

By: Keel

H.B. No. 823

A BILL TO BE ENTITLED

AN ACT

relating to an exception to the application of the offense of unlawful carrying of weapons.

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

SECTION 1. Section 46.02, Penal Code, is amended by adding Subsection (d) to read as follows:

(d) It is an exception to the application of this section that the actor was traveling in a privately owned motor vehicle at the time the actor committed the offense. For purposes of this subsection, "motor vehicle" has the meaning assigned by Section 32.34(a).

SECTION 2. Section 46.15(b), Penal Code, as amended by Chapters 1221 and 1261, Acts of the 75th Legislature, Regular Session, is reenacted and amended to read as follows:

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

(1) is in the actual discharge of official duties as a member of the armed forces or state military forces as defined by Section 431.001, Government Code, or as a guard or other ~~an~~ employee of a penal institution who is performing a security function;

(2) is on the person's own premises or premises under the person's control unless the person is an employee or agent of the owner of the premises and the person's primary responsibility 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 in a manner other than as described by
4 Section 46.02(d);

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

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

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

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

17 (C) the weapon is in plain view;

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

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

1 or

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

6 SECTION 3. The change in law made by this Act applies only
7 to an offense committed on or after September 1, 2005. An offense
8 committed before September 1, 2005, is covered by the law in effect
9 at the time the offense was committed. For purposes of this
10 section, an offense was committed before September 1, 2005, if any
11 element of the offense occurred before that date.

12 SECTION 4. This Act takes effect September 1, 2005.