

By: Dutton

H.B. No. 936

A BILL TO BE ENTITLED

AN ACT

relating to the criminal consequences of engaging in certain
conduct with respect to a switchblade knife.

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

SECTION 1. Section 46.03(a), Penal Code, is amended to read
as follows:

(a) A person commits an offense if the person intentionally,
knowingly, or recklessly possesses or goes with a firearm, illegal
knife, switchblade knife, club, or prohibited weapon listed in
Section 46.05(a):

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

(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

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

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

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

10 SECTION 2. Sections 46.05(a), (d), and (e), Penal Code, are
11 amended to read as follows:

12 (a) A person commits an offense if the person intentionally
13 or knowingly possesses, manufactures, transports, repairs, or
14 sells:

15 (1) an explosive weapon;

16 (2) a machine gun;

17 (3) a short-barrel firearm;

18 (4) a firearm silencer;

19 (5) ~~a switchblade knife,~~

20 ~~[(6)]~~ knuckles;

21 (6) ~~[(7)]~~ armor-piercing ammunition;

22 (7) ~~[(8)]~~ a chemical dispensing device;

23 (8) ~~[(9)]~~ a zip gun; or

24 (9) ~~[(10)]~~ a tire deflation device.

25 (d) It is an affirmative defense to prosecution under this
26 section that the actor's conduct:

27 (1) was incidental to dealing with a ~~[switchblade~~

1 ~~knife, springblade knife,~~ short-barrel firearm~~[7]~~ or tire
2 deflation device solely as an antique or curio;

3 (2) was incidental to dealing with armor-piercing
4 ammunition solely for the purpose of making the ammunition
5 available to an organization, agency, or institution listed in
6 Subsection (b); or

7 (3) was incidental to dealing with a tire deflation
8 device solely for the purpose of making the device available to an
9 organization, agency, or institution listed in Subsection (b).

10 (e) An offense under Subsection (a)(1), (2), (3), (4), (6),
11 (7), or (8) ~~[7, or (9)]~~ is a felony of the third degree. An offense
12 under Subsection (a)(9) ~~[(a)(10)]~~ is a state jail felony. An
13 offense under Subsection (a)(5) ~~[or (6)]~~ is a Class A misdemeanor.

14 SECTION 3. Section 37.007(a), Education Code, is amended to
15 read as follows:

16 (a) Except as provided by Subsection (k), a student shall be
17 expelled from a school if the student, on school property or while
18 attending a school-sponsored or school-related activity on or off
19 of school property:

20 (1) uses, exhibits, or possesses:

21 (A) a firearm as defined by Section 46.01
22 ~~[46.01(3)]~~, Penal Code;

23 (B) an illegal knife as defined by Section 46.01
24 ~~[46.01(6)]~~, Penal Code, or by local policy;

25 (C) a switchblade knife as defined by Section
26 46.01, Penal Code;

27 (D) a club as defined by Section 46.01

1 [~~46.01(1)~~], Penal Code; or

2 (E) [~~(D)~~] a weapon listed as a prohibited weapon
3 under Section 46.05, Penal Code;

4 (2) engages in conduct that contains the elements of
5 the offense of:

6 (A) aggravated assault under Section 22.02,
7 Penal Code, sexual assault under Section 22.011, Penal Code, or
8 aggravated sexual assault under Section 22.021, Penal Code;

9 (B) arson under Section 28.02, Penal Code;

10 (C) murder under Section 19.02, Penal Code,
11 capital murder under Section 19.03, Penal Code, or criminal
12 attempt, under Section 15.01, Penal Code, to commit murder or
13 capital murder;

14 (D) indecency with a child under Section 21.11,
15 Penal Code;

16 (E) aggravated kidnapping under Section 20.04,
17 Penal Code;

18 (F) aggravated robbery under Section 29.03,
19 Penal Code;

20 (G) manslaughter under Section 19.04, Penal
21 Code;

22 (H) criminally negligent homicide under Section
23 19.05, Penal Code; or

24 (I) continuous sexual abuse of young child or
25 children under Section 21.02, Penal Code; or

26 (3) engages in conduct specified by Section
27 37.006(a)(2)(C) or (D), if the conduct is punishable as a felony.

1 SECTION 4. Section 52.031(a), Family Code, is amended to
2 read as follows:

3 (a) A juvenile board may establish a first offender program
4 under this section for the referral and disposition of children
5 taken into custody for:

6 (1) conduct indicating a need for supervision; or

7 (2) delinquent conduct other than conduct that
8 constitutes:

9 (A) a felony of the first, second, or third
10 degree, an aggravated controlled substance felony, or a capital
11 felony; or

12 (B) a state jail felony or misdemeanor involving
13 violence to a person or the use or possession of a firearm, illegal
14 knife, switchblade knife, or club, as those terms are defined by
15 Section 46.01, Penal Code, or a prohibited weapon, as described by
16 Section 46.05, Penal Code.

17 SECTION 5. Section 53.01(d), Family Code, is amended to
18 read as follows:

19 (d) Unless the juvenile board approves a written procedure
20 proposed by the office of prosecuting attorney and chief juvenile
21 probation officer which provides otherwise, if it is determined
22 that the person is a child and, regardless of a finding of probable
23 cause, or a lack thereof, there is an allegation that the child
24 engaged in delinquent conduct of the grade of felony, or conduct
25 constituting a misdemeanor offense involving violence to a person
26 or the use or possession of a firearm, illegal knife, switchblade
27 knife, or club, as those terms are defined by Section 46.01, Penal

1 Code, or prohibited weapon, as described by Section 46.05, Penal
2 Code, the case shall be promptly forwarded to the office of the
3 prosecuting attorney, accompanied by:

4 (1) all documents that accompanied the current
5 referral; and

6 (2) a summary of all prior referrals of the child to
7 the juvenile court, juvenile probation department, or a detention
8 facility.

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

17 SECTION 7. This Act takes effect September 1, 2013.