

BILL ANALYSIS

C.S.H.B. 681
By: Kleinschmidt
Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, a person who is lawfully authorized to possess firearms or ammunition may transport them in the person's motor vehicle. Some people do so to protect themselves in a lawful and responsible manner. Others routinely transport firearms or ammunition in their vehicles in anticipation of future hunting trips or visits to the local shooting range or gun club. Many companies in Texas have adopted a no firearms policy that extends beyond the actual workplace to employee parking lots, areas that often are not secured. Such a policy sometimes emanates from a company headquartered outside of Texas or even outside the United States and does not take into account Texas law relating to the transport and storage of firearms or the state's strong sporting culture. To comply with such a policy, an employee must choose between protecting him- or herself when commuting to and from work and being subject to termination by his or her employer.

C.S.H.B. 681 seeks to prohibit an employer from prohibiting an employee who lawfully possesses a firearm or ammunition from transporting or storing the firearm or ammunition in a locked, privately owned motor vehicle in a parking area the employer provides for employees, with certain exceptions.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 681 amends the Labor Code to prohibit a public or private employer from prohibiting an employee who holds a concealed handgun license issued by the Department of Public Safety and who otherwise lawfully possesses a firearm or ammunition from transporting or storing a firearm or ammunition the employee is lawfully authorized to possess in a locked, privately owned motor vehicle in a parking lot, parking garage, or other parking area the employer provides for employees. The bill provides that the prohibition does not authorize a person who holds a concealed handgun license and who otherwise lawfully possesses a firearm or ammunition to possess a firearm or ammunition on any property where such possession is prohibited by state or federal law. The bill makes the prohibition inapplicable to a vehicle owned or leased by a public or private employer and used by an employee in the course and scope of the employee's employment, unless the employee is required to transport or store a firearm in the official discharge of the employee's duties; a school district; an open-enrollment charter school or private school; property owned or controlled by a person, other than the employer, that is subject to a valid, unexpired oil, gas, or other mineral lease executed before September 1, 2011, that contains a provision prohibiting the possession of firearms on the property; or property owned or leased by a chemical manufacturer or oil and gas refiner with an air authorization under the Texas Clean Air Act and on which the primary business conducted is the manufacture, use, storage, or transportation of hazardous, combustible, or explosive materials, except in regard to an employee who holds a license to carry a concealed handgun and who stores the handgun in

a locked, privately owned motor vehicle in a parking lot, garage, or other area the employer provides for employees that is outside certain secured and restricted areas. The bill specifies that the prohibition does not prohibit an employer from prohibiting an employee who holds a concealed handgun license, or who otherwise lawfully possesses a firearm, from possessing a firearm the employee is otherwise authorized by law to possess on the premises of the employer's business.

C.S.H.B. 681 exempts a public or private employer or the employer's agent, except in cases of gross negligence, from civil liability for personal injury, death, property damage, or any other damages resulting from or arising out of an occurrence involving a firearm or ammunition transported or stored in accordance with the bill's provisions, including an action for damages arising from theft of the firearm or ammunition or the use of the firearm or ammunition by a person other than the employee authorized to transport or store the firearm or ammunition. The bill establishes that the presence of a firearm or ammunition transported or stored in the manner and in a location described by the bill's provisions does not by itself constitute a failure by the employer to provide a safe workplace. The bill defines "premises" by reference to the Penal Code.

C.S.H.B. 681 amends the Government Code to define "premises," for purposes of provisions regarding the rights of employers to prohibit a concealed handgun license holder from carrying a concealed handgun on the premises of a business, by reference to the Penal Code.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 681 differs from the original by adding an exemption to the prohibition against an employer prohibiting an employee who holds a concealed handgun license from transporting or storing a firearm or ammunition the employee is authorized by law to possess for property owned or leased by a chemical manufacturer or oil and gas refiner with an air authorization under the Texas Clean Air Act and on which the primary business conducted is the manufacture, use, storage, or transportation of hazardous, combustible, or explosive materials, except in regard to an employee who holds a concealed handgun license and who stores the handgun in a locked, privately owned motor vehicle in a parking lot, garage, or other area the employer provides for employees that is outside certain secured and restricted areas.