

By: Eckhardt

S.B. No. 311

A BILL TO BE ENTITLED

1 AN ACT
2 relating to displaying a firearm at or near a public demonstration;
3 creating a criminal offense.

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

5 SECTION 1. Section 42.01, Penal Code, is amended by
6 amending Subsections (a), (a-1), and (d) and adding Subsection (h)
7 to read as follows:

8 (a) A person commits an offense if the person [~~he~~]
9 intentionally or knowingly:

10 (1) uses abusive, indecent, profane, or vulgar
11 language in a public place, and the language by its very utterance
12 tends to incite an immediate breach of the peace;

13 (2) makes an offensive gesture or display in a public
14 place, and the gesture or display tends to incite an immediate
15 breach of the peace;

16 (3) creates, by chemical means, a noxious and
17 unreasonable odor in a public place;

18 (4) abuses or threatens a person in a public place in
19 an obviously offensive manner;

20 (5) makes unreasonable noise in a public place other
21 than a sport shooting range, as defined by Section 250.001, Local
22 Government Code, or in or near a private residence that the person
23 [~~he~~] has no right to occupy;

24 (6) fights with another in a public place;

1 (7) discharges a firearm in a public place other than a
2 public road or a sport shooting range, as defined by Section
3 [250.001](#), Local Government Code;

4 (8) displays a firearm or other deadly weapon in a
5 public place in a manner calculated to alarm;

6 (9) discharges a firearm on or across a public road;

7 (10) exposes the person's [~~his~~] anus or genitals in a
8 public place and is reckless about whether another may be present
9 who will be offended or alarmed by the person's [~~his~~] act; [~~or~~]

10 (11) for a lewd or unlawful purpose:

11 (A) enters on the property of another and looks
12 into a dwelling on the property through any window or other opening
13 in the dwelling;

14 (B) while on the premises of a hotel or
15 comparable establishment, looks into a guest room not the person's
16 own through a window or other opening in the room; or

17 (C) while on the premises of a public place,
18 looks into an area such as a restroom or shower stall or changing or
19 dressing room that is designed to provide privacy to a person using
20 the area; or

21 (12) displays a firearm while attending or within 500
22 feet of a public demonstration.

23 (a-1) In this section:

24 (1) "Firearm" has the meaning assigned by Section
25 [46.01](#).

26 (2) "Public demonstration" means one or more persons
27 in a public place who are demonstrating, picketing, speechmaking,

1 marching, holding a vigil, or engaging in any other similar conduct
2 that involves the communication or expression of views or
3 grievances and that has the effect, intent, or propensity to
4 attract a crowd or onlookers. The term does not include a casual use
5 of property by visitors or tourists that does not have the intent or
6 propensity to attract a crowd or onlookers.

7 (3) "Public place" [~~For purposes of Subsection (a),~~
8 ~~the term "public place"~~] includes a public school campus or the
9 school grounds on which a public school is located.

10 (d) An offense under this section is a Class C misdemeanor
11 unless committed under Subsection (a)(7), (8), or (12), [~~or~~
12 ~~(a)(8)~~], in which event the offense [~~it~~] is a Class B misdemeanor.

13 (h) It is a defense to prosecution under Subsection (a)(12)
14 that the person displayed the firearm in discharging the person's
15 official duties as:

16 (1) a peace officer;

17 (2) a member of the armed forces of this state or the
18 United States; or

19 (3) a security officer who holds a personal protection
20 authorization under Chapter 1702, Occupations Code, provided that
21 the officer is wearing the uniform of a security officer, including
22 any uniform or apparel described by Section 1702.323(d) of that
23 code.

24 SECTION 2. Section 42.04, Penal Code, is amended by
25 amending Subsections (a) and (c) to read as follows:

26 (a) If conduct that would otherwise violate Section
27 42.01(a)(5) (Unreasonable Noise), 42.01(a)(12) (Display of Firearm

1 at Public Demonstration), 42.03 (Obstructing Passageway), or
2 42.055 (Funeral Service Disruptions) consists of speech or other
3 communication, of gathering with others to hear or observe such
4 speech or communication, or of gathering with others to picket or
5 otherwise express in a nonviolent manner a position on social,
6 economic, political, or religious questions, the actor must be
7 ordered to move, disperse, or otherwise remedy the violation prior
8 to his arrest if he has not yet intentionally harmed the interests
9 of others which those sections seek to protect.

10 (c) It is a defense to prosecution under Section 42.01(a)(5)
11 or (12), 42.03, or 42.055:

12 (1) that in circumstances in which this section
13 requires an order no order was given;

14 (2) that an order, if given, was manifestly
15 unreasonable in scope; or

16 (3) that an order, if given, was promptly obeyed.

17 SECTION 3. The change in law made by this Act applies only
18 to an offense committed on or after the effective date of this Act.
19 An offense committed before the effective date of this Act is
20 governed by the law in effect when the offense was committed, and
21 the former law is continued in effect for that purpose. For
22 purposes of this section, an offense was committed before the
23 effective date of this Act if any element of the offense occurred
24 before that date.

25 SECTION 4. This Act takes effect September 1, 2021.