

PENAL CODE

TITLE 10. OFFENSES AGAINST PUBLIC HEALTH, SAFETY, AND MORALS

CHAPTER 46. WEAPONS

Sec. 46.01. DEFINITIONS. In this chapter:

(1) "Club" means an instrument that is specially designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with the instrument, and includes but is not limited to the following:

- (A) blackjack;
- (B) nightstick;
- (C) mace;
- (D) tomahawk.

(2) "Explosive weapon" means any explosive or incendiary bomb, grenade, rocket, or mine, that is designed, made, or adapted for the purpose of inflicting serious bodily injury, death, or substantial property damage, or for the principal purpose of causing such a loud report as to cause undue public alarm or terror, and includes a device designed, made, or adapted for delivery or shooting an explosive weapon.

(3) "Firearm" means any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use. Firearm does not include a firearm that may have, as an integral part, a folding knife blade or other characteristics of weapons made illegal by this chapter and that is:

(A) an antique or curio firearm manufactured before 1899; or

(B) a replica of an antique or curio firearm manufactured before 1899, but only if the replica does not use rim fire or center fire ammunition.

(4) "Firearm silencer" means any device designed, made, or adapted to muffle the report of a firearm.

(5) "Handgun" means any firearm that is designed, made, or adapted to be fired with one hand.

(6) "Location-restricted knife" means a knife with a

blade over five and one-half inches.

(7) "Knife" means any bladed hand instrument that is capable of inflicting serious bodily injury or death by cutting or stabbing a person with the instrument.

(8) "Knuckles" means any instrument that consists of finger rings or guards made of a hard substance and that is designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with a fist enclosed in the knuckles.

(9) "Machine gun" means any firearm that is capable of shooting more than two shots automatically, without manual reloading, by a single function of the trigger.

(10) "Short-barrel firearm" means a rifle with a barrel length of less than 16 inches or a shotgun with a barrel length of less than 18 inches, or any weapon made from a shotgun or rifle if, as altered, it has an overall length of less than 26 inches.

(11) Repealed by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 15.002, eff. September 1, 2017.

(12) "Armor-piercing ammunition" means handgun ammunition that is designed primarily for the purpose of penetrating metal or body armor and to be used principally in pistols and revolvers.

(13) "Hoax bomb" means a device that:

(A) reasonably appears to be an explosive or incendiary device; or

(B) by its design causes alarm or reaction of any type by an official of a public safety agency or a volunteer agency organized to deal with emergencies.

(14) "Chemical dispensing device" means a device, other than a small chemical dispenser sold commercially for personal protection, that is designed, made, or adapted for the purpose of dispensing a substance capable of causing an adverse psychological or physiological effect on a human being.

Text of subdivision effective until April 01, 2019

(15) "Racetrack" has the meaning assigned that term by the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes).

Text of subdivision effective on April 01, 2019

(15) "Racetrack" has the meaning assigned that term by Section 2021.003(41), Occupations Code.

(16) "Zip gun" means a device or combination of devices that was not originally a firearm and is adapted to expel a projectile through a smooth-bore or rifled-bore barrel by using the energy generated by an explosion or burning substance.

(17) "Tire deflation device" means a device, including a caltrop or spike strip, that, when driven over, impedes or stops the movement of a wheeled vehicle by puncturing one or more of the vehicle's tires. The term does not include a traffic control device that:

(A) is designed to puncture one or more of a vehicle's tires when driven over in a specific direction; and

(B) has a clearly visible sign posted in close proximity to the traffic control device that prohibits entry or warns motor vehicle operators of the traffic control device.

Text of subdivision as added by Acts 2017, 85th Leg., R.S., Ch. 814
(H.B. 913), Sec. 1

(18) "Improvised explosive device" means a completed and operational bomb designed to cause serious bodily injury, death, or substantial property damage that is fabricated in an improvised manner using nonmilitary components. The term does not include:

(A) unassembled components that can be legally purchased and possessed without a license, permit, or other governmental approval; or

(B) an exploding target that is used for firearms practice, sold in kit form, and contains the components of a binary explosive.

Text of subdivision as added by Acts 2017, 85th Leg., R.S., Ch. 1143
(H.B. 435), Sec. 10

(18) "Volunteer emergency services personnel"

includes a volunteer firefighter, an emergency medical services volunteer as defined by Section [773.003](#), Health and Safety Code, and any individual who, as a volunteer, provides services for the benefit of the general public during emergency situations. The term does not include a peace officer or reserve law enforcement officer, as those terms are defined by Section [1701.001](#), Occupations Code, who is performing law enforcement duties.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1975, 64th Leg., p. 917, ch. 342, Sec. 13, eff. Sept. 1, 1975; Acts 1983, 68th Leg., p. 2650, ch. 457, Sec. 1, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 4830, ch. 852, Sec. 1, eff. Sept. 1, 1983; Acts 1987, 70th Leg., ch. 167, Sec. 5.01(a)(46), eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 749, Sec. 1, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 229, Sec. 1, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 1999, 76th Leg., ch. 1445, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. [3167](#)), Sec. 12A.001, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1199 (H.B. [4456](#)), Sec. 1, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 920 (S.B. [1416](#)), Sec. 1, eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. [1488](#)), Sec. 15.002, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 814 (H.B. [913](#)), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 963 (S.B. [1969](#)), Sec. 2.07, eff. April 1, 2019.

Acts 2017, 85th Leg., R.S., Ch. 1049 (H.B. [1935](#)), Sec. 3, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1143 (H.B. [435](#)), Sec. 10, eff. September 1, 2017.

Sec. 46.02. UNLAWFUL CARRYING WEAPONS. (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.

