

By: Ashby, Leach, Moody

H.B. No. 278

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, 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 2. Section 46.15(a), Penal Code, 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

1 officer's duties while carrying the weapon; and

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

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

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

11 (B) authorized to carry a weapon under Section  
12 76.0051, Government Code;

13 (4) an active judicial officer as defined by Section  
14 411.201, Government Code, who is licensed to carry a concealed  
15 handgun under Subchapter H, Chapter 411, Government Code;

16 (5) an honorably retired peace officer, qualified  
17 retired law enforcement officer, federal criminal investigator, or  
18 former reserve law enforcement officer who holds a certificate of  
19 proficiency issued under Section 1701.357, Occupations Code, and is  
20 carrying a photo identification that is issued by a federal, state,  
21 or local law enforcement agency, as applicable, and that verifies  
22 that the officer is:

23 (A) an honorably retired peace officer;

24 (B) a qualified retired law enforcement officer;

25 (C) a federal criminal investigator; or

26 (D) a former reserve law enforcement officer who  
27 has served in that capacity not less than a total of 15 years with

1 one or more state or local law enforcement agencies;

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

6 (7) an assistant district attorney, assistant  
7 criminal district attorney, or assistant county attorney who is  
8 licensed to carry a concealed handgun under Subchapter H, Chapter  
9 411, Government Code, who is carrying the handgun in plain view or  
10 in a concealed manner;

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

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

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

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

18 SECTION 3. The change in law made by this Act applies only  
19 to an offense committed on or after the effective date of this Act.  
20 An offense committed before the effective date of this Act is  
21 governed by the law in effect on the date the offense was committed,  
22 and the former law is continued in effect for that purpose. For  
23 purposes of this section, an offense was committed before the  
24 effective date of this Act if any element of the offense occurred  
25 before that date.

26 SECTION 4. This Act takes effect September 1, 2015.