By:  Moody, et al. (Senate Sponsor - Perry) H.B. No. 446

(In the Senate - Received from the House April 11, 2019; April 15, 2019, read first time and referred to Committee on Criminal Justice; May 9, 2019, reported favorably by the following vote: Yeas 5, Nays 0; May 9, 2019, sent to printer.)

COMMITTEE VOTE

               Yea Nay Absent  PNV

Whitmire        X

Huffman         X

Buckingham      X

Flores                    X

Hughes                    X

Miles           X

Perry           X

A BILL TO BE ENTITLED

AN ACT

relating to the criminal consequences of engaging in certain conduct with respect to certain instruments designed, made, or adapted for use in striking a person.

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

SECTION 1.  Section 46.02(a), Penal Code, is amended to read as follows:

(a)  A person commits an offense if the person:

(1)  intentionally, knowingly, or recklessly carries on or about his or her person a handgun [~~or club~~]; and

(2)  is not:

(A)  on the person's own premises or premises under the person's control; or

(B)  inside of or directly en route to a motor vehicle or watercraft that is owned by the person or under the person's control.

SECTION 2.  Sections 46.05(a) and (e), Penal Code, as amended by Chapters 155 (H.B. 1819) and 814 (H.B. 913), Acts of the 85th Legislature, Regular Session, 2017, are reenacted and amended to read as follows:

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

(1)  any of the following items, unless the item is registered in the National Firearms Registration and Transfer Record maintained by the Bureau of Alcohol, Tobacco, Firearms and Explosives or otherwise not subject to that registration requirement or unless the item is classified as a curio or relic by the United States Department of Justice:

(A)  an explosive weapon;

(B)  a machine gun; or

(C)  a short-barrel firearm;

(2)  [~~knuckles;~~

[~~(3)~~]  armor-piercing ammunition;

(3) [~~(4)~~]  a chemical dispensing device;

(4) [~~(5)~~]  a zip gun;

(5) [~~(6)~~]  a tire deflation device; [~~or~~]

(6) [~~(7)~~]  a firearm silencer, unless the firearm silencer is classified as a curio or relic by the United States Department of Justice or the actor otherwise possesses, manufactures, transports, repairs, or sells the firearm silencer in compliance with federal law; or

(7)  an improvised explosive device.

(e)  Except as otherwise provided by this subsection, an [~~An~~] offense under this section [~~Subsection (a)(1), (3), (4), (5), or (7)~~] is a felony of the third degree. An offense under Subsection (a)(5) [~~(a)(6)~~] is a state jail felony. [~~An offense under Subsection (a)(2) is a Class A misdemeanor.~~]

SECTION 3.  Sections 46.15(d) and (g), Penal Code, are amended to read as follows:

(d)  The provisions of Section 46.02 prohibiting the carrying of a firearm [~~or carrying of a club~~] do not apply to a public security officer employed by the adjutant general under Section 437.053, Government Code, in performance of official duties or while traveling to or from a place of duty.

(g)  The provisions of Section [~~Sections 46.02 and~~] 46.03 prohibiting the possession or carrying of a club do not apply to an animal control officer who holds a certificate issued under Section 829.006, Health and Safety Code, and who possesses or carries an instrument used specifically for deterring the bite of an animal while the officer is in the performance of official duties under the Health and Safety Code or is traveling to or from a place of duty.

SECTION 4.  Sections 46.01(8) and 46.15(c), Penal Code, are repealed.

SECTION 5.  The changes in law made by this Act apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 6.  To the extent of any conflict, this Act prevails over another Act of the 86th Legislature, Regular Session, 2019, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 7.  This Act takes effect September 1, 2019.

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