87R3286 JCG-D

By:  Rosenthal H.B. No. 799

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting carrying a firearm while intoxicated; creating a criminal offense.

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

SECTION 1.  Chapter 46, Penal Code, is amended by adding Section 46.025 to read as follows:

Sec. 46.025.  UNLAWFUL CARRYING OF FIREARM WHILE INTOXICATED. (a) A person commits an offense if, while intoxicated, the person carries on or about his or her person a firearm, including a handgun or long gun, in a public place.

(b)  An offense under this section is a Class C misdemeanor.

(c)  This section does not apply to:

(1)  a special investigator under Article 2.122, Code of Criminal Procedure, or a peace officer regardless of whether the special investigator or peace officer is engaged in the actual discharge of the investigator's or officer's duties while carrying the firearm; or

(2)  a person who carries a firearm that is unloaded and encased in a container.

(d)  It is not a defense to prosecution under this section that the actor carried a handgun under the authority of Subchapter H, Chapter 411, Government Code.

(e)  In this section, "intoxicated" has the meaning assigned by Section 49.01.

(f)  For purposes of this section, "public place" does not include:

(1)  the interior of a motor vehicle not used for mass transit; or

(2)  the actor's private residence, including the curtilage of that residence.

SECTION 2.  Section 411.186(a), Government Code, is amended to read as follows:

(a)  The department shall revoke a license under this section if the license holder:

(1)  was not entitled to the license at the time it was issued;

(2)  made a material misrepresentation or failed to disclose a material fact in an application submitted under this subchapter;

(3)  subsequently becomes ineligible for a license under Section 411.172, unless the sole basis for the ineligibility is that the license holder is charged with the commission of a Class A or Class B misdemeanor or equivalent offense, or of an offense under Section 42.01, Penal Code, or equivalent offense, or of a felony under an information or indictment;

(4)  is convicted of an offense under Section 46.025 or 46.035, Penal Code;

(5)  is determined by the department to have engaged in conduct constituting a reason to suspend a license listed in Section 411.187(a) after the person's license has been previously suspended twice for the same reason; or

(6)  submits an application fee that is dishonored or reversed if the applicant fails to submit a cashier's check or money order made payable to the "Department of Public Safety of the State of Texas" in the amount of the dishonored or reversed fee, plus $25, within 30 days of being notified by the department that the fee was dishonored or reversed.

SECTION 3.  Section 411.198(b), Government Code, is amended to read as follows:

(b)  It is a defense to prosecution under Section 46.025 or 46.035, Penal Code, that the actor, at the time of the commission of the offense, was the holder of an alias license issued under this section.

SECTION 4.  Section 411.206(c), Government Code, is amended to read as follows:

(c)  Any judgment of conviction entered by any court for an offense under Section 46.025 or 46.035, Penal Code, committed by a license holder must contain the handgun license number of the convicted license holder. A certified copy of the judgment is conclusive and sufficient evidence to justify revocation of a license under Section 411.186(a)(4).

SECTION 5.  Section 46.035(d), Penal Code, is repealed.

SECTION 6.  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 on the date 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 7.  This Act takes effect September 1, 2021.