

BILL ANALYSIS

Senate Research Center

H.B. 446
By: Moody et al. (Perry)
Criminal Justice
5/6/2019
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties report that knuckles have a rich history, but their association with urban youth gang warfare resulted in Texas outlawing knuckles and placing them on the list of prohibited weapons in state statutes. Critics argue that many devices commercially sold and marketed for self-defense fall under the definition of knuckles, and that knuckles represent no danger to the general public.

H.B. 446 seeks to address this issue by removing knuckles from the prohibited weapons list and removing clubs from the list that makes them unlawful to carry.

H.B. 446 amends current law relating to the criminal consequences of engaging in certain conduct with respect to certain instruments designed, made, or adapted for use in striking a person.

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 46.02(a), Penal Code, as follows:

(a) Provides that a person commits an offense if the person:

- (1) intentionally, knowingly, or recklessly carries on or about his or her person a handgun, rather than a handgun or club; and
- (2) makes no changes to this subdivision.

SECTION 2. Amends and reenacts Sections 46.05(a) and (e), Penal Code, by Chapters 155 (H.B. 1819) and 814 (H.B. 913), Acts of the 85th Legislature, Regular Session, 2017, as follows:

(a) Provides that a person commits an offense if the person intentionally or knowingly possesses, manufactures, transports, repairs, or sells:

- (1) makes no changes to this subdivision;
- (2) deletes existing text from this subdivision relating to knuckles;
- (3)–(6) redesignates Subdivisions (4)–(8) as Subdivisions (3)–(6) and makes nonsubstantive changes; or
- (7) makes no changes to this subdivision.

(c) Makes a nonsubstantive change. Provides that, except as otherwise provided by this subsection, an offense under this section (Weapons) is a felony of the third degree, rather than providing that an offense under Subsection (a)(1), (3), (4), (5), or (7) is a felony of

the third degree. Provides that an offense under Subsection (a)(5), rather than under Subsection (a)(6), is a state jail felony. Deletes existing text providing that an offense under Subsection (a)(2) is a Class A misdemeanor.

SECTION 3. Amends Sections 46.15(d) and (g), Penal Code, as follows:

(d) Provides that the provisions of Section 46.02 (Unlawful Carrying Weapons) prohibiting the carrying of a firearm, rather than the carrying of a firearm or the carrying of a club, do not apply to a public security officer employed by the adjutant general under Section 437.053 (Adjutant General; Duties), Government Code, in performance of official duties or while traveling to or from a place of duty.

(g) Provides that the provisions of Section 46.03 (Places Weapons Prohibited), rather than 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 (Issuance of Certification), 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.

SECTION 4. Repealer: Section 46.01(8) (relating to the definition of "knuckles"), Penal Code.

Repealer: Section 46.15(c) (relating to the definition of "nonviolent restraint"), Penal Code.

SECTION 5. Makes application of this Act prospective. Provides that, for purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 6. Provides that, to the extent of any conflict, this Act prevails over another Act of the 86th Legislature, Regular Session, 2019, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 7. Effective date: September 1, 2019.