

By: Gooden

H.B. No. 9

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.

SECTION 3. Section 46.15(a), Penal Code, as effective September 1, 2013, is amended to read as follows:

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

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

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

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

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

(3) community supervision and corrections department officers appointed or employed under Section 76.004, Government Code, and neither section prohibits an officer from carrying a weapon in this state if the officer is:

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

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

(4) an active judicial officer as defined by Section 411.201, Government Code, who is licensed to carry a concealed

1 handgun under Subchapter H, Chapter 411, Government Code;

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

9 (A) an honorably retired peace officer;

10 (B) a qualified retired law enforcement officer;

11 (C) a federal criminal investigator; or

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

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

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

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

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

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

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

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

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