

BILL ANALYSIS

Senate Research Center

S.B. 1416
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Criminal Justice
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Recently, law enforcement officials in South Texas, when in pursuit of suspects, have had to deal with the suspects throwing "tire deflation devices" at law enforcement officials' vehicles and then evading arrest as a result.

These home-made tire spikes are a threat to law enforcement and the general public, but the possession of such devices is currently not against the law.

S.B. 1416 amends current law relating to the creation of the offense of possession, manufacture, transportation, repair, or sale of a tire deflation device and to the offense of attempting to evade arrest through the use of a vehicle or a tire deflation device, and provides criminal penalties.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 46.01, Penal Code, by adding Subdivision (17) to define "tire deflation device."

SECTION 2. Amends Sections 46.05(a), (d), and (e), Penal Code, as follows:

(a) Provides that a person commits an offense if the person intentionally or knowingly possesses, manufactures, transports, repairs, or sells certain items, including a tire deflation device. Makes a nonsubstantive change.

(d) Provides that it is an affirmative defense to prosecution under this section that the actor's conduct was incidental to dealing with a switchblade knife, springblade knife, short-barrel firearm, or tire deflation device solely as an antique or curio; was incidental to dealing with armor-piercing ammunition solely for the purpose of making the ammunition available to an organization, agency, or institution listed in Subsection (b) (relating to providing a defense to prosecution under this section if the 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); or was incidental to dealing with a tire deflation device solely for the purpose of making the device available to an organization, agency, or institution listed in Subsection (b). Makes nonsubstantive changes.

(e) Provides that an offense under Subsections (a)(1)-(4) (relating to an explosive weapon, a machine gun, a short-barrel firearm, or a firearm silencer) and (7)-(9) (relating to armor-piercing ammunition, a chemical dispensing device, or a zip gun) is a felony of the third degree, rather than provides that an offense under this section is a felony of the third degree unless it is committed under Subsection (a)(5) (relating to a switchblade knife) or (a)(6) (relating to knuckles), in which event it is a Class A misdemeanor. Provides that an offense under Subsection (a)(10) (relating to a tire deflation device) is a

state jail felony. Provides that an offense under Subsections (a)(5) and (6) is a Class A misdemeanor.

SECTION 3. Amends Sections 38.04(b) and (C), Penal Code, as follows:

(b) Provides that an offense under this section is a Class A misdemeanor, except that the offense is:

(1) a state jail felony if the actor has been previously convicted under this section;

(2) a felony of the third degree if:

(A) the actor uses a vehicle while the actor is in flight, rather than the actor uses a vehicle while the actor is in flight and the actor has been previously convicted under this section;

(B) Makes no changes to this paragraph; or

(C) the actor uses a tire deflation device against the officer while the actor is in flight; or

(3) a felony of the second degree if:

(A) another suffers death as a direct result of an attempt by the officer from whom the actor is fleeing to apprehend the actor while the actor is in flight; or

(B) another suffers serious bodily injury as a direct result of the actor's use of a tire deflation device while the actor is in flight.

Makes nonsubstantive changes

Deletes existing text providing that an offense under this section is a Class A misdemeanor, except that the offense is a state jail felony if the actor uses a vehicle while the actor is in flight and the actor has not been previously convicted under this section.

(c) Defines, in this section, "tire deflation device." Makes nonsubstantive changes.

SECTION 4. Makes application of Section 38.04, Penal Code, as amended by this Act, prospective.

SECTION 5. Effective date: September 1, 2011.