

By: Haggerty

H.B. No. 576

A BILL TO BE ENTITLED

1 AN ACT

2 relating to restrictions on the use of stun guns; providing a
3 penalty.

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

5 SECTION 1. Section 46.01, Penal Code, is amended by adding
6 Subdivision (17) to read as follows:

7 (17) "Stun gun" means a device that is intended,
8 designed, made, or adapted to immobilize a person by inflicting an
9 electrical charge.

10 SECTION 2. Section 46.03, Penal Code, is amended by adding
11 Subsections (j) and (k) to read as follows:

12 (j) It is a defense to prosecution under this section that
13 the actor possessed a stun gun and was, at the time of the offense:

14 (1) a license holder under Subchapter H, Chapter 411,
15 Government Code, who engaged in the conduct after successfully
16 completing the training described by Section 411.0207, Government
17 Code; or

18 (2) a security officer registered with the Private
19 Security Bureau of the Department of Public Safety who engaged in
20 the conduct:

21 (A) after successfully completing the training
22 described by Section 411.0207, Government Code; and

23 (B) while traveling to or from the actor's place
24 of assignment or in the actual discharge of duties as a security

1 officer.

2 (k) It is an exception to the application of this section
3 that the actor possessed a stun gun and was, at the time of the
4 offense, a peace officer, including a commissioned peace officer of
5 a recognized state or a special investigator under Article 2.122,
6 Code of Criminal Procedure, who was authorized by law to carry a
7 weapon and who engaged in the conduct after successfully completing
8 the training described by Section 411.0207, Government Code.

9 SECTION 3. Section 46.05, Penal Code, is amended by
10 amending Subsections (a) and (b) and adding Subsections (g) and (h)
11 to read as follows:

12 (a) A person commits an offense if he intentionally or
13 knowingly possesses, manufactures, transports, repairs, or sells:

- 14 (1) an explosive weapon;
- 15 (2) a machine gun;
- 16 (3) a short-barrel firearm;
- 17 (4) a firearm silencer;
- 18 (5) a switchblade knife;
- 19 (6) knuckles;
- 20 (7) armor-piercing ammunition;
- 21 (8) a chemical dispensing device; [~~or~~]
- 22 (9) a zip gun; or
- 23 (10) a stun gun.

24 (b) It is a defense to prosecution under Subsections
25 (a)(1)-(9) [~~this section~~] that the actor's conduct was incidental
26 to the performance of official duty by the armed forces or national
27 guard, a governmental law enforcement agency, or a correctional

1 facility.

2 (g) It is a defense to prosecution under Subsection (a)(10)
3 that the actor was, at the time of the offense:

4 (1) a license holder under Subchapter H, Chapter 411,
5 Government Code, who engaged in the conduct after successfully
6 completing the training described by Section 411.0207, Government
7 Code; or

8 (2) a security officer registered with the Private
9 Security Bureau of the Department of Public Safety who engaged in
10 the conduct:

11 (A) after successfully completing the training
12 described by Section 411.0207, Government Code; and

13 (B) while traveling to or from the actor's place
14 of assignment or in the actual discharge of duties as a security
15 officer.

16 (h) It is an exception to the application of Subsection
17 (a)(10) that the actor was, at the time of the offense, a peace
18 officer, including a commissioned peace officer of a recognized
19 state or a special investigator under Article 2.122, Code of
20 Criminal Procedure, who was authorized by law to carry a weapon and
21 who engaged in the conduct after successfully completing the
22 training described by Section 411.0207, Government Code.

23 SECTION 4. Subchapter A, Chapter 411, Government Code, is
24 amended by adding Section 411.0207 to read as follows:

25 Sec. 411.0207. STUN GUN TRAINING. (a) The director by rule
26 shall establish minimum standards for stun gun proficiency and
27 shall develop and make widely available throughout the state a

1 course to teach stun gun proficiency and an examination to measure
2 stun gun proficiency. The examination to measure stun gun
3 proficiency must require an actual demonstration by the applicant
4 of the applicant's ability to safely and proficiently use a stun
5 gun.

6 (b) Except as provided by Subsection (c), the department
7 shall charge a fee for the training offered under this section.

8 (c) The director by rule shall establish minimum standards
9 for the certification of stun gun instructors. An applicant for
10 certification as a stun gun instructor under this subsection must
11 be a peace officer employed by the department and must successfully
12 complete the training offered under this section before the
13 department may certify the applicant as a stun gun instructor. An
14 applicant for certification as a stun gun instructor is not
15 required to pay a fee for the training under this section.

16 SECTION 5. The public safety director of the Department of
17 Public Safety shall adopt the rules required by Section 411.0207,
18 Government Code, as added by this Act, not later than November 1,
19 2005.

20 SECTION 6. (a) Except as provided by Subsection (b) of
21 this section, this Act takes effect September 1, 2005.

22 (b) Sections 1, 2, and 3 of this Act take effect March 1,
23 2006.