

By: Isett

H.B. No. 1037

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution of the offense of unlawfully carrying a handgun, illegal knife, or club.

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

SECTION 1. Section 46.01(6), Penal Code, is amended to read as follows:

(6) "Illegal knife" means a:

(A) knife with a blade over five and one-half inches;

(B) hand instrument designed to cut or stab another by being thrown;

(C) dagger, including but not limited to a dirk, stiletto [~~stiletto~~], and poniard;

(D) bowie knife;

(E) sword; or

(F) spear.

SECTION 2. Section 46.02, Penal Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) It is an exception to the application of this section that the actor was in a privately owned motor vehicle at the time the actor committed the offense, and:

(1) the handgun is not in plain view;

(2) when a magistrate or a peace officer demands that the person display identification, the person shall display both a

1 driver's license or identification certificate issued by the
2 department and inform the magistrate or peace officer that the
3 person has a handgun in the vehicle; and

4 (3) the person is not otherwise prohibited by law from
5 possessing a weapon.

6 (e) For purposes of Subsection (d), "motor vehicle" has the
7 meaning assigned by Section 32.34(a)(2).

8 SECTION 3. Section 46.15(b), Penal Code, as amended by
9 Chapters 1221 and 1261, Acts of the 75th Legislature, Regular
10 Session, 1997, is reenacted and amended to read as follows:

11 (b) It is an exception to the application of Section 46.02
12 that the ~~[does not apply to a]~~ person ~~[who]~~:

13 (1) is in the actual discharge of official duties as a
14 member of the armed forces or state military forces as defined by
15 Section 431.001, Government Code, or as a guard employed by a penal
16 institution;

17 (2) is on the person's own premises or premises under
18 the person's control unless the person is an employee or agent of
19 the owner of the premises and the person's primary responsibility
20 is to act in the capacity of a security guard to protect persons or
21 property, in which event the person must comply with Subdivision
22 (5);

23 (3) is traveling;

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

1 (5) holds a security officer commission issued by the
2 Texas Board of Private Investigators and Private Security Agencies,
3 if:

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

7 (B) the person is wearing a distinctive uniform;
8 and

9 (C) the weapon is in plain view;

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

14 (7) holds a security officer commission and a personal
15 protection authorization issued by the Texas Board of Private
16 Investigators and Private Security Agencies and who is providing
17 personal protection under Chapter 1702, Occupations Code [~~the~~
18 ~~Private Investigators and Private Security Agencies Act (Article~~
19 ~~4413(29bb), Vernon's Texas Civil Statutes)~~]; or

20 (8) holds an alcoholic beverage permit or license or
21 is an employee of a holder of an alcoholic beverage permit or
22 license if the person is supervising the operation of the permitted
23 or licensed premises.

24 SECTION 4. The change in law made by this Act applies only
25 to an offense committed on or after the effective date of this Act.
26 For purposes of this section, an offense is committed before the
27 effective date of this Act if any element of the offense occurs

1 before the effective date. An offense committed before the
2 effective date of this Act is covered by the law in effect when the
3 offense was committed, and the former law is continued in effect for
4 that purpose.

5 SECTION 5. This Act takes effect September 1, 2005.