(a-1) A person commits an offense if the person intentionally, knowingly, or recklessly carries on or about his or her person a handgun in a motor vehicle or watercraft that is owned by the person or under the person's control at any time in which:

(1) the handgun is in plain view, unless the person is licensed to carry a handgun under Subchapter H, Chapter 411, Government Code, and the handgun is carried in a shoulder or belt holster; or

(2) the person is:

(A) engaged in criminal activity, other than a Class C misdemeanor that is a violation of a law or ordinance regulating traffic or boating;

(B) prohibited by law from possessing a firearm; or

(C) a member of a criminal street gang, as defined by Section 71.01.

(a-2) For purposes of this section, "premises" includes real property and a recreational vehicle that is being used as living quarters, regardless of whether that use is temporary or permanent. In this subsection, "recreational vehicle" means a motor vehicle primarily designed as temporary living quarters or a vehicle that contains temporary living quarters and is designed to be towed by a motor vehicle. The term includes a travel trailer, camping trailer, truck camper, motor home, and horse trailer with living quarters.

(a-3) For purposes of this section, "watercraft" means any boat, motorboat, vessel, or personal watercraft, other than a seaplane on water, used or capable of being used for transportation on water.

(a-4) A person commits an offense if the person:

(1) intentionally, knowingly, or recklessly carries on or about his or her person a location-restricted knife;

(2) is younger than 18 years of age at the time of the offense; and

(3) is not:

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

(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; or

(C) under the direct supervision of a parent or legal guardian of the person.

(b) Except as provided by Subsection (c) or (d), an offense under this section is a Class A misdemeanor.

(c) An offense under this section is a felony of the third degree if the offense is committed on any premises licensed or issued a permit by this state for the sale of alcoholic beverages.

(d) An offense under Subsection (a-4) is a Class C misdemeanor.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1975, 64th Leg., p. 109, ch. 49, Sec. 1, eff. April 15, 1975; Acts 1975, 64th Leg., p. 918, ch. 342, Sec. 14, eff. Sept. 1, 1975; Acts 1975, 64th Leg., p. 1330, ch. 494, Sec. 2, eff. June 19, 1975; Acts 1977, 65th Leg., p. 1879, ch. 746, Sec. 26, eff. Aug. 29, 1977; Acts 1981, 67th Leg., p. 2273, ch. 552, Sec. 1, eff. Aug. 31, 1981; Acts 1983, 68th Leg., p. 5113, ch. 931, Sec. 1, eff. Aug. 29, 1983; Acts 1987, 70th Leg., ch. 262, Sec. 21, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 873, Sec. 25, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 168, Sec. 1, eff. Sept. 1, 1991. Redesignated from Penal Code Sec. 46.02, 46.03 and amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994. Amended by Acts 1995, 74th Leg., ch. 229, Sec. 2, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 318, Sec. 16, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 754, Sec. 15, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 790, Sec. 16, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 998, Sec. 3, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 10.02, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1221,

Sec. 1, eff. June 20, 1997; Acts 1997, 75th Leg., ch. 1261, Sec. 24, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 693 (H.B. 1815), Sec. 1, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 679 (H.B. 25), Sec. 1, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 437 (H.B. 910), Sec. 45, eff. January 1, 2016.

Acts 2017, 85th Leg., R.S., Ch. 1049 (H.B. 1935), Sec. 4, eff. September 1, 2017.

Sec. 46.03. PLACES WEAPONS PROHIBITED. (a) A person commits an offense if the person intentionally, knowingly, or recklessly possesses or goes with a firearm, location-restricted knife, club, or prohibited weapon listed in Section 46.05(a):

(1) on the physical premises of a school or educational institution, any grounds or building on which an activity sponsored by a school or educational institution is being conducted, or a passenger transportation vehicle of a school or educational institution, whether the school or educational institution is public or private, unless:

(A) pursuant to written regulations or written authorization of the institution; or

(B) the person possesses or goes with a concealed handgun that the person is licensed to carry under Subchapter H, Chapter 411, Government Code, and no other weapon to which this section applies, on the premises of an institution of higher education or private or independent institution of higher education, on any grounds or building on which an activity sponsored by the institution is being conducted, or in a passenger transportation vehicle of the institution;

(2) on the premises of a polling place on the day of an election or while early voting is in progress;

(3) on the premises of any government court or offices utilized by the court, unless pursuant to written regulations or written authorization of the court;

(4) on the premises of a racetrack;

(5) in or into a secured area of an airport; or

(6) within 1,000 feet of premises the location of which is designated by the Texas Department of Criminal Justice as a place of execution under Article 43.19, Code of Criminal Procedure, on a day that a sentence of death is set to be imposed on the designated premises and the person received notice that:

(A) going within 1,000 feet of the premises with a weapon listed under this subsection was prohibited; or

(B) possessing a weapon listed under this subsection within 1,000 feet of the premises was prohibited.

(a-1) A person commits an offense if the person intentionally, knowingly, or recklessly possesses or goes with a location-restricted knife:

(1) on the premises of a business that has a permit or license issued under Chapter 25, 28, 32, 69, or 74, Alcoholic Beverage Code, if the business derives 51 percent or more of its income from the sale or service of alcoholic beverages for on-premises consumption, as determined by the Texas Alcoholic Beverage Commission under Section 104.06, Alcoholic Beverage Code;

(2) on the premises where a high school, collegiate, or professional sporting event or interscholastic event is taking place, unless the person is a participant in the event and a location-restricted knife is used in the event;

(3) on the premises of a correctional facility;

(4) on the premises of a hospital licensed under Chapter 241, Health and Safety Code, or on the premises of a nursing facility licensed under Chapter 242, Health and Safety Code, unless the person has written authorization of the hospital or nursing facility administration, as appropriate;

(5) on the premises of a mental hospital, as defined by Section 571.003, Health and Safety Code, unless the person has written authorization of the mental hospital administration;

(6) in an amusement park; or

(7) on the premises of a church, synagogue, or other established place of religious worship.

(b) It is a defense to prosecution under Subsections

(a)(1)-(4) that the actor possessed a firearm while in the actual discharge of his official duties as a member of the armed forces or national guard or a guard employed by a penal institution, or an officer of the court.

