

By: Cook of Colorado

H.B. No. 2295

A BILL TO BE ENTITLED

AN ACT

relating to exceptions to the application of an offense.

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

SECTION 1. Section 2.02, Penal Code, is amended by amending Subsection (b) and adding Subsections (d) and (e) to read as follows:

(b) The prosecuting attorney is not required to ~~[must]~~ negate the existence of an exception in the accusation charging commission of the offense ~~[and prove beyond a reasonable doubt that the defendant or defendant's conduct does not fall within the exception]~~.

(d) The issue of the existence of an exception is not submitted to the jury unless evidence is admitted supporting the exception.

(e) If the issue of the existence of an exception is submitted to the jury, the court shall charge that the prosecuting attorney must prove beyond a reasonable doubt that the defendant or defendant's conduct does not fall within the exception.

SECTION 2. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of

1 this Act if any element of the offense was committed before that  
2 date.

3 SECTION 3. This Act takes effect September 1, 2005.