

By: Farabee

H.B. No. 862

A BILL TO BE ENTITLED

AN ACT

relating to the punishment for the offense of assault.

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

SECTION 1. Sections 22.01(c) and (d), Penal Code, are amended to read as follows:

(c) An offense under Subsection (a)(2) or (3) is a Class C misdemeanor, except that the offense is:

(1) a felony of the third degree if:

(A) the offense is committed under Subsection (a)(2) against a person the actor knows is a public servant while the public servant is lawfully discharging an official duty or in retaliation or on account of an exercise of official power or performance of an official duty as a public servant; and

(B) the actor uses or exhibits a stun gun during the commission of the offense;

(2) a Class A misdemeanor if the offense is committed under Subsection (a)(3) against an elderly individual or disabled individual, as those terms are defined by Section 22.04; or

(3) [~~(2)~~] a Class B misdemeanor if the offense is committed by a person who is not a sports participant against a person the actor knows is a sports participant either:

(A) while the participant is performing duties or responsibilities in the participant's capacity as a sports participant; or

1 (B) in retaliation for or on account of the
2 participant's performance of a duty or responsibility within the
3 participant's capacity as a sports participant.

4 (d) For purposes of Subsections [~~Subsection~~] (b) and (c),
5 the actor is presumed to have known the person assaulted was a
6 public servant or a security officer if the person was wearing a
7 distinctive uniform or badge indicating the person's employment as
8 a public servant or status as a security officer.

9 SECTION 2. Section 22.01(e), Penal Code, is amended by
10 adding Subdivision (5) to read as follows:

11 (5) "Stun gun" means a device that is intended,
12 designed, made, or adapted to immobilize a person by inflicting an
13 electrical charge.

14 SECTION 3. The change in law made by this Act applies only
15 to an offense committed on or after the effective date of this Act.
16 An offense committed before the effective date of this Act is
17 covered by the law in effect when the offense was committed, and the
18 former law is continued in effect for that purpose. For purposes of
19 this section, an offense was committed before the effective date of
20 this Act if any element of the offense was committed before that
21 date.

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