(c) In this section:

(1) "Institution of higher education" and "private or independent institution of higher education" have the meanings assigned by Section 61.003, Education Code.

(2) "Amusement park" and "premises" have the meanings assigned by Section 46.035.

(3) "Secured area" means an area of an airport terminal building to which access is controlled by the inspection of persons and property under federal law.

(d) It is a defense to prosecution under Subsection (a)(5) that the actor possessed a firearm or club while traveling to or from the actor's place of assignment or in the actual discharge of duties as:

(1) a member of the armed forces or national guard;

(2) a guard employed by a penal institution; or

(3) a security officer commissioned by the Texas Private Security Board if:

(A) the actor is wearing a distinctive uniform;
and

(B) the firearm or club is in plain view; or

(4) a security officer who holds a personal protection authorization under Chapter 1702, Occupations Code, provided that the officer is either:

(A) wearing the uniform of a security officer, including any uniform or apparel described by Section 1702.323(d), Occupations Code, and carrying the officer's firearm in plain view;
or

(B) not wearing the uniform of a security officer and carrying the officer's firearm in a concealed manner.

(e) It is a defense to prosecution under Subsection (a)(5) that the actor checked all firearms as baggage in accordance with federal or state law or regulations before entering a secured area.

(e-1) It is a defense to prosecution under Subsection (a)(5)

that the actor:

(1) possessed, at the screening checkpoint for the secured area, a concealed handgun that the actor was licensed to carry under Subchapter H, Chapter 411, Government Code; and

(2) exited the screening checkpoint for the secured area immediately upon completion of the required screening processes and notification that the actor possessed the handgun.

(e-2) A peace officer investigating conduct that may constitute an offense under Subsection (a)(5) and that consists only of an actor's possession of a concealed handgun that the actor is licensed to carry under Subchapter H, Chapter 411, Government Code, may not arrest the actor for the offense unless:

(1) the officer advises the actor of the defense available under Subsection (e-1) and gives the actor an opportunity to exit the screening checkpoint for the secured area; and

(2) the actor does not immediately exit the checkpoint upon completion of the required screening processes.

(f) Except as provided by Subsection (e-1), it is not a defense to prosecution under this section that the actor possessed a handgun and was licensed to carry a handgun under Subchapter H, Chapter 411, Government Code.

(g) Except as provided by Subsection (g-1), an offense under this section is a felony of the third degree.

(g-1) If the weapon that is the subject of the offense is a location-restricted knife, an offense under this section is a Class C misdemeanor, except that the offense is a felony of the third degree if the offense is committed under Subsection (a)(1).

(h) It is a defense to prosecution under Subsection (a)(4) that the actor possessed a firearm or club while traveling to or from the actor's place of assignment or in the actual discharge of duties as a security officer commissioned by the Texas Board of Private Investigators and Private Security Agencies, if:

(1) the actor is wearing a distinctive uniform; and

(2) the firearm or club is in plain view.

(i) It is an exception to the application of Subsection (a)(6) that the actor possessed a firearm or club:

(1) while in a vehicle being driven on a public road;

or

(2) at the actor's residence or place of employment.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1983, 68th Leg., p. 2962, ch. 508, Sec. 1, eff. Aug. 29, 1983; Acts 1989, 71st Leg., ch. 749, Sec. 2, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 203, Sec. 2.79; Acts 1991, 72nd Leg., ch. 386, Sec. 71, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 433, Sec. 1, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 554, Sec. 50, eff. Sept. 1, 1991. Renumbered from Penal Code Sec. 46.04 and amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994. Amended by Acts 1995, 74th Leg., ch. 229, Sec. 3, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 260, Sec. 42, eff. May 30, 1995; Acts 1995, 74th Leg., ch. 318, Sec. 17, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 790, Sec. 17, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 10.03, 31.01(70), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1043, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1221, Sec. 2, 3, eff. June 20, 1997; Acts 1997, 75th Leg., ch. 1261, Sec. 25, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1060, Sec. 1, 2 eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1178, Sec. 3, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. [2730](#)), Sec. 4B.21, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 437 (H.B. [910](#)), Sec. 46, eff. January 1, 2016.

Acts 2015, 84th Leg., R.S., Ch. 438 (S.B. [11](#)), Sec. 3, eff. August 1, 2016.

Acts 2015, 84th Leg., R.S., Ch. 1001 (H.B. [554](#)), Sec. 1, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. [1488](#)), Sec. 15.003, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1049 (H.B. [1935](#)), Sec. 5, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1049 (H.B. [1935](#)), Sec. 6, eff. September 1, 2017.

Sec. 46.035. UNLAWFUL CARRYING OF HANDGUN BY LICENSE

HOLDER. (a) A license holder commits an offense if the license holder carries a handgun on or about the license holder's person under the authority of Subchapter H, Chapter 411, Government Code, and intentionally displays the handgun in plain view of another person in a public place. It is an exception to the application of this subsection that the handgun was partially or wholly visible but was carried in a shoulder or belt holster by the license holder.

Text of subsection as added by Acts 2015, 84th Leg., R.S., Ch. 437
(H.B. 910), Sec. 47

(a-1) Notwithstanding Subsection (a), a license holder commits an offense if the license holder carries a partially or wholly visible handgun, regardless of whether the handgun is holstered, on or about the license holder's person under the authority of Subchapter H, Chapter 411, Government Code, and intentionally displays the handgun in plain view of another person:

(1) on the premises of an institution of higher education or private or independent institution of higher education; or

(2) on any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area of an institution of higher education or private or independent institution of higher education.

