

## § 46.05. Prohibited Weapons

(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) armor-piercing ammunition;

(3) a chemical dispensing device;

(4) a zip gun;

(5) a tire deflation device; or

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(c) Repealed by Acts 2015, 84th Leg., R.S., Ch. 69, Sec. 2, eff.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

(e) Except as otherwise provided by this subsection, an offense under this section is a felony of the third degree. An offense under Subsection (a)(5) is a state jail felony.

(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.

### History:

Amended by Acts 2021, Texas Acts of the 87th Leg. - Regular Session, ch. 642, Sec. 2, eff. 9/1/2021. Amended by Acts 2019, Texas Acts of the 86th Leg.- Regular Session, ch. 216, Sec. 2, eff. 9/1/2019. Amended by Acts 2019, Texas Acts of the 86th Leg.- Regular Session, ch. 467, Sec. 13.001, eff. 9/1/2019. Amended by Acts 2017, Texas Acts of the 85th Leg. - Regular Session, ch. 814, Sec. 2, eff. 9/1/2017. Amended by Acts 2017, Texas Acts of the 85th Leg. - Regular Session, ch. 155, Sec. 1, eff. 9/1/2017. Amended by Acts 2015, Texas Acts of the 84th Leg. - Regular Session, ch. 69, Sec. 2, eff. 9/1/2015. Amended by Acts 2015, Texas Acts of the 84th Leg. - Regular Session, ch. 69, Sec. 1, eff. 9/1/2015. Amended by Acts 2013,

83rd Leg. - Regular Session, ch. 960, Sec. 1, eff. 9/1/2013. Amended by Acts 2013, 83rd Leg. - Regular Session, ch. 93, Sec. 2.60, eff. 5/18/2013. Amended By Acts 2011, 82nd Leg., R.S., Ch. 920, Sec. 2, eff. 9/1/2011. Amended By Acts 2005, 79th Leg., Ch. 1035, Sec. 2.01, eff. 9/1/2005. Amended By Acts 2005, 79th Leg., Ch. 1278, Sec. 7, eff. 9/1/2005. Amended By Acts 2003, 78th Leg., ch. 1071, Sec. 1, eff. 9/1/2003. 1991, 72nd Leg., ch. 229, Sec. 2, eff. 9/1/1991; Renumbered from Penal Code Sec. 46.06 and amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. 9/1/1994 Amended By Acts 1987, 70th Leg., ch. 167, Sec. 5.01(a)(47), eff. 9/1/1987 Amended By Acts 1983, 68th Leg., p. 2650, ch. 457, Sec. 2, eff. 9/1/1983 Amended By Acts 1983, 68th Leg., p. 4831, ch. 852, Sec. 2, eff. 9/1/1983 Amended by Acts 1975, 64th Leg., p. 918, ch. 342, Sec. 15, eff. 9/1/1975 Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. 1/1/1974.

**Note:**

Acts 2021, Texas Acts of the 87th Leg. - Regular Session, ch. 642, Sec. 5 provides: An offense under Section 46.05(a)(6), Penal Code, as it existed immediately before the effective date of this Act, may not be prosecuted after the effective date of this Act. If on the effective date of this Act a criminal action is pending for an offense described by that subdivision, the action is dismissed on that date. However, a final conviction for an offense described by that subdivision that exists on the effective date of this Act is unaffected by this Act.