

By: Burnam

H.B. No. 1935

A BILL TO BE ENTITLED

AN ACT

relating to generally prohibiting the carrying of a Taser or other
stun gun; providing certain criminal penalties and defenses to
prosecution for persons who obtain a license.

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

SECTION 1. Section 30.06, Penal Code, is amended to read as
follows:

Sec. 30.06. TRESPASS BY HOLDER OF LICENSE TO CARRY
CONCEALED HANDGUN, TASER, OR OTHER STUN GUN. (a) A license holder
commits an offense if the license holder:

(1) carries a handgun or a Taser or other stun gun
under the authority of Subchapter H or H-1, Chapter 411, Government
Code, on property of another without effective consent; and

(2) received notice that:

(A) entry on the property by a license holder
with a concealed handgun or concealed Taser or other stun gun was
forbidden; or

(B) remaining on the property with a concealed
handgun or concealed Taser or other stun gun was forbidden and
failed to depart.

(b) For purposes of this section, a person receives notice
if the owner of the property or someone with apparent authority to
act for the owner provides notice to the person by oral or written
communication.

(c) In this section:

(1) "Entry" has the meaning assigned by Section 30.05(b).

(2) "License holder" has the meanings ~~[meaning]~~ assigned by Sections ~~[Section]~~ 46.035(f) and 46.036(e).

(3) "Written communication" means:

(A) a card or other document on which is written language identical to the following: "Pursuant to Section 30.06, Penal Code (trespass by holder of license to carry a concealed handgun, Taser, or other stun gun), a person licensed under Subchapter H or H-1, Chapter 411, Government Code (concealed handgun and concealed Taser or stun gun laws ~~[law]~~), may not enter this property with a concealed handgun or concealed Taser or other stun gun"; or

(B) a sign posted on the property that:

(i) includes the language described by Paragraph (A) in both English and Spanish;

(ii) appears in contrasting colors with block letters at least one inch in height; and

(iii) is displayed in a conspicuous manner clearly visible to the public.

(d) An offense under this section is a Class A misdemeanor.

(e) It is an exception to the application of this section that the property on which the license holder carries a handgun or a Taser or other stun gun is owned or leased by a governmental entity and is not a premises or other place on which the license holder is prohibited from carrying the handgun, Taser, or other stun gun

1 under Section 46.03, ~~[or]~~ 46.035, or 46.036.

2 SECTION 2. Section 46.01, Penal Code, is amended by adding
3 Subdivisions (17) and (18) to read as follows:

4 (17) "Stun gun" means a device designed to propel
5 darts or other projectiles attached to wires that, on contact, will
6 deliver an electrical pulse capable of incapacitating a person.

7 (18) "Taser" means a stun gun manufactured by the
8 Taser company.

9 SECTION 3. Section 46.02(a), Penal Code, is amended to read
10 as follows:

11 (a) A person commits an offense if he intentionally,
12 knowingly, or recklessly carries on or about his person a handgun,
13 Taser or other stun gun, illegal knife, or club.

14 SECTION 4. Section 46.03(a), Penal Code, is amended to read
15 as follows:

16 (a) A person commits an offense if the person intentionally,
17 knowingly, or recklessly possesses or goes with a firearm, Taser or
18 other stun gun, illegal knife, club, or prohibited weapon listed in
19 Section 46.05(a):

20 (1) on the physical premises of a school or
21 educational institution, any grounds or building on which an
22 activity sponsored by a school or educational institution is being
23 conducted, or a passenger transportation vehicle of a school or
24 educational institution, whether the school or educational
25 institution is public or private, unless pursuant to written
26 regulations or written authorization of the institution;

27 (2) on the premises of a polling place on the day of an

election or while early voting is in progress;

(3) on the premises of any government court or offices utilized by the court, unless pursuant to written regulations or written authorization of the court;

(4) on the premises of a racetrack;

(5) in or into a secured area of an airport; or

(6) within 1,000 feet of premises the location of which is designated by the Texas Department of Criminal Justice as a place of execution under Article 43.19, Code of Criminal Procedure, on a day that a sentence of death is set to be imposed on the designated premises and the person received notice that:

(A) going within 1,000 feet of the premises with a weapon listed under this subsection was prohibited; or

(B) possessing a weapon listed under this subsection within 1,000 feet of the premises was prohibited.

