

**SUBJECT:** Allowing licensed security officer to use chemical dispensing device

**COMMITTEE:** Law Enforcement — favorable, without amendment

**VOTE:** 7 ayes — Driver, Garza, Hupp, Burnam, Y. Davis, Hegar, Keel  
0 nays

**WITNESSES:** For — T.L. “Tom” Johnson and Kyle L. Parks, ASSIST  
Against — None

**BACKGROUND:** Penal Code, sec. 46.05 makes it a third-degree felony (punishable by two to 10 years in prison and an optional fine of up to \$10,000) intentionally or knowingly to possess, manufacture, transport, repair, or sell a prohibited weapon, including a chemical dispensing device. It is a defense to prosecution that the actor’s conduct was incidental to performance of an official duty by the armed forces or national guard, a governmental enforcement agency, or a correctional facility. Sec. 46.02 establishes a Class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000) for carrying a handgun, illegal knife, or club, with certain exceptions, including a person with a concealed handgun license and a commissioned security officer who is on duty or traveling to or from work.

Occupations Code, ch. 1702 governs licensing of investigations companies and security services contractors.

**DIGEST:** HB 1661 would provide a defense to prosecution for possession of a chemical dispensing device if the actor was a security officer commissioned by the Texas Commission on Private Security. That security officer would have to have been trained in use of the chemical dispensing device through a program offered by the Commission on Law Enforcement Officer Standards and Education or approved by the Texas Commission on Private Security.

The bill also would specify that the prohibition against carrying a handgun, knife, or club does not apply to a person who holds a security officer commission issued by the Texas Commission on Private Security and who is

providing personal protection under Occupations Code, ch. 1702. It would remove current language requiring that the security officer be on duty or traveling to or from work to be exempt from sec. 46.02 prohibitions.

The bill would take effect September 1, 2003.

**SUPPORTERS  
SAY:**

HB 1661 would prevent private security officers from using pepper spray, mace, or other chemical dispensing devices without proper training. The public can be endangered if these chemicals are sprayed by someone unfamiliar with their proper use. In February 2003, 21 people died in a stampede at a Chicago nightclub triggered when a security guard allegedly sprayed pepper spray into a crowd, presumably to break up a fight. Texas should ensure that security officers have proper training in use of chemical sprays to prevent a repeat of the tragedy in Chicago.

Security officers often work alone or in remote areas without backup or support and can be vulnerable to attack by one or more people. These officers should have access to weapons more effective than a billy club but less lethal than a handgun to protect themselves.

The bill would increase efforts to professionalize the private security industry and to provide additional training to security officers. Courses on use of chemical dispensing devices would have to meet the standards of either the Commission on Law Enforcement Officer Standards and Education or the Texas Commission on Private Security. These training programs would be comparable to those offered to law enforcement officers.

**OPPONENTS  
SAY:**

Allowing the use of chemical sprays could encourage security officers to use them in situations where less confrontational techniques should be used. Additional training would not necessarily prevent errors of judgment such as those displayed by the security guard who precipitated the fatal stampede at the Chicago nightclub.

Chemical dispensing devices are hazardous even in the hands of trained law enforcement officers. Many people have been injured severely or even killed

by the use of such chemicals. Security officers might not receive the same level of training as do law enforcement officers.