

BILL ANALYSIS

S.B. 1164
By: Wentworth
Public Safety
Committee Report (Unamended)

BACKGROUND AND PURPOSE

To receive a license to carry a concealed handgun in Texas, a person must be a legal resident of Texas, at least 21 years of age (or honorably discharged or active duty military, regardless of age), fully qualified under applicable federal and state law to purchase a handgun, and of sound mind, and may not be a convicted felon, a fugitive from justice for a Class A or B misdemeanor or felony, chemically dependent, delinquent in state or local taxes, delinquent in child support payments collected by the attorney general, in default on a student loan, or restricted under protective order or subject to a restraining order affecting the spousal relationship.

Under current law, concealed handguns are prohibited on Texas college and university campuses. In an effort to aid students, faculty, and visitors on college campuses in protecting themselves not only from mass shootings like those that occurred on Virginia Tech University and Northern Illinois University campuses, but from other life-threatening situations that may occur on campus, this bill would allow persons who are licensed to carry a concealed weapon to do so on a college campus.

S.B. 1164 relates to the carrying of concealed handguns on the campuses of institutions of higher education

RULEMAKING AUTHORITY

Rulemaking authority to an institution of higher education is expressly prohibited in SECTION 1 (Section 411.2031, Government Code) of this bill.

Rulemaking authority is expressly granted to an institution of higher education in SECTION 1 (Section 411.2031, Government Code) of this bill.

Rulemaking authority is expressly granted to a private or independent institution of higher education in SECTION 1 (Section 411.2031, Government Code) of this bill.

ANALYSIS

SECTION 1. Amends Subchapter H, Chapter 11, Government Code, by adding Section 411.2031, as follows:

Sec. 411.2031. CARRYING OF HANDGUNS BY LICENSE HOLDERS ON CERTAIN CAMPUSES. (a) Defines "institution of higher education" and "private or independent institution of higher education."

(b) Authorizes a license holder to carry a concealed handgun on or about the license holder's person while the license holder is on the campus of an institution of higher education or private or independent institution of higher education in this state.

(c) Prohibits an institution of higher education or private or independent institution of higher education in this state, except as provided by Subsection (e), from adopting any rule, regulation, or other provision prohibiting license holders from carrying handguns on the campus of the institution.

(d) Authorizes an institution of higher education or private or independent institution of higher education in the state to establish rules, regulations, or other provisions concerning the storage of handguns in dormitories or other residential buildings that are owned or operated by the institution and located on the campus of the institution.

(e) Authorizes a private or independent institution of higher education in this state to, after consulting with students, staff, and faculty of the institution, establish rules, regulations, or other provisions prohibiting license holders from carrying handguns on premises that are owned or operated by the institution and located on the campus of the institution. Defines "premises."

(f) Provides that there is no exception to the application of or a defense to prosecution under Section 46.03(a) (2), 46.035 (b) (1), or 46.035(c), Penal Code.

(g) Prohibits a license holder from carrying a concealed handgun on or about the premises of a hospital maintained or operated by an institution of higher education.

SECTION 2. Amends Section 411.208, Government Code, by amending Subsections (a), (b), and (d) and adding Subsection (e), as follows:

(a) Prohibits a court from holding the state, an agency or subdivision of the state, an officer or employee of the state, an institution of higher education or a private or independent institution of higher education, an officer or employee of an institution of higher education or a private or independent institution of higher education, a peace officer, or a qualified handgun instructor liable for damages caused by certain actions.

(b) Prohibits a cause of action in damages from being brought against the state, an agency or subdivision of the state, an officer or employee of the state, an institution of higher education or a private or independent institution of higher education, an officer or employee of an institution of higher education or a private or independent institution of higher education, a peace officer, or a qualified handgun instructor for any damage caused by the actions of an applicant or license holder under this subchapter.

(d) Provides that the immunities granted under Subsections (a), (b), and (c) do not apply to an act or a failure to act by the state, an agency or subdivision of the state, an officer of the state, an institution of higher education or a private or independent institution of higher education, an officer or employee of an institution of higher education or a private or independent institution of higher education, or a peace officer if the act or failure to act was capricious or arbitrary.

(e) Defines for the purposes of this section "institution of higher education" and "private or independent institution of higher education."

SECTION 3. Amends Sections 46.03(a) and (c), Penal Code, as follows:

(a) Provides that a person commits an offense if the person intentionally, knowingly, or recklessly possesses or goes with a firearm, illegal knife, club, or prohibited weapon listed in Section 46.05(a) (relating to a person committing an offense by intentionally or knowingly possessing, manufacturing, transporting, repairing, or selling certain prohibited weapons) on the physical premises of a school or educational institution, any grounds or building on which an activity sponsored by a school or educational institution is being conducted, or a passenger transportation vehicle of a school or educational institution, whether the school or educational institution is public or private, unless the person possesses or goes on the physical premises of an institution of higher education or private or independent institution of higher education, or on any grounds or building on which an activity sponsored by the institution is being conducted, with a concealed handgun that the person is licensed to carry under Subchapter H (License to Carry a Concealed Handgun), Chapter 411 (Department of Public Safety of the State of Texas), Government Code; or certain other places. Makes nonsubstantive changes.

(c) Defines "institution of higher education" and "private or independent institution of higher education." Makes nonsubstantive changes. Provides that Subsection (a) (1) (B) does not permit a person to possess a concealed handgun, or go with a concealed handgun, on the premises of a hospital maintained or operated by an institution of higher education.

SECTION 4. Amends Section 46.035, Penal Code, by adding Subsection (k), as follows:

(k) Provides that Subsection (b)(2) does not apply on the premises where a collegiate sporting event is taking place if the actor was not given effective notice under Section 30.06 (Trespass by Holder of License to Carry Concealed Handgun).

SECTION 5. Amends Section 46.11(c)(1), Penal Code, to redefine "premises."

SECTION 6. Makes application of Section 411.208, Government Code, as amended by this Act, prospective to September 1, 2010.

SECTION 7. Makes application of Sections 46.03(a) and (c), Penal Code, as amended by this Act, and Section 46.035(k), Penal Code, as added by this Act, prospective to September 1, 2010.

SECTION 8. Effective date: September 1, 2009.

EFFECTIVE DATE

September 1, 2009.