

By: Howard

H.B. No. 840

A BILL TO BE ENTITLED

AN ACT

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relating to the criminal consequences of engaging in certain
conduct with respect to an illegal knife, switchblade knife, or
club.

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

SECTION 1. Section 46.02(a), Penal Code, is amended to read
as follows:

(a) A person commits an offense if he intentionally,
knowingly, or recklessly carries a handgun on or about his person [~~a
handgun, illegal knife, or club~~].

SECTION 2. Sections 46.03(a), (d), (h), and (i), Penal
Code, are amended to read as follows:

(a) A person commits an offense if the person intentionally,
knowingly, or recklessly possesses or goes with a firearm [~~illegal
knife, club,~~] or prohibited weapon listed in Section 46.05(a):

(1) on the physical premises of a school or
educational institution, any grounds or building on which an
activity sponsored by a school or educational institution is being
conducted, or a passenger transportation vehicle of a school or
educational institution, whether the school or educational
institution is public or private, unless pursuant to written
regulations or written authorization of the institution;

(2) on the premises of a polling place on the day of an
election or while early voting is in progress;

1 (3) in any government court or offices utilized by the
2 court, unless pursuant to written regulations or written
3 authorization of the court;

4 (4) on the premises of a racetrack;

5 (5) in or into a secured area of an airport; or

6 (6) within 1,000 feet of premises the location of
7 which is designated by the Texas Department of Criminal Justice as a
8 place of execution under Article 43.19, Code of Criminal Procedure,
9 on a day that a sentence of death is set to be imposed on the
10 designated premises and the person received notice that:

11 (A) going within 1,000 feet of the premises with
12 a weapon listed under this subsection was prohibited; or

13 (B) possessing a weapon listed under this
14 subsection within 1,000 feet of the premises was prohibited.

15 (d) It is a defense to prosecution under Subsection (a)(5)
16 that the actor possessed a firearm [~~or club~~] while traveling to or
17 from the actor's place of assignment or in the actual discharge of
18 duties as:

19 (1) a member of the armed forces or national guard;

20 (2) a guard employed by a penal institution; or

21 (3) a security officer commissioned by the Texas
22 Commission on [~~Board of Private Investigators and~~] Private Security
23 [~~Agencies~~] if:

24 (A) the actor is wearing a distinctive uniform;

25 and

26 (B) the firearm [~~or club~~] is in plain view; or

27 (4) [~~(5)~~] a security officer who holds a personal

1 protection officer authorization under Chapter 1702, Occupations
2 Code [~~the Private Investigators and Private Security Agencies Act~~
3 ~~(Article 4413(29bb), Vernon's Texas Civil Statutes)]~~.

4 (h) It is a defense to prosecution under Subsection (a)(4)
5 that the actor possessed a firearm [~~or club~~] while traveling to or
6 from the actor's place of assignment or in the actual discharge of
7 duties as a security officer commissioned by the Texas Commission
8 on [~~Board of Private Investigators and~~] Private Security
9 [~~Agencies~~], if:

10 (1) the actor is wearing a distinctive uniform; and

11 (2) the firearm [~~or club~~] is in plain view.

12 (i) It is an exception to the application of Subsection
13 (a)(6) that the actor possessed a firearm [~~or club~~]:

14 (1) while in a vehicle being driven on a public road;

15 or

16 (2) at the actor's residence or place of employment.

17 SECTION 3. Sections 46.05(a), (d), and (e), Penal Code, are
18 amended to read as follows:

19 (a) A person commits an offense if the person [~~he~~]
20 intentionally or knowingly possesses, manufactures, transports,
21 repairs, or sells:

22 (1) an explosive weapon;

23 (2) a machine gun;

24 (3) a short-barrel firearm;

25 (4) a firearm silencer;

26 (5) [~~a switchblade knife,~~

27 [~~(6)~~] knuckles;

- 1 (6) [~~(7)~~] armor-piercing ammunition;
2 (7) [~~(8)~~] a chemical dispensing device; or
3 (8) [~~(9)~~] a zip gun.

