

By: Hegar

S.B. No. 534

Substitute the following for S.B. No. 534:

By: Driver

C.S.S.B. No. 534

A BILL TO BE ENTITLED

AN ACT

relating to certain rights and liabilities of an employer regarding an employee's access to a concealed handgun.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 52, Labor Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. RESTRICTIONS ON PENALIZING EMPLOYEE FOR ACCESS TO OR STORAGE OF CONCEALED HANDGUN

Sec. 52.061. PENALIZING EMPLOYEE FOR ACCESS TO OR STORAGE OF CONCEALED HANDGUN. (a) A public or private employer may not discharge, discipline, or penalize in any manner an employee because the employee:

(1) applied for a license to carry a concealed handgun under Subchapter H, Chapter 411, Government Code;

(2) holds a license under that subchapter; or

(3) transports or stores a handgun the employee is licensed to carry under that subchapter in a locked motor vehicle, owned or leased by the employee, in a parking lot, parking garage, or other parking area the employer provides for employees if the handgun is hidden from plain view in the vehicle's glove compartment or console or within a locked gun case or other locked container within the vehicle and the employee has filed with the employee's immediate supervisor:

(A) a written statement signed by the employee

1 stating that the employee:

2 (i) is licensed to carry a concealed  
3 handgun under Subchapter H, Chapter 411, Government Code;

4 (ii) intends to store a concealed handgun  
5 in the employee's locked motor vehicle while parked in a parking  
6 lot, parking garage, or other parking area the employer provides  
7 for employees; and

8 (iii) may not remove the handgun from the  
9 employee's vehicle for any purpose other than self-defense in the  
10 immediate parking area; and

11 (B) a copy of the employee's license to carry a  
12 concealed handgun issued to the employee by the Department of  
13 Public Safety under Subchapter H, Chapter 411, Government Code.

14 (b) Subsection (a)(3) does not apply to an employer of an  
15 employee who transports or stores a handgun in a motor vehicle that  
16 the employee is actively using in the course and scope of the  
17 employee's employment. For purposes of this subsection, the course  
18 and scope of the employee's employment does not include travel  
19 between the employee's home and the employee's place of employment.

20 (c) An employee discharged in violation of this section is  
21 entitled to reinstatement to the same position in which the  
22 employee was employed immediately before the employee was  
23 discharged.

24 (d) An employee who is discharged, disciplined, or  
25 otherwise penalized in violation of this section may bring a civil  
26 action against the employer to enforce rights protected by this  
27 subchapter. An employee who prevails in such an action is entitled

1 to recover:

2 (1) lost wages and any other compensation lost as a  
3 result of the employee being discharged, disciplined, or penalized;

4 (2) reinstatement to the same position or status the  
5 employee held immediately before the employee was discharged,  
6 disciplined, or penalized; and

7 (3) reasonable attorney's fees.

8 (e) It is a defense to an action by an employee alleging that  
9 the employee was discharged, disciplined, or penalized in violation  
10 of Subsection (a)(3) that:

11 (1) the employer provided the employee an alternative  
12 location on the employer's property for the employee to securely  
13 store the employee's handgun while on the employer's property; and

14 (2) the employee did not store the employee's handgun  
15 in that alternate location.

16 (f) This section does not prohibit an employer from  
17 discharging, disciplining, or penalizing an employee who stores a  
18 handgun in the employee's motor vehicle in a parking area of the  
19 employer without having satisfied the requirements of Subsection  
20 (a)(3).

21 (g) This section does not prohibit an employer from  
22 prohibiting an employee licensed to carry a concealed handgun under  
23 Subchapter H, Chapter 411, Government Code, from carrying a firearm  
24 on the premises of the employer's business. In this subsection,  
25 "premises" has the meaning assigned by Section 46.035(f)(3), Penal  
26 Code.

27 (h) This section does not authorize a person licensed under

1 Subchapter H, Chapter 411, Government Code, to carry a concealed  
2 handgun on any property where the carrying of a concealed handgun is  
3 prohibited by state or federal law.

4 (i) This section does not apply to:

5 (1) a school district;

6 (2) an open-enrollment charter school, as defined by  
7 Section 5.001, Education Code; or

8 (3) a private school, as defined by Section 22.081,  
9 Education Code.

10 (j) This section does not apply to property owned or leased  
11 by an employer who is required to submit a risk management plan  
12 under Section 112(r) of the federal Clean Air Act, as amended (42  
13 U.S.C. Section 7412), and on which the primary business conducted  
14 is the manufacture, use, storage, or transportation of hazardous,  
15 combustible, or explosive materials regulated under state or  
16 federal law.

17 (k) Notwithstanding Subsection (a)(3), an employer may  
18 prohibit an employee described by that subsection from transporting  
19 or storing a handgun in the employee's locked motor vehicle in a  
20 parking area the employer provides employees if:

21 (1) the parking area is completely surrounded by a  
22 fence and is not open to the public;

23 (2) ingress to and egress from the parking area are  
24 constantly monitored by security personnel; and

25 (3) the employer provides for the employee an  
26 alternate parking area immediately adjacent to or adjoining the  
27 main parking lot, parking garage, or other parking area the

1 employer provides for employees, in which the employee may  
2 transport or store a handgun in the employee's locked motor vehicle  
3 in accordance with Subsection (a)(3).

4 SECTION 2. Section 411.203, Government Code, is amended to  
5 read as follows:

6 Sec. 411.203. RIGHTS OF EMPLOYERS; LIMITATION ON LIABILITY.

7 (a) This subchapter does not prevent or otherwise limit the right  
8 of a public or private employer to prohibit persons who are licensed  
9 under this subchapter from carrying a concealed handgun on the  
10 premises of the business. In this subsection, "premises" has the  
11 meaning assigned by Section 46.035(f)(3), Penal Code.

12 (b) A public or private employer is not liable in a civil  
13 action for personal injury, death, property damage, or any other  
14 damages resulting from the use of a concealed handgun authorized to  
15 be transported or stored under Section 52.061, Labor Code, in a  
16 parking area of the employer, including an action for damages  
17 arising from the theft of the handgun or the use of the handgun by a  
18 person other than the person licensed to carry the handgun under  
19 this subchapter. The presence of a concealed handgun in a location  
20 described by Section 52.061(a)(3), Labor Code, does not by itself  
21 constitute a failure by the employer to provide a safe workplace.

22 SECTION 3. The change in law made by this Act applies only  
23 to a cause of action that accrues on or after the effective date of  
24 this Act. A cause of action that accrues before that date is  
25 governed by the law as it existed immediately before the effective  
26 date of this Act, and that law is continued in effect for that  
27 purpose.

1 SECTION 4. This Act takes effect September 1, 2007.