SECTION 5. Chapter 46, Penal Code, is amended by adding Section 46.036 to read as follows:

Sec. 46.036. UNLAWFUL CARRYING OF TASER OR OTHER STUN GUN BY LICENSE HOLDER. (a) A license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a Taser or other stun gun under the authority of Subchapter H-1, Chapter 411, Government Code, regardless of whether the Taser or other stun gun is concealed, on or about the license holder's person:

(1) on the premises of a business that has a permit or license issued under Chapter 25, 28, 32, 69, or 74, Alcoholic Beverage Code, if the business derives 51 percent or more of its

1 income from the sale or service of alcoholic beverages for
2 on-premises consumption, as determined by the Texas Alcoholic
3 Beverage Commission under Section 104.06, Alcoholic Beverage Code;

4 (2) on the premises of a correctional facility;

5 (3) on the premises of a hospital licensed under
6 Chapter 241, Health and Safety Code, or on the premises of a nursing
7 home licensed under Chapter 242, Health and Safety Code, unless the
8 license holder has written authorization of the hospital or nursing
9 home administration, as appropriate;

10 (4) in an amusement park; or

11 (5) on the premises of a church, synagogue, or other
12 established place of religious worship.

13 (b) A license holder commits an offense if the license
14 holder intentionally, knowingly, or recklessly carries a Taser or
15 other stun gun under the authority of Subchapter H-1, Chapter 411,
16 Government Code, regardless of whether the Taser or other stun gun
17 is concealed, at any meeting of a governmental entity.

18 (c) A license holder commits an offense if, while
19 intoxicated, the license holder carries a Taser or other stun gun
20 under the authority of Subchapter H-1, Chapter 411, Government
21 Code, regardless of whether the Taser or other stun gun is
22 concealed.

23 (d) A license holder who is licensed as a security officer
24 under Chapter 1702, Occupations Code, and employed as a security
25 officer commits an offense if, while in the course and scope of the
26 security officer's employment, the security officer violates a
27 provision of Subchapter H-1, Chapter 411, Government Code.

1 (e) In this section:

2 (1) "Amusement park" means a permanent indoor or
3 outdoor facility or park where amusement rides are available for
4 use by the public that is located in a county with a population of
5 more than one million, encompasses at least 75 acres in surface
6 area, is enclosed with access only through controlled entries, is
7 open for operation more than 120 days in each calendar year, and has
8 security guards on the premises at all times. The term does not
9 include any public or private driveway, street, sidewalk or
10 walkway, parking lot, parking garage, or other parking area.

11 (2) "License holder" means a person licensed to carry
12 a Taser or other stun gun under Subchapter H-1, Chapter 411,
13 Government Code.

14 (3) "Premises" means a building or a portion of a
15 building. The term does not include any public or private driveway,
16 street, sidewalk or walkway, parking lot, parking garage, or other
17 parking area.

18 (f) An offense under Subsection (a), (b), (c), or (d) is a
19 Class A misdemeanor, unless the offense is committed under
20 Subsection (a)(1) or (3), in which event the offense is a felony of
21 the third degree.

22 (g) Subsections (a)(4), (a)(5), (a)(6), and (b) do not apply
23 if the actor was not given effective notice under Section 30.06.

24 SECTION 6. Section 46.15, Penal Code, is amended by adding
25 Subsection (k) to read as follows:

26 (k) The provisions of Section 46.02 prohibiting the
27 carrying of a Taser or other stun gun do not apply to an individual

1 who carries a Taser or other stun gun and a valid license to carry a
2 Taser or other stun gun issued by the Department of Public Safety
3 under Subchapter H-1, Chapter 411, Government Code.

4 SECTION 7. Chapter 411, Government Code, is amended by
5 adding Subchapter H-1 to read as follows:

6 SUBCHAPTER H-1. LICENSE TO CARRY A TASER OR OTHER STUN GUN

7 Sec. 411.220. DEFINITIONS. In this subchapter, "Taser" and
8 "stun gun" have the meanings assigned by Section 46.01, Penal Code.