Text of subsection as added by Acts 2015, 84th Leg., R.S., Ch. 438
(S.B. 11), Sec. 4

(a-1) Notwithstanding Subsection (a), a license holder commits an offense if the license holder carries a partially or wholly visible handgun, regardless of whether the handgun is holstered, on or about the license holder's person under the authority of Subchapter H, Chapter 411, Government Code, and intentionally or knowingly displays the handgun in plain view of another person:

(1) on the premises of an institution of higher education or private or independent institution of higher

education; or

(2) on any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area of an institution of higher education or private or independent institution of higher education.

(a-2) Notwithstanding Subsection (a) or Section 46.03(a), a license holder commits an offense if the license holder carries a handgun on the campus of a private or independent institution of higher education in this state that has established rules, regulations, or other provisions prohibiting license holders from carrying handguns pursuant to Section 411.2031(e), Government Code, or on the grounds or building on which an activity sponsored by such an institution is being conducted, or in a passenger transportation vehicle of such an institution, regardless of whether the handgun is concealed, provided the institution gives effective notice under Section 30.06.

(a-3) Notwithstanding Subsection (a) or Section 46.03(a), a license holder commits an offense if the license holder intentionally carries a concealed handgun on a portion of a premises located on the campus of an institution of higher education in this state on which the carrying of a concealed handgun is prohibited by rules, regulations, or other provisions established under Section 411.2031(d-1), Government Code, provided the institution gives effective notice under Section 30.06 with respect to that portion.

(b) A license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun under the authority of Subchapter H, Chapter 411, Government Code, regardless of whether the handgun is concealed or carried in a shoulder or belt holster, on or about the license holder's person:

(1) on the premises of a business that has a permit or license issued under Chapter 25, 28, 32, 69, or 74, Alcoholic Beverage Code, if the business derives 51 percent or more of its income from the sale or service of alcoholic beverages for on-premises consumption, as determined by the Texas Alcoholic Beverage Commission under Section 104.06, Alcoholic Beverage Code;

(2) on the premises where a high school, collegiate,

or professional sporting event or interscholastic event is taking place, unless the license holder is a participant in the event and a handgun is used in the event;

(3) on the premises of a correctional facility;

(4) on the premises of a hospital licensed under Chapter 241, Health and Safety Code, or on the premises of a nursing facility licensed under Chapter 242, Health and Safety Code, unless the license holder has written authorization of the hospital or nursing facility administration, as appropriate;

(5) in an amusement park;

(6) on the premises of a church, synagogue, or other established place of religious worship; or

(7) on the premises of a civil commitment facility.

(c) A license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun under the authority of Subchapter H, Chapter 411, Government Code, regardless of whether the handgun is concealed or carried in a shoulder or belt holster, in the room or rooms where a meeting of a governmental entity is held and if the meeting is an open meeting subject to Chapter 551, Government Code, and the entity provided notice as required by that chapter.

(d) A license holder commits an offense if, while intoxicated, the license holder carries a handgun under the authority of Subchapter H, Chapter 411, Government Code, regardless of whether the handgun is concealed or carried in a shoulder or belt holster.

(e) A license holder who is licensed as a security officer under Chapter 1702, Occupations Code, and employed as a security officer commits an offense if, while in the course and scope of the security officer's employment, the security officer violates a provision of Subchapter H, Chapter 411, Government Code.

(f) In this section:

(1) "Amusement park" means a permanent indoor or outdoor facility or park where amusement rides are available for use by the public that is located in a county with a population of more than one million, encompasses at least 75 acres in surface area, is enclosed with access only through controlled entries, is

open for operation more than 120 days in each calendar year, and has security guards on the premises at all times. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area.

(1-a) "Institution of higher education" and "private or independent institution of higher education" have the meanings assigned by Section [61.003](#), Education Code.

(2) "License holder" means a person licensed to carry a handgun under Subchapter H, Chapter [411](#), Government Code.

(3) "Premises" means a building or a portion of a building. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area.

(g) An offense under this section is a Class A misdemeanor, unless the offense is committed under Subsection (b)(1) or (b)(3), in which event the offense is a felony of the third degree.

(h) It is a defense to prosecution under Subsection (a), (a-1), (a-2), or (a-3) that the actor, at the time of the commission of the offense, displayed the handgun under circumstances in which the actor would have been justified in the use of force or deadly force under Chapter [9](#).

Text of subsection as added by Acts 2007, 80th Leg., R.S., Ch. 1214

(H.B. [1889](#)), Sec. 2

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

(1) an active judicial officer, as defined by Section [411.201](#), Government Code; or

(2) a bailiff designated by the active judicial officer and engaged in escorting the officer.

Text of subsection as added by Acts 2007, 80th Leg., R.S., Ch. 1222

(H.B. [2300](#)), Sec. 5, and amended by Acts 2017, 85th Leg., R.S., Ch.

1143 (H.B. [435](#)), Sec. 11

(h-1) It is a defense to prosecution under Subsections (b)(1), (2), (4), (5), and (6) and (c) that at the time of the commission of the offense, the actor was:

(1) a judge or justice of a federal court;

(2) an active judicial officer, as defined by Section [411.201](#), Government Code; or

(3) the attorney general or a United States attorney, assistant United States attorney, assistant attorney general, district attorney, assistant district attorney, criminal district attorney, assistant criminal district attorney, county attorney, or assistant county attorney.

(i) Subsections (b)(4), (b)(5), (b)(6), and (c) do not apply if the actor was not given effective notice under Section [30.06](#) or [30.07](#).

(j) Subsections (a), (a-1), (a-2), (a-3), and (b)(1) do not apply to a historical reenactment performed in compliance with the rules of the Texas Alcoholic Beverage Commission.

(k) It is a defense to prosecution under Subsection (b)(1) that the actor was not given effective notice under Section [411.204](#), Government Code.

(l) Subsection (b)(2) does not apply on the premises where a collegiate sporting event is taking place if the actor was not given effective notice under Section [30.06](#).

(m) It is a defense to prosecution under Subsections (b) and (c) that the actor is volunteer emergency services personnel engaged in providing emergency services.

