

**CHAPTER 857**

**S.B. No. 145**

**AN ACT**

relating to the reckless discharge of a firearm; creating offenses and providing penalties.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Chapter 42, Penal Code, is amended by adding Section 42.015 to read as follows:

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Sec. 42.015. *DISCHARGE OF FIREARM IN CERTAIN METROPOLITAN AREAS.*  
 (a) *A person commits an offense if the person recklessly discharges a firearm inside the corporate limits of a municipality having a population of 100,000 or more according to the most recent federal census.*

(b) *An offense under this section is a Class A misdemeanor.*

(c) *If conduct constituting an offense under this section also constitutes an offense under another section of this code, the person may be prosecuted under either section.*

SECTION 2. Sections 125.001, 125.021, and 125.041, Civil Practice and Remedies Code, are amended to read as follows:

Sec. 125.001. COMMON NUISANCE. A person who knowingly maintains a place to which persons habitually go for the purpose of prostitution or gambling in violation of the Penal Code, *for the purpose of reckless discharge of a firearm as described by Section 42.015, Penal Code, or for the delivery or use of a controlled substance in violation of Chapter 481, Health and Safety Code, maintains a common nuisance.*

Sec. 125.021. PUBLIC NUISANCE. The habitual use or the threatened or contemplated habitual use of any place for any of the following purposes is a public nuisance:

- (1) gambling, gambling promotion, or communicating gambling information prohibited by law;
- (2) promotion or aggravated promotion of prostitution;
- (3) compelling prostitution;
- (4) commercial manufacture, commercial distribution, or commercial exhibition of obscene material;
- (5) commercial exhibition of live dances or other acts depicting real or simulated sexual intercourse or deviate sexual intercourse;
- (6) engaging in a voluntary fight between a man and a bull if the fight is for a thing of value or a championship, if a thing of value is wagered on the fight, or if an admission fee for the fight is directly or indirectly charged, as prohibited by law; [œ]
- (7) *reckless discharge of a firearm as described by Section 42.015, Penal Code; or*
- (8) delivering or using a controlled substance in violation of Chapter 481, Health and Safety Code.

Sec. 125.041. PUBLIC NUISANCE. For the purposes of this subchapter, a public nuisance is considered to exist at a place if one or more of the following acts occurs at that place on a regular basis:

- (1) gambling, gambling promotion, or communication of gambling information, as prohibited by Chapter 47, Penal Code;
- (2) promotion or aggravated promotion of prostitution, as prohibited by Chapter 43, Penal Code;
- (3) compelling prostitution, as prohibited by Chapter 43, Penal Code;
- (4) commercial manufacture, commercial distribution, or commercial exhibition of material that is obscene, as defined by Section 43.21, Penal Code;
- (5) commercial exhibition of a live dance or other act in which a person engages in real or simulated sexual intercourse or deviate sexual intercourse, as defined by Section 43.01, Penal Code; [œ]
- (6) *reckless discharge of a firearm as described by Section 42.015, Penal Code; or*
- (7) manufacture, delivery, or use of a controlled substance in violation of Chapter 481, Health and Safety Code.

SECTION 3. Subsections (a) and (b), Section 125.004, Civil Practice and Remedies Code, are amended to read as follows:

(a) Proof that prostitution or gambling in violation of the Penal Code, *that reckless discharge of a firearm as described by Section 42.015, Penal Code, or that the delivery or use of a controlled substance in violation of Chapter 481, Health and Safety Code, is frequently committed at the place involved or that the place is frequently used for reckless discharge of a*

*firearm as described by Section 42.015, Penal Code*, is prima facie evidence that the proprietor knowingly permitted the act.

(b) Evidence that persons have been convicted of gambling, committing prostitution, *reckless discharge of a firearm as described by Section 42.015, Penal Code*, or delivering or using a controlled substance *in violation of Chapter 481, Health and Safety Code*, in the place involved is admissible to show knowledge on the part of the defendant that the act occurred. The originals or certified copies of the papers and judgments of those convictions are admissible in the suit for injunction, and oral evidence is admissible to show that the offense for which a person was convicted was committed at the place involved.

SECTION 4. (a) This Act takes effect September 1, 1993.

(b) Section 2 of this Act applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrues before the effective date of this Act is governed by the law in effect at the time the cause of action accrued, and that law is continued in effect for that purpose.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on March 22, 1993, by a viva-voce vote; the Senate concurred in House amendments on May 25, 1993, by a viva-voce vote; passed the House, with amendments, on May 22, 1993, by a non-record vote.

Approved June 18, 1993.

Effective Sept. 1, 1993.