9 Sec. 411.221. LICENSE TO CARRY A CONCEALED TASER OR OTHER
10 STUN GUN. The department by rule shall establish a procedure for a
11 person to obtain a license to carry a Taser or other stun gun.

12 Sec. 411.222. STANDARDS AND PROCEDURAL REQUIREMENTS. (a)
13 In establishing a procedure under Section 411.221, the department
14 shall require an applicant for a license under this subchapter to
15 meet standards and satisfy procedural requirements that are
16 substantially similar to the standards and procedural requirements
17 for obtaining a license to carry a concealed handgun described by
18 the following sections of Subchapter H:

- 19 (1) eligibility (Section 411.172);
20 (2) application (Section 411.174);
21 (3) issuance or denial of license (Section 411.177);
22 (4) form of license (Section 411.179(a));
23 (5) notification of denial, revocation, or suspension
24 of license; review (Section 411.180);
25 (6) expiration (Section 411.183);
26 (7) modification (Section 411.184);
27 (8) renewal (Section 411.185);

1 (9) revocation (Section 411.186); and

2 (10) suspension of license (Section 411.187).

3 (b) The department shall establish a stun gun proficiency
4 requirement and a system of certifying qualified stun gun
5 instructors that are substantially similar to the handgun
6 proficiency requirement and the system for certifying qualified
7 handgun instructors established under Subchapter H.

8 Sec. 411.223. OTHER RULES AND PROCEDURES. The department
9 shall adopt any other rule or establish any other procedure
10 necessary or appropriate to administer this subchapter.

11 Sec. 411.224. CONFIDENTIALITY OF RECORDS. The department
12 shall disclose to a criminal justice agency information contained
13 in its files and records regarding whether a named individual or any
14 individual named in a specified list is licensed under this
15 subchapter. The department shall, on written request and payment
16 of a reasonable fee to cover costs of copying, disclose to any other
17 individual whether a named individual or any individual whose full
18 name is listed on a specified written list is licensed under this
19 subchapter. Information on an individual subject to disclosure
20 under this section includes the individual's name, date of birth,
21 gender, race, and zip code. Except as otherwise provided by this
22 section, all other records maintained under this subchapter are
23 confidential and are not subject to mandatory disclosure under the
24 open records law, Chapter 552, except that the applicant or license
25 holder may be furnished a copy of disclosable records on request and
26 the payment of a reasonable fee. The department shall notify a
27 license holder of any request that is made for information relating

to the license holder under this section and provide the name of the person or agency making the request. This section does not prohibit the department from making public and distributing to the public at no cost lists of individuals who are certified as qualified stun gun instructors by the department.

Sec. 411.225. DISPLAYING LICENSE; PENALTY. (a) If a license holder is carrying a Taser or other stun gun on or about the license holder's person when a magistrate or a peace officer demands that the license holder display identification, the license holder shall display both the license holder's driver's license or identification certificate issued by the department and the license holder's license issued under this subchapter. A person who fails or refuses to display the license and identification as required by this subsection is subject to suspension of the person's license as provided by department rule adopted under Section 411.222(a).

(b) A person commits an offense if the person fails or refuses to display the license and identification as required by Subsection (a) after previously having had the person's license suspended for a violation of that subsection. An offense under this subsection is a Class B misdemeanor.

Sec. 411.226. AUTHORITY OF PEACE OFFICER TO DISARM. A peace officer who is acting in the lawful discharge of the officer's official duties may disarm a license holder at any time the officer reasonably believes it is necessary for the protection of the license holder, the officer, or another individual. The peace officer shall return the Taser or other stun gun to the license holder before discharging the license holder from the scene if the

1 officer determines that the license holder is not a threat to the
2 officer, the license holder, or another individual and if the
3 license holder has not violated any provision of this subchapter or
4 committed any other violation that results in the arrest of the
5 license holder.

6 SECTION 8. This Act applies only to an offense committed on
7 or after the effective date of this Act. An offense committed
8 before the effective date of this Act is covered by the law in
9 effect when the offense was committed, and the former law is
10 continued in effect for that purpose. For purposes of this section,
11 an offense was committed before the effective date of this Act if
12 any element of the offense was committed before that date.

13 SECTION 9. This Act takes effect September 1, 2007.