Added by Acts 1995, 74th Leg., ch. 229, Sec. 4, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 165, Sec. 10.04, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1261, Sec. 26, 27, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1420, Sec. 14.833, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 976 (H.B. [1813](#)), Sec. 3, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1214 (H.B. [1889](#)), Sec. 2, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1222 (H.B. [2300](#)), Sec. 5, eff.

June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 687 (H.B. 2664), Sec. 1, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 72 (S.B. 299), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 437 (H.B. 910), Sec. 47, eff. January 1, 2016.

Acts 2015, 84th Leg., R.S., Ch. 437 (H.B. 910), Sec. 48, eff. January 1, 2016.

Acts 2015, 84th Leg., R.S., Ch. 438 (S.B. 11), Sec. 4, eff. August 1, 2016.

Acts 2015, 84th Leg., R.S., Ch. 438 (S.B. 11), Sec. 5, eff. August 1, 2016.

Acts 2015, 84th Leg., R.S., Ch. 593 (S.B. 273), Sec. 2, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 34 (S.B. 1576), Sec. 32, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 15.004, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 15.005, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1143 (H.B. 435), Sec. 11, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1143 (H.B. 435), Sec. 12, eff. September 1, 2017.

Sec. 46.04. UNLAWFUL POSSESSION OF FIREARM. (a) A person who has been convicted of a felony commits an offense if he possesses a firearm:

(1) after conviction and before the fifth anniversary of the person's release from confinement following conviction of the felony or the person's release from supervision under community supervision, parole, or mandatory supervision, whichever date is later; or

(2) after the period described by Subdivision (1), at any location other than the premises at which the person lives.

(b) A person who has been convicted of an offense under

Section 22.01, punishable as a Class A misdemeanor and involving a member of the person's family or household, commits an offense if the person possesses a firearm before the fifth anniversary of the later of:

(1) the date of the person's release from confinement following conviction of the misdemeanor; or

(2) the date of the person's release from community supervision following conviction of the misdemeanor.

(c) A person, other than a peace officer, as defined by Section 1.07, actively engaged in employment as a sworn, full-time paid employee of a state agency or political subdivision, who is subject to an order issued under Section 6.504 or Chapter 85, Family Code, under Article 17.292 or Chapter 7A, Code of Criminal Procedure, or by another jurisdiction as provided by Chapter 88, Family Code, commits an offense if the person possesses a firearm after receiving notice of the order and before expiration of the order.

(d) In this section, "family," "household," and "member of a household" have the meanings assigned by Chapter 71, Family Code.

(e) An offense under Subsection (a) is a felony of the third degree. An offense under Subsection (b) or (c) is a Class A misdemeanor.

(f) For the purposes of this section, an offense under the laws of this state, another state, or the United States is, except as provided by Subsection (g), a felony if, at the time it is committed, the offense:

(1) is designated by a law of this state as a felony;

(2) contains all the elements of an offense designated by a law of this state as a felony; or

(3) is punishable by confinement for one year or more in a penitentiary.

(g) An offense is not considered a felony for purposes of Subsection (f) if, at the time the person possesses a firearm, the offense:

(1) is not designated by a law of this state as a felony; and

(2) does not contain all the elements of any offense

designated by a law of this state as a felony.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974.
Renumbered from Penal Code Sec. 46.05 and amended by Acts 1993, 73rd
Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994. Amended by Acts 2001,
77th Leg., ch. 23, Sec. 2, eff. Sept. 1, 2001; Acts 2003, 78th Leg.,
ch. 836, Sec. 4, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 11.24,
eff. September 1, 2009.

Sec. 46.041. UNLAWFUL POSSESSION OF METAL OR BODY ARMOR BY
FELON. (a) In this section, "metal or body armor" means any body
covering manifestly designed, made, or adapted for the purpose of
protecting a person against gunfire.

(b) A person who has been convicted of a felony commits an
offense if after the conviction the person possesses metal or body
armor.

(c) An offense under this section is a felony of the third
degree.

Added by Acts 2001, 77th Leg., ch. 452, Sec. 1, eff. Sept. 1, 2001.

Sec. 46.05. PROHIBITED WEAPONS.

Text of subsection as amended by Acts 2017, 85th Leg., R.S., Ch. 155
(H.B. 1819), Sec. 1

(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;
- (4) a chemical dispensing device;
- (5) a zip gun;
- (6) a tire deflation device; or
- (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.

Text of subsection as amended by Acts 2017, 85th Leg., R.S., Ch. 814
(H.B. 913), Sec. 2

(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 classified as a curio or relic by the United States Department of Justice:

- (A) an explosive weapon;
 - (B) a machine gun;
 - (C) a short-barrel firearm; or
 - (D) a firearm silencer;
- (2) knuckles;
 - (3) armor-piercing ammunition;
 - (4) a chemical dispensing device;
 - (5) a zip gun;
 - (6) a tire deflation device; or
 - (7) an improvised explosive device.

(b) It is a defense to prosecution under this section that the actor's conduct was incidental to the performance of official duty by the armed forces or national guard, a governmental law enforcement agency, or a correctional facility.

(c) Repealed by Acts 2015, 84th Leg., R.S., Ch. 69 , Sec. 2, eff. September 1, 2015.

(d) It is an affirmative defense to prosecution under this section that the actor's conduct:

(1) was incidental to dealing with a short-barrel firearm or tire deflation device solely as an antique or curio;

(2) was incidental to dealing with armor-piercing ammunition solely for the purpose of making the ammunition available to an organization, agency, or institution listed in Subsection (b); or

(3) was incidental to dealing with a tire deflation device solely for the purpose of making the device available to an organization, agency, or institution listed in Subsection (b).

Text of subsection as amended by Acts 2017, 85th Leg., R.S., Ch. 155
(H.B. [1819](#)), Sec. 1

(e) An offense under Subsection (a)(1), (3), (4), (5), or (7) is a felony of the third degree. An offense under Subsection (a)(6) is a state jail felony. An offense under Subsection (a)(2) is a Class A misdemeanor.

