

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.

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

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

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

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

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

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

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

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

22 (4) is convicted of an offense under Section 46.025 or
23 46.035, Penal Code;

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

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

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

9 (b) It is a defense to prosecution under Section 46.025 or
10 46.035, Penal Code, that the actor, at the time of the commission of
11 the offense, was the holder of an alias license issued under this
12 section.

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

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

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

22 SECTION 6. The changes in law made by this Act apply only to
23 an offense committed on or after the effective date of this Act. An
24 offense committed before the effective date of this Act is governed
25 by the law in effect on the date the offense was committed, and the
26 former law is continued in effect for that purpose. For purposes of
27 this section, an offense was committed before the effective date of

1 this Act if any element of the offense occurred before that date.

2 SECTION 7. This Act takes effect September 1, 2021.