

BILL ANALYSIS

C.S.H.B. 86
By: Martinez
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Concerns have been raised about recent incidents in which people have been injured or killed due to celebratory gunfire. C.S.H.B. 86 seeks to stem the tide of these preventable incidents by creating an offense for the reckless discharge of a firearm.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 86 amends the Penal Code to create the Class A misdemeanor offense of reckless discharge of a firearm for a person who knowingly discharges a firearm and who, at the time of discharge, did not have an intended target or is reckless as to whether the firearm was aimed at the person's intended target. The bill enhances the penalty for the offense to a second degree felony if it is shown on the trial of the offense that serious bodily injury or death was suffered by any person by reason of the commission of the offense. The bill establishes as a defense to prosecution for the offense that the person discharged the firearm:

- at a sport shooting range;
- while the firearm was loaded with blanks;
- while hunting as licensed, permitted, or otherwise authorized by the Parks and Wildlife Department; or
- while in the course of making a motion picture or television or digital production for which the Texas Film Commission or a political subdivision of Texas has issued a permit.

If conduct that constitutes the offense of reckless discharge of a firearm also constitutes another Penal Code offense, the actor may be prosecuted under the bill's offense provisions or under the other offense provisions.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 86 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute decreases the penalty enhancement for the offense from a first degree felony to a second degree felony and includes an additional defense to prosecution for the offense with respect to the making of a motion picture or television or digital production.

The substitute does not include a definition of "wildlife" and does not include a reference to the hunting of wildlife in the defense to prosecution with respect to hunting otherwise authorized by the Parks and Wildlife Department.