

BILL ANALYSIS

H.B. 750
By: Driver
Homeland Security & Public Safety
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Texas' concealed carry laws have been in effect for over a decade and statistics show that concealed handgun licensees have consistently demonstrated law-abiding and responsible behavior. However, some individuals who have passed extensive state and federal criminal records checks, completed rigorous training requirements, and been issued a license to carry a concealed handgun for personal protection by the Texas Department of Public Safety are prohibited from possessing a firearm on certain premises of or locations associated with public or private college or university campuses. A large number of states with concealed carry laws do not universally prohibit the possession of firearms on postsecondary school campuses, and federal law prohibiting the possession of firearms within a specified distance of a school exempts concealed carry permit or license holders licensed by the state in which the school is located.

This legislation seeks to break down the legal and geographical barrier for Texas concealed handgun license holders who visit, live, work, or study on a college or university campus, and seeks to provide those individuals the means to protect themselves in these settings.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to an institution of higher education in SECTION 1 of this bill.

ANALYSIS

H.B. 750 amends the Government Code to prohibit an institution of higher education or private or independent institution of higher education in Texas from adopting any rule, regulation, or other provision prohibiting the holder of a concealed handgun license issued by the Department of Public Safety (DPS) from carrying a handgun on the campus of the institution. The bill creates an exception to such a prohibition by authorizing a private or independent institution of higher education in Texas, after consulting with students, staff, and faculty of the institution, to adopt rules, regulations, or other provisions prohibiting a license holder from carrying a handgun on premises that are owned or operated by the institution and located on the institution's campus. The bill authorizes an institution of higher education or private or independent institution of higher education in Texas to establish rules, regulations, or other provisions concerning the storage of handguns in dormitories that are owned or operated by the institution and located on the institution's campus.

H.B. 750 includes an institution of