

By: Phillips (Senate Sponsor - Deuell) H.B. No. 442  
(In the Senate - Received from the House April 16, 2007;  
April 17, 2007, read first time and referred to Committee on  
Criminal Justice; May 21, 2007, reported favorably, as amended, by  
the following vote: Yeas 5, Nays 0; May 21, 2007, sent to  
printer.)

COMMITTEE AMENDMENT NO. 1 By: Hinojosa

Amend H.B. No. 442 by striking SECTION 2 of the bill (house  
engrossment, page 2, line 62), adding the following appropriately  
numbered SECTIONS to the bill, and renumbering the subsequent  
SECTIONS of the bill accordingly.

SECTION \_\_\_\_\_. Section 46.01, Penal Code, is amended by  
adding Subdivision (17) to read as follows:

(17) "Stun gun" has the meaning assigned by Section  
38.14.

SECTION \_\_\_\_\_. Section 46.03, Penal Code, is amended by  
adding Subsections (j) and (k) to read as follows:

(j) It is a defense to prosecution under this section that  
the actor possessed a stun gun and was, at the time of the offense:

(1) a license holder under Subchapter H, Chapter 411,  
Government Code, who engaged in the conduct after successfully  
completing the training described by Section 411.0207, Government  
Code; or

(2) a security officer registered with the Private  
Security Bureau of the Department of Public Safety who engaged in  
the conduct:

(A) after successfully completing the training  
described by Section 411.0207, Government Code; and

(B) while traveling to or from the actor's place  
of assignment or in the actual discharge of duties as a security  
officer.

(k) It is an exception to the application of this section  
that the actor possessed a stun gun and was, at the time of the  
offense, a peace officer, including a commissioned peace officer of  
a recognized state or a special investigator under Article 2.122,  
Code of Criminal Procedure, who was authorized by law to carry a  
weapon and who engaged in the conduct after successfully completing  
the training described by Section 411.0207, Government Code.

SECTION \_\_\_\_\_. Section 46.05, Penal Code, is amended by  
amending Subsections (a) and (b) and adding Subsections (h) and (i)  
to read as follows:

(a) A person commits an offense if he intentionally or  
knowingly possesses, manufactures, transports, repairs, or sells:

- (1) an explosive weapon;
- (2) a machine gun;
- (3) a short-barrel firearm;
- (4) a firearm silencer;
- (5) a switchblade knife;
- (6) knuckles;
- (7) armor-piercing ammunition;
- (8) a chemical dispensing device; ~~[or]~~
- (9) a zip gun; or
- (10) a stun gun.

(b) It is a defense to prosecution under Subsections  
(a)(1)-(9) ~~[this section]~~ that the actor's conduct was incidental  
to the performance of official duty by the armed forces or national  
guard, a governmental law enforcement agency, or a correctional  
facility.

(h) It is a defense to prosecution under Subsection (a)(10)  
that the actor was, at the time of the offense:

(1) a license holder under Subchapter H, Chapter 411,  
Government Code, who engaged in the conduct after successfully  
completing the training described by Section 411.0207, Government  
Code; or

(2) a security officer registered with the Private Security Bureau of the Department of Public Safety who engaged in the conduct:

(A) after successfully completing the training described by Section 411.0207, Government Code; and

(B) while traveling to or from the actor's place of assignment or in the actual discharge of duties as a security officer.

(i) It is an exception to the application of Subsection (a)(10) that the actor was, at the time of the offense, a peace officer, including a commissioned peace officer of a recognized state or a special investigator under Article 2.122, Code of Criminal Procedure, who was authorized by law to carry a weapon and who engaged in the conduct after successfully completing the training described by Section 411.0207, Government Code.

SECTION \_\_\_\_\_. Subchapter A, Chapter 411, Government Code, is amended by adding Section 411.0207 to read as follows:

Sec. 411.0207. STUN GUN TRAINING. (a) In this section, "stun gun" has the meaning assigned by Section 46.01, Penal Code.

(b) The director by rule shall establish minimum standards for stun gun proficiency and shall develop and make widely available throughout the state a course to teach stun gun proficiency and an examination to measure stun gun proficiency. The examination to measure stun gun proficiency must require an actual demonstration by the applicant of the applicant's ability to safely and proficiently use a stun gun.

(c) Except as provided by Subsection (d), the department shall charge a fee for the training offered under this section.

(d) The director by rule shall establish minimum standards for the certification of stun gun instructors. An applicant for certification as a stun gun instructor under this subsection must be a peace officer employed by the department and must successfully complete the training offered under this section before the department may certify the applicant as a stun gun instructor. An applicant for certification as a stun gun instructor is not required to pay a fee for the training under this section.

SECTION \_\_\_\_\_. The public safety director of the Department of Public Safety shall adopt the rules required by Section 411.0207, Government Code, as added by this Act, not later than November 1, 2007.

SECTION \_\_\_\_\_. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2007.

(b) The change in law made by this Act in amending Sections 46.03 and 46.05, Penal Code, takes effect March 1, 2008.

## A BILL TO BE ENTITLED AN ACT

relating to taking or attempting to take a stun gun from a peace officer or certain other officers.

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

SECTION 1. Section 38.14(a)(2), Penal Code, is amended to read as follows:

(2) "Stun gun" means an electronic ~~[a]~~ device that emits an electrical charge and is designed and primarily employed to incapacitate ~~[propel darts or other projectiles attached to wires that, on contact, will deliver an electrical pulse capable of incapacitating]~~ a person or animal through:

(A) direct contact with electrodes on the device;  
(B) a projection of wired probes attached to the device; or

(C) a spark or a stream of plasma or ionized gas or another conductive stream emitting from the device.

SECTION 2. This Act takes effect September 1, 2007.

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