Text of subsection as amended by Acts 2017, 85th Leg., R.S., Ch. 814
(H.B. [913](#)), Sec. 2

(e) An offense under Subsection (a)(1), (3), (4), (5), or (7) is a felony of the third degree. An offense under Subsection (a)(6) is a state jail felony. An offense under Subsection (a)(2) is a Class A misdemeanor.

(f) It is a defense to prosecution under this section for the possession of a chemical dispensing device that the actor is a security officer and has received training on the use of the chemical dispensing device by a training program that is:

(1) provided by the Texas Commission on Law Enforcement; or

(2) approved for the purposes described by this subsection by the Texas Private Security Board of the Department of

Public Safety.

(g) In Subsection (f), "security officer" means a commissioned security officer as defined by Section [1702.002](#), Occupations Code, or a noncommissioned security officer registered under Section [1702.221](#), Occupations Code.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1975, 64th Leg., p. 918, ch. 342, Sec. 15, eff. Sept. 1, 1975; Acts 1983, 68th Leg., p. 2650, ch. 457, Sec. 2, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 4831, ch. 852, Sec. 2, eff. Sept. 1, 1983; Acts 1987, 70th Leg., ch. 167, Sec. 5.01(a)(47), eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 229, Sec. 2, eff. Sept. 1, 1991; Renumbered from Penal Code Sec. 46.06 and amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 2003, 78th Leg., ch. 1071, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1035 (H.B. [1132](#)), Sec. 2.01, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1278 (H.B. [2303](#)), Sec. 7, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 920 (S.B. [1416](#)), Sec. 2, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. [686](#)), Sec. 2.60, eff. May 18, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 960 (H.B. [1862](#)), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 69 (S.B. [473](#)), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 69 (S.B. [473](#)), Sec. 2, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 155 (H.B. [1819](#)), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 814 (H.B. [913](#)), Sec. 2, eff. September 1, 2017.

Sec. 46.06. UNLAWFUL TRANSFER OF CERTAIN WEAPONS. (a) A person commits an offense if the person:

(1) sells, rents, leases, loans, or gives a handgun to

any person knowing that the person to whom the handgun is to be delivered intends to use it unlawfully or in the commission of an unlawful act;

(2) intentionally or knowingly sells, rents, leases, or gives or offers to sell, rent, lease, or give to any child younger than 18 years of age any firearm, club, or location-restricted knife;

(3) intentionally, knowingly, or recklessly sells a firearm or ammunition for a firearm to any person who is intoxicated;

(4) knowingly sells a firearm or ammunition for a firearm to any person who has been convicted of a felony before the fifth anniversary of the later of the following dates:

(A) the person's release from confinement following conviction of the felony; or

(B) the person's release from supervision under community supervision, parole, or mandatory supervision following conviction of the felony;

(5) sells, rents, leases, loans, or gives a handgun to any person knowing that an active protective order is directed to the person to whom the handgun is to be delivered; or

(6) knowingly purchases, rents, leases, or receives as a loan or gift from another a handgun while an active protective order is directed to the actor.

(b) In this section:

(1) "Intoxicated" means substantial impairment of mental or physical capacity resulting from introduction of any substance into the body.

(2) "Active protective order" means a protective order issued under Title 4, Family Code, that is in effect. The term does not include a temporary protective order issued before the court holds a hearing on the matter.

(c) It is an affirmative defense to prosecution under Subsection (a)(2) that the transfer was to a minor whose parent or the person having legal custody of the minor had given written permission for the sale or, if the transfer was other than a sale, the parent or person having legal custody had given effective

consent.

(d) An offense under this section is a Class A misdemeanor, except that an offense under Subsection (a)(2) is a state jail felony if the weapon that is the subject of the offense is a handgun.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1985, 69th Leg., ch. 686, Sec. 1, eff. Sept. 1, 1985. Renumbered from Penal Code Sec. 46.07 and amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994. Amended by Acts 1995, 74th Leg., ch. 324, Sec. 1, eff. Jan. 1, 1996; Acts 1997, 75th Leg., ch. 1193, Sec. 22, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1304, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 15.02(f), eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1049 (H.B. [1935](#)), Sec. 7, eff. September 1, 2017.

Sec. 46.07. INTERSTATE PURCHASE. A resident of this state may, if not otherwise precluded by law, purchase firearms, ammunition, reloading components, or firearm accessories in another state. This authorization is enacted in conformance with 18 U.S.C. Section 922(b)(3)(A).

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Renumbered from Penal Code Sec. 46.08 by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 280 (S.B. [1188](#)), Sec. 1, eff. May 30, 2009.

Sec. 46.08. HOAX BOMBS. (a) A person commits an offense if the person knowingly manufactures, sells, purchases, transports, or possesses a hoax bomb with intent to use the hoax bomb to:

(1) make another believe that the hoax bomb is an explosive or incendiary device; or

(2) cause alarm or reaction of any type by an official of a public safety agency or volunteer agency organized to deal with emergencies.

(b) An offense under this section is a Class A misdemeanor. Added by Acts 1983, 68th Leg., p. 4831, ch. 852, Sec. 3, eff. Sept. 1, 1983. Renumbered from Penal Code Sec. 46.09 by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Sec. 46.09. COMPONENTS OF EXPLOSIVES. (a) A person commits an offense if the person knowingly possesses components of an explosive weapon with the intent to combine the components into an explosive weapon for use in a criminal endeavor.

(b) An offense under this section is a felony of the third degree.

Added by Acts 1983, 68th Leg., p. 4832, ch. 852, Sec. 4, eff. Sept. 1, 1983. Renumbered from Penal Code Sec. 46.10 by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Sec. 46.10. DEADLY WEAPON IN PENAL INSTITUTION. (a) A person commits an offense if, while confined in a penal institution, he intentionally, knowingly, or recklessly:

(1) carries on or about his person a deadly weapon; or

(2) possesses or conceals a deadly weapon in the penal institution.

