

By: Murr

H.B. No. 276

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the carrying or possession of a handgun by certain  
3 retired judges and justices and certain other governmental  
4 officials.

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

6 SECTION 1. Section 46.035(h-1), Penal Code, as added by  
7 Chapter 1214 (H.B. 1889), Acts of the 80th Legislature, Regular  
8 Session, 2007, is amended to read as follows:

9 (h-1) It is a defense to prosecution under Subsections (b)  
10 and (c) that the actor, at the time of the commission of the  
11 offense, was:

12 (1) an active or retired judicial officer, as defined  
13 by Section 411.201, Government Code; ~~[or]~~

14 (2) a bailiff designated by an ~~[the]~~ active judicial  
15 officer and engaged in escorting the officer;

16 (3) a judge or justice of a federal court;

17 (4) a person who retired after serving as a judge or  
18 justice described by Section 411.201(a)(1)(A), Government Code; or

19 (5) the attorney general or a United States attorney,  
20 assistant United States attorney, assistant attorney general,  
21 district attorney, assistant district attorney, criminal district  
22 attorney, assistant criminal district attorney, county attorney,  
23 or assistant county attorney.

24 SECTION 2. Section 46.15(a), Penal Code, is amended to read

1 as follows:

2 (a) Sections 46.02 and 46.03 do not apply to:

3 (1) peace officers or special investigators under  
4 Article 2.122, Code of Criminal Procedure, and neither section  
5 prohibits a peace officer or special investigator from carrying a  
6 weapon in this state, including in an establishment in this state  
7 serving the public, regardless of whether the peace officer or  
8 special investigator is engaged in the actual discharge of the  
9 officer's or investigator's duties while carrying the weapon;

10 (2) parole officers, and neither section prohibits an  
11 officer from carrying a weapon in this state if the officer is:

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

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

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

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

23 (B) authorized to carry a weapon under Section  
24 76.0051, Government Code;

25 (4) an active or retired judicial officer as defined  
26 by Section 411.201, Government Code, who is licensed to carry a  
27 handgun under Subchapter H, Chapter 411, Government Code;

1           (5) an honorably retired peace officer or other  
2 qualified retired law enforcement officer, as defined by 18 U.S.C.  
3 Section 926C, who holds a certificate of proficiency issued under  
4 Section 1701.357, Occupations Code, and is carrying a photo  
5 identification that is issued by a federal, state, or local law  
6 enforcement agency, as applicable, and that verifies that the  
7 officer is an honorably retired peace officer or other qualified  
8 retired law enforcement officer;

9           (6) the attorney general or a United States attorney,  
10 district attorney, criminal district attorney, county attorney, or  
11 municipal attorney who is licensed to carry a handgun under  
12 Subchapter H, Chapter 411, Government Code;

13           (7) an assistant United States attorney, assistant  
14 attorney general, assistant district attorney, assistant criminal  
15 district attorney, or assistant county attorney who is licensed to  
16 carry a handgun under Subchapter H, Chapter 411, Government Code;

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

19                   (A) licensed to carry a handgun under Subchapter  
20 H, Chapter 411, Government Code; and

21                   (B) engaged in escorting the judicial officer;

22           (9) a juvenile probation officer who is authorized to  
23 carry a firearm under Section 142.006, Human Resources Code; ~~[or]~~

24           (10) a person who is volunteer emergency services  
25 personnel if the person is:

26                   (A) carrying a handgun under the authority of  
27 Subchapter H, Chapter 411, Government Code; and

1 (B) engaged in providing emergency services; or  
2 (11) a person who:  
3 (A) retired after serving as a judge or justice  
4 described by Section 411.201(a)(1)(A), Government Code; and  
5 (B) is licensed to carry a handgun under  
6 Subchapter H, Chapter 411, Government Code.

7 SECTION 3. Section 46.035(h-1), Penal Code, as added by  
8 Chapter 1222 (H.B. 2300), Acts of the 80th Legislature, Regular  
9 Session, 2007, is repealed.

10 SECTION 4. The changes in law made by this Act apply only to  
11 an offense committed on or after the effective date of this Act. An  
12 offense committed before the effective date of this Act is governed  
13 by the law in effect when the offense was committed, and the former  
14 law is continued in effect for that purpose. For purposes of this  
15 section, an offense was committed before the effective date of this  
16 Act if any element of the offense occurred before that date.

17 SECTION 5. This Act takes effect September 1, 2021.