4 (d) It is an affirmative defense to prosecution under this
5 section that the actor's conduct:

6 (1) was incidental to dealing with a [~~switchblade~~
7 ~~knife, springblade knife, or~~] short-barrel firearm solely as an
8 antique or curio; or

9 (2) was incidental to dealing with armor-piercing
10 ammunition solely for the purpose of making the ammunition
11 available to an organization, agency, or institution listed in
12 Subsection (b).

13 (e) An offense under this section is a felony of the third
14 degree unless it is committed under Subsection (a)(5) [~~or (a)(6)~~],
15 in which event, it is a Class A misdemeanor.

16 SECTION 4. Section 46.15(b), Penal Code, as amended by
17 Chapters 1221 and 1261, Acts of the 75th Legislature, Regular
18 Session, 1997, is reenacted and amended to read as follows:

19 (b) Section 46.02 does not apply to a person who:

20 (1) is in the actual discharge of official duties as a
21 member of the armed forces or state military forces as defined by
22 Section 431.001, Government Code, or as a guard employed by a penal
23 institution;

24 (2) is on the person's own premises or premises under
25 the person's control unless the person is an employee or agent of
26 the owner of the premises and the person's primary responsibility
27 is to act in the capacity of a security guard to protect persons or

1 property, in which event the person must comply with Subdivision
2 (5);

3 (3) is traveling;

4 (4) is engaging in lawful hunting, fishing, or other
5 sporting activity on the immediate premises where the activity is
6 conducted, or is en route between the premises and the actor's
7 residence, if the weapon is a type commonly used in the activity;

8 (5) holds a security officer commission issued by the
9 Texas Commission on [~~Board of Private Investigators and~~] Private
10 Security [~~Agencies~~], if:

11 (A) the person is engaged in the performance of
12 the person's duties as a security officer or traveling to and from
13 the person's place of assignment;

14 (B) the person is wearing a distinctive uniform;
15 and

16 (C) the weapon is in plain view;

17 (6) is carrying a concealed handgun and a valid
18 license issued under Subchapter H, Chapter 411, Government Code
19 [~~Article 4413(29cc), Revised Statutes~~], to carry a concealed
20 handgun of the same category as the handgun the person is carrying;

21 (7) holds a security officer commission and a personal
22 protection officer authorization issued by the Texas Commission on
23 [~~Board of Private Investigators and~~] Private Security [~~Agencies~~]
24 and who is providing personal protection under Chapter 1702,
25 Occupations Code [~~the Private Investigators and Private Security~~
26 ~~Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes)~~];

27 or

1 (8) holds an alcoholic beverage permit or license or
2 is an employee of a holder of an alcoholic beverage permit or
3 license if the person is supervising the operation of the permitted
4 or licensed premises; or

5 (9) is engaged in the actual performance of the
6 person's official duties as a public security officer employed by
7 the adjutant general under Section 431.029, Government Code, or is
8 traveling to or from a place of duty.

9 SECTION 5. Section 46.15(f), Penal Code, is amended to read
10 as follows:

11 (f) Section 46.03(a)(6) does not apply to a person who
12 possesses a firearm [~~or club~~] while in the actual discharge of
13 official duties as:

14 (1) a member of the armed forces or state military
15 forces, as defined by Section 431.001, Government Code; or

16 (2) an employee of a penal institution.

17 SECTION 6. The following provisions of the Penal Code are
18 repealed:

19 (1) Subdivision (11), Section 46.01; and

20 (2) Subsections (c), (d), and (e), Section 46.15.

21 SECTION 7. (a) This Act takes effect September 1, 2003.

22 (b) The change in law made by this Act applies only to an
23 offense committed on or after September 1, 2003. An offense
24 committed before September 1, 2003, is covered by the law in effect
25 when the offense was committed, and the former law is continued in
26 effect for that purpose. For purposes of this subsection, an
27 offense was committed before September 1, 2003, if any element of

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1 the offense was committed before that date.