(b) It is an affirmative defense to prosecution under this section that at the time of the offense the actor was engaged in conduct authorized by an employee of the penal institution.

(c) A person who is subject to prosecution under both this section and another section under this chapter may be prosecuted under either section.

(d) An offense under this section is a felony of the third degree.

Added by Acts 1985, 69th Leg., ch. 46, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 714, Sec. 1, eff. Sept. 1, 1987. Renumbered from Penal Code Sec. 46.11 by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Sec. 46.11. PENALTY IF OFFENSE COMMITTED WITHIN WEAPON-FREE SCHOOL ZONE. (a) Except as provided by Subsection (b), the punishment prescribed for an offense under this chapter is

increased to the punishment prescribed for the next highest category of offense if it is shown beyond a reasonable doubt on the trial of the offense that the actor committed the offense in a place that the actor knew was:

(1) within 300 feet of the premises of a school; or

(2) on premises where:

(A) an official school function is taking place;

or

(B) an event sponsored or sanctioned by the University Interscholastic League is taking place.

(b) This section does not apply to an offense under Section [46.03\(a\)\(1\)](#).

(c) In this section:

(1) "Premises" has the meaning assigned by Section [481.134](#), Health and Safety Code.

(2) "School" means a private or public elementary or secondary school.

Added by Acts 1995, 74th Leg., ch. 320, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1063, Sec. 10, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. [1303](#)), Sec. 20.002, eff. September 1, 2011.

Sec. 46.12. MAPS AS EVIDENCE OF LOCATION OR AREA. (a) In a prosecution of an offense for which punishment is increased under Section [46.11](#), a map produced or reproduced by a municipal or county engineer for the purpose of showing the location and boundaries of weapon-free zones is admissible in evidence and is prima facie evidence of the location or boundaries of those areas if the governing body of the municipality or county adopts a resolution or ordinance approving the map as an official finding and record of the location or boundaries of those areas.

(b) A municipal or county engineer may, on request of the governing body of the municipality or county, revise a map that has been approved by the governing body of the municipality or county as provided by Subsection (a).

(c) A municipal or county engineer shall file the original or a copy of every approved or revised map approved as provided by Subsection (a) with the county clerk of each county in which the area is located.

(d) This section does not prevent the prosecution from:

(1) introducing or relying on any other evidence or testimony to establish any element of an offense for which punishment is increased under Section 46.11; or

(2) using or introducing any other map or diagram otherwise admissible under the Texas Rules of Evidence.

Added by Acts 1995, 74th Leg., ch. 320, Sec. 2, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 16.004, eff. September 1, 2005.

Sec. 46.13. MAKING A FIREARM ACCESSIBLE TO A CHILD. (a) In this section:

(1) "Child" means a person younger than 17 years of age.

(2) "Readily dischargeable firearm" means a firearm that is loaded with ammunition, whether or not a round is in the chamber.

(3) "Secure" means to take steps that a reasonable person would take to prevent the access to a readily dischargeable firearm by a child, including but not limited to placing a firearm in a locked container or temporarily rendering the firearm inoperable by a trigger lock or other means.

(b) A person commits an offense if a child gains access to a readily dischargeable firearm and the person with criminal negligence:

(1) failed to secure the firearm; or

(2) left the firearm in a place to which the person knew or should have known the child would gain access.

(c) It is an affirmative defense to prosecution under this section that the child's access to the firearm:

(1) was supervised by a person older than 18 years of age and was for hunting, sporting, or other lawful purposes;

(2) consisted of lawful defense by the child of people or property;

(3) was gained by entering property in violation of this code; or

(4) occurred during a time when the actor was engaged in an agricultural enterprise.

(d) Except as provided by Subsection (e), an offense under this section is a Class C misdemeanor.

(e) An offense under this section is a Class A misdemeanor if the child discharges the firearm and causes death or serious bodily injury to himself or another person.

(f) A peace officer or other person may not arrest the actor before the seventh day after the date on which the offense is committed if:

(1) the actor is a member of the family, as defined by Section 71.003, Family Code, of the child who discharged the firearm; and

(2) the child in discharging the firearm caused the death of or serious injury to the child.

(g) A dealer of firearms shall post in a conspicuous position on the premises where the dealer conducts business a sign that contains the following warning in block letters not less than one inch in height:

"IT IS UNLAWFUL TO STORE, TRANSPORT, OR ABANDON AN UNSECURED FIREARM IN A PLACE WHERE CHILDREN ARE LIKELY TO BE AND CAN OBTAIN ACCESS TO THE FIREARM."

Added by Acts 1995, 74th Leg., ch. 83, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1999, 76th Leg., ch. 62, Sec. 15.02(g), eff. Sept. 1, 1999.

Sec. 46.14. FIREARM SMUGGLING. (a) A person commits an offense if the person knowingly engages in the business of transporting or transferring a firearm that the person knows was acquired in violation of the laws of any state or of the United States. For purposes of this subsection, a person is considered to engage in the business of transporting or transferring a firearm if the person engages in that conduct:

- (1) on more than one occasion; or
- (2) for profit or any other form of remuneration.

(b) An offense under this section is a felony of the third degree, unless it is shown on the trial of the offense that the offense was committed with respect to three or more firearms in a single criminal episode, in which event the offense is a felony of the second degree.

(c) This section does not apply to a peace officer who is engaged in the actual discharge of an official duty.

(d) If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section, the other law, or both.

Added by Acts 2009, 81st Leg., R.S., Ch. 153 (S.B. 2225), Sec. 1, eff. September 1, 2009.

Sec. 46.15. NONAPPLICABILITY.

