

BILL ANALYSIS

Senate Research Center

H.B. 823
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Criminal Justice
5/6/2005
Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Under Section 46.15 (Nonapplicability), Penal Code, Section 46.02 (Unlawful Carrying Weapons), Penal Code does not apply to a person who is "traveling." The word "traveling" has been given various appellate interpretations, but it has never been defined in statute.

H.B. 823 amends Section 46.15, Penal Code, to clarify that a person is presumed to be "traveling" if the person is in a private motor vehicle, is not otherwise engaged in criminal activity, is not prohibited by law from possessing a firearm, and is not a member of a criminal street gang.

This bill further amends Section 2.05, Penal Code, to provide proper evidentiary instruction of the presumption.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 46.15, Penal Code, by adding Subsection (i) to provide that for purposes of Subsection (b)(3), a person is presumed to be traveling if the person is engaged in certain activities.

SECTION 2. Amends Section 2.05, Penal Code, as follows:

- (a) Makes a conforming change.
- (b) Provides that when this code or another penal law establishes a presumption in favor of the defendant with respect to any fact, it has certain consequences.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2005.