlawful Carrying to Law Enforcement and Certain Other Persons,” to provide that Section 46.02, “Unlawful Carrying of Weapons,” does not apply to certain persons. The language in this section is deleted from its current location by SECTION 9 of this bill.

SECTION 4. Amends Section 46.03, Penal Code, by deleting language providing a defense to prosecution for carrying a weapon in a prohibited place for certain persons. The substance of this language is added to a new Section 46.031 by SECTION 5 of this bill. Deletes definitions of “premises” and “secured area,” which are added back in to Section 46.01 of the Penal Code (“Definitions”) by SECTION 1 of this bill.

SECTION 5. Adds Section 46.031 to the Penal Code, “Applicability of Prohibited Places to Law Enforcement and Certain Other Persons,” to add back the substance of the language deleted by SECTION 4 of this bill providing a defense to prosecution for carrying a weapon in a prohibited place for certain persons.

SECTION 6. Amends Section 46.035, Penal Code, as follows:
Deletes Subsection (b) regarding where a concealed handgun license holder cannot carry a weapon, the substance of which is added by a new section created under SECTION 7 of this bill;
Deletes Subsection (c), providing that a license holder commits an offense if the holder carries a handgun into a meeting of a governmental entity if given effective notice under Section 30.06, the substance of which is added by a new section created under SECTION 7 of this bill;

Amends Subsection (e) to clarify that the subsection applies to a license holder who holds a security officer commission;

Deletes Subsection (f), providing definitions added to Section 46.01, Penal Code, by SECTION 1 of this bill;

Amends Subsection (g) to provide that an offense under this section is a Class A misdemeanor and to delete language enhancing the penalty to a third-degree felony for certain offenses under Subsection (b), deleted by this SECTION, regarding unlawful carrying in a place licensed to sell alcohol or in a correctional facility;

Amends Subsection (h) to clarify that the defense to prosecution provided by that section applies to a “license holder”, rather than an “actor”; and

Deletes Subsection (i), the substance of which is added by a new section created by SECTION 7 of this bill.

SECTION 7. Adds Section 46.036, Penal Code, “Places License Holder May Not Carry Handgun.”

Adds back the substance of the language deleted by SECTION 6 of this bill, providing that a license holder commits an offense if the license holder carries a handgun in any of eight categories of places and that the offense is a Class A misdemeanor unless it is in a place where weapons are prohibited by Section 46.03, a business licensed to sell alcohol, or a correctional facility, in which case the offense is a third degree felony. Provides that Section 46.031, regarding applicability and providing defenses to prosecution for certain persons, applies to the prosecution of an offense in which a license holder carries a handgun in an area where handguns are prohibited by Section 46.03.

SECTION 8. Amends Section 30.06(c)(2), Penal Code, by conforming changes.

SECTION 9. Repeals Section 46.15, Penal Code, the substance of which is added back in by SECTION 3 of this bill in the new Section 46.021, Penal Code.

SECTION 10. Effective date.

EFFECTIVE DATE

This Act takes effect September 1, 2003.