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

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

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

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

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

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

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

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

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

(5) an honorably retired peace officer, qualified retired law enforcement officer, federal criminal investigator, or former reserve law enforcement officer who holds a certificate of proficiency issued under Section 1701.357, Occupations Code, and is carrying a photo identification that is issued by a federal, state, or local law enforcement agency, as applicable, and that verifies that the officer is:

(A) an honorably retired peace officer;

(B) a qualified retired law enforcement officer;

(C) a federal criminal investigator; or

(D) a former reserve law enforcement officer who has served in that capacity not less than a total of 15 years with one or more state or local law enforcement agencies;

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

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

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

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

(B) engaged in escorting the judicial officer;

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

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

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

(B) engaged in providing emergency services.

(b) Section 46.02 does not apply to a person who:

(1) is in the actual discharge of official duties as a member of the armed forces or state military forces as defined by Section 437.001, Government Code, or as a guard employed by a penal institution;

(2) is traveling;

(3) is engaging in lawful hunting, fishing, or other sporting activity on the immediate premises where the activity is conducted, or is en route between the premises and the actor's residence, motor vehicle, or watercraft, if the weapon is a type commonly used in the activity;

(4) holds a security officer commission issued by the Texas Private Security Board, if the person is engaged in the performance of the person's duties as an officer commissioned under Chapter 1702, Occupations Code, or is traveling to or from the person's place of assignment and is wearing the officer's uniform and carrying the officer's weapon in plain view;

(5) acts as a personal protection officer and carries the person's security officer commission and personal protection officer authorization, if the person:

(A) is engaged in the performance of the person's duties as a personal protection officer under Chapter 1702, Occupations Code, or is traveling to or from the person's place of assignment; and

(B) is either:

(i) wearing the uniform of a security officer, including any uniform or apparel described by Section 1702.323(d), Occupations Code, and carrying the officer's weapon in plain view; or

(ii) not wearing the uniform of a security officer and carrying the officer's weapon in a concealed manner;

(6) is carrying:

(A) a license issued under Subchapter H, Chapter 411, Government Code, to carry a handgun; and

(B) a handgun:

(i) in a concealed manner; or

(ii) in a shoulder or belt holster;

(7) holds an alcoholic beverage permit or license or is an employee of a holder of an alcoholic beverage permit or license if the person is supervising the operation of the permitted or licensed premises; or

(8) is a student in a law enforcement class engaging in an activity required as part of the class, if the weapon is a type commonly used in the activity and the person is:

(A) on the immediate premises where the activity is conducted; or

(B) en route between those premises and the person's residence and is carrying the weapon unloaded.

(c) The provision of Section 46.02 prohibiting the carrying of a club does not apply to a noncommissioned security guard at an institution of higher education who carries a nightstick or similar club, and who has undergone 15 hours of training in the proper use of the club, including at least seven hours of training in the use of the club for nonviolent restraint. For the purposes of this subsection, "nonviolent restraint" means the use of reasonable force, not intended and not likely to inflict bodily injury.

(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.

(e) Section 46.02(a-4) does not apply to an individual carrying a location-restricted knife used in a historical demonstration or in a ceremony in which the knife is significant to the performance of the ceremony.

(f) Section 46.03(a)(6) does not apply to a person who possesses a firearm or club while in the actual discharge of official duties as:

(1) a member of the armed forces or state military forces, as defined by Section 437.001, Government Code; or

(2) an employee of a penal institution.

(g) The provisions of 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.

(h) Repealed by Acts 2007, 80th Leg., R.S., Ch. 693, Sec. 3(1), eff. September 1, 2007.

(i) Repealed by Acts 2007, 80th Leg., R.S., Ch. 693, Sec. 3(2), eff. September 1, 2007.

(j) The provisions of Section [46.02](#) prohibiting the carrying of a handgun do not apply to an individual who carries a handgun as a participant in a historical reenactment performed in accordance with the rules of the Texas Alcoholic Beverage Commission.

Added by Acts 1995, 74th Leg., ch. 318, Sec. 18, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 1221, Sec. 4, eff. June 20, 1997; Acts 1997, 75th Leg., ch. 1261, Sec. 28, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 9.25, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1445, Sec. 2, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1060, Sec. 3, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 325, Sec. 2, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 421, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 795, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 288 (H.B. [823](#)), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 728 (H.B. [2018](#)), Sec. 23.001(78), eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 976 (H.B. [1813](#)), Sec. 4, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1093 (H.B. [2110](#)), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1093 (H.B. [2110](#)), Sec. 4, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1179 (S.B. [578](#)), Sec. 2, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1179 (S.B. [578](#)), Sec. 3, eff.

September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 647 (H.B. [964](#)), Sec. 1, eff.

September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 693 (H.B. [1815](#)), Sec. 2, eff.

September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 693 (H.B. [1815](#)), Sec. 3(1),
eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 693 (H.B. [1815](#)), Sec. 3(2),
eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. [3167](#)), Sec.
17.001(62), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1048 (H.B. [2101](#)), Sec. 3, eff.
September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1214 (H.B. [1889](#)), Sec. 1, eff.
June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1222 (H.B. [2300](#)), Sec. 6, eff.
June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. [1969](#)), Sec. 19.004,
eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 299 (H.B. [405](#)), Sec. 1, eff.
June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 794 (S.B. [1237](#)), Sec. 4, eff.
June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. [2730](#)), Sec. 4B.22,
eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 679 (H.B. [25](#)), Sec. 2, eff.
September 1, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 3 (H.B. [79](#)), Sec. 13.02,
eff. September 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1080 (H.B. [3370](#)), Sec. 4, eff.
September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. [1536](#)), Sec. 3.20,
eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1302 (H.B. [3142](#)), Sec. 13,
eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 437 (H.B. [910](#)), Sec. 49, eff.
January 1, 2016.

Acts 2017, 85th Leg., R.S., Ch. 1049 (H.B. [1935](#)), Sec. 8, eff.
September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1143 (H.B. [435](#)), Sec. 13, eff.
September 1, 2017.