

By: Berman, Driver, Hupp, Keel,
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H.B. No. 2110

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the applicability of certain weapon laws to certain
3 prosecutors and certain court employees.

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) "Active judicial officer" has the meaning
8 assigned by Section 411.201, Government Code.

9 SECTION 2. Section 46.15, Penal Code, is amended by
10 amending Subsection (a) and adding Subsection (i) to read as
11 follows:

12 (a) Sections 46.02 and 46.03 do not apply to:

13 (1) peace officers, including commissioned peace
14 officers of a recognized state, or special investigators under
15 Article 2.122, Code of Criminal Procedure, and neither section
16 prohibits a peace officer or special investigator from carrying a
17 weapon in this state, including in an establishment in this state
18 serving the public, regardless of whether the peace officer or
19 special investigator is engaged in the actual discharge of the
20 officer's or investigator's duties while carrying the weapon;

21 (2) parole officers and neither section prohibits an
22 officer from carrying a weapon in this state if the officer is:

23 (A) engaged in the actual discharge of the
24 officer's duties while carrying the weapon; and

1 (B) in compliance with policies and procedures
2 adopted by the Texas Department of Criminal Justice regarding the
3 possession of a weapon by an officer while on duty;

4 (3) community supervision and corrections department
5 officers appointed or employed under Section 76.004, Government
6 Code, and neither section prohibits an officer from carrying a
7 weapon in this state if the officer is:

8 (A) engaged in the actual discharge of the
9 officer's duties while carrying the weapon; and

10 (B) authorized to carry a weapon under Section
11 76.0051, Government Code;

12 (4) a judge or justice of the supreme court, the court
13 of criminal appeals, a court of appeals, a district court, a
14 criminal district court, a constitutional county court, a statutory
15 county court, a justice court, or a municipal court who is licensed
16 to carry a concealed handgun under Subchapter H, Chapter 411,
17 Government Code; ~~[or]~~

18 (5) an honorably retired peace officer or federal
19 criminal investigator who holds a certificate of proficiency issued
20 under Section 1701.357, Occupations Code, and is carrying a photo
21 identification that:

22 (A) verifies that the officer honorably retired
23 after not less than 20 years of service as a commissioned officer;
24 and

25 (B) is issued by the agency from which the peace
26 officer retired or, for a federal criminal investigator, by a state
27 law enforcement agency;

1 (6) a district attorney, criminal district attorney,
2 or county attorney who is licensed to carry a concealed handgun
3 under Subchapter H, Chapter 411, Government Code; or

4 (7) a bailiff designated as a judicial officer
5 security escort under Subsection (i) who is:

6 (A) licensed to carry a concealed handgun under
7 Chapter 411, Government Code; and

8 (B) engaged in escorting an active judicial
9 officer.

10 (i) An active judicial officer who presides in a court in
11 which a bailiff who is not licensed as a peace officer by the Texas
12 Commission on Law Enforcement Officer Standards and Education
13 serves may designate the bailiff as a judicial officer security
14 escort in a writing delivered to the county sheriff. The county
15 sheriff shall keep a copy of the writing in the sheriff's files.

16 SECTION 3. Section 46.035, Penal Code, is amended by adding
17 Subsection (h-1) to read as follows:

18 (h-1) It is a defense to prosecution under Subsection (b)
19 that the actor, at the time of the commission of the offense, was:

20 (1) a bailiff designated as a judicial officer
21 security escort under Section 46.15(i); and

22 (2) engaged in escorting an active judicial officer.

23 SECTION 4. The change in law made by this Act applies only
24 to an offense committed on or after the effective date of this Act.
25 An offense committed before the effective date of this Act is
26 covered by the law in effect when the offense was committed, and the
27 former law is continued in effect for that purpose. For purposes of

1 this section, an offense was committed before the effective date of
2 this Act if any element of the offense was committed before that
3 date.

4 SECTION 5. This Act takes effect immediately if it receives
5 a vote of two-thirds of all the members elected to each house, as
6 provided by Section 39, Article III, Texas Constitution. If this
7 Act does not receive the vote necessary for immediate effect, this
8 Act takes effect September 1, 2005.