

By: Gooden

H.B. No. 34

A BILL TO BE ENTITLED

AN ACT

relating to authorizing certain attorneys representing the state to  
openly carry a handgun.

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

SECTION 1. Section 46.035(h-1), Penal Code, as added by  
Chapter 1222 (H.B. 2300), Acts of the 80th Legislature, Regular  
Session, 2007, is amended to read as follows:

(h-1) It is a defense to prosecution under Subsections  
(b)(1), (2), and (4)-(6), and (c) that at the time of the commission  
of the offense, the actor was:

(1) a judge or justice of a federal court;

(2) an active judicial officer, as defined by Section  
411.201, Government Code; or

(3) a district attorney, assistant district attorney,  
criminal district attorney, assistant criminal district attorney,  
county attorney, ~~or~~ assistant county attorney, or municipal  
attorney.

SECTION 2. Section 46.035, Penal Code, is amended by adding  
Subsection (h-2) to read as follows:

(h-2) It is a defense to prosecution under Subsection (a)  
that at the time of the commission of the offense the actor was a  
district attorney, assistant district attorney, criminal district  
attorney, assistant criminal district attorney, county attorney,  
assistant county attorney, or municipal attorney.

1           SECTION 3. (a) If H.B. 3370, Acts of the 83rd Legislature,  
2 Regular Session, 2013, does not become law, Section 46.15(a), Penal  
3 Code, is amended to read as follows:

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

5                   (1) peace officers or special investigators under  
6 Article 2.122, Code of Criminal Procedure, and neither section  
7 prohibits a peace officer or special investigator from carrying a  
8 weapon in this state, including in an establishment in this state  
9 serving the public, regardless of whether the peace officer or  
10 special investigator is engaged in the actual discharge of the  
11 officer's or investigator's duties while carrying the weapon;

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

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

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

19                   (3) community supervision and corrections department  
20 officers appointed or employed under Section 76.004, Government  
21 Code, and neither section prohibits an officer from carrying a  
22 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

25                           (B) authorized to carry a weapon under Section  
26 76.0051, Government Code;

27                   (4) an active judicial officer as defined by Section

1 411.201, Government Code, who is licensed to carry a concealed  
2 handgun under Subchapter H, Chapter 411, Government Code;

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

7 (A) verifies that the officer honorably retired  
8 after not less than 15 years of service as a commissioned officer;  
9 and

10 (B) is issued by a state or local law enforcement  
11 agency;

12 (6) a district attorney, criminal district attorney,  
13 county attorney, or municipal attorney who is licensed to carry a  
14 concealed handgun under Subchapter H, Chapter 411, Government Code,  
15 who is carrying the handgun in plain view or in a concealed manner;

16 (7) an assistant district attorney, assistant  
17 criminal district attorney, or assistant county attorney who is  
18 licensed to carry a concealed handgun under Subchapter H, Chapter  
19 411, Government Code, who is carrying the handgun in plain view or  
20 in a concealed manner;

21 (8) a bailiff designated by an active judicial officer  
22 as defined by Section 411.201, Government Code, who is:

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

25 (B) engaged in escorting the judicial officer; or

26 (9) a juvenile probation officer who is authorized to  
27 carry a firearm under Section 142.006, Human Resources Code.

1 (b) If H.B. 3370, Acts of the 83rd Legislature, Regular  
2 Session, 2013, becomes law, Section 46.15(a), Penal Code, is  
3 amended to read as follows:

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

5 (1) peace officers or special investigators under  
6 Article 2.122, Code of Criminal Procedure, and neither section  
7 prohibits a peace officer or special investigator from carrying a  
8 weapon in this state, including in an establishment in this state  
9 serving the public, regardless of whether the peace officer or  
10 special investigator is engaged in the actual discharge of the  
11 officer's or investigator's duties while carrying the weapon;

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

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

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

19 (3) community supervision and corrections department  
20 officers appointed or employed under Section 76.004, Government  
21 Code, and neither section prohibits an officer from carrying a  
22 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

25 (B) authorized to carry a weapon under Section  
26 76.0051, Government Code;

27 (4) an active judicial officer as defined by Section

1 411.201, Government Code, who is licensed to carry a concealed  
2 handgun under Subchapter H, Chapter 411, Government Code;

3 (5) an honorably retired peace officer, qualified  
4 retired law enforcement officer, federal criminal investigator, or  
5 former reserve law enforcement officer who holds a certificate of  
6 proficiency issued under Section 1701.357, Occupations Code, and is  
7 carrying a photo identification that is issued by a federal, state,  
8 or local law enforcement agency, as applicable, and that verifies  
9 that the officer is:

10 (A) an honorably retired peace officer;

11 (B) a qualified retired law enforcement officer;

12 (C) a federal criminal investigator; or

13 (D) a former reserve law enforcement officer who  
14 has served in that capacity not less than a total of 15 years with  
15 one or more state or local law enforcement agencies;

16 (6) a district attorney, criminal district attorney,  
17 county attorney, or municipal attorney who is licensed to carry a  
18 concealed handgun under Subchapter H, Chapter 411, Government Code,  
19 who is carrying the handgun in plain view or in a concealed manner;

20 (7) an assistant district attorney, assistant  
21 criminal district attorney, or assistant county attorney who is  
22 licensed to carry a concealed handgun under Subchapter H, Chapter  
23 411, Government Code, who is carrying the handgun in plain view or  
24 in a concealed manner;

25 (8) a bailiff designated by an active judicial officer  
26 as defined by Section 411.201, Government Code, who is:

27 (A) licensed to carry a concealed handgun under

1 Chapter 411, Government Code; and

2 (B) engaged in escorting the judicial officer; or

3 (9) a juvenile probation officer who is authorized to  
4 carry a firearm under Section 142.006, Human Resources Code.

5 SECTION 4. The change in law made by this Act applies only  
6 to an offense committed on or after the effective date of this Act.  
7 An offense committed before the effective date of this Act is  
8 governed by the law in effect on the date the offense was committed,  
9 and the former law is continued in effect for that purpose. For  
10 purposes of this section, an offense was committed before the  
11 effective date of this Act if any element of the offense occurred  
12 before that date.

13 SECTION 5. This Act takes effect on the 91st day after the  
14 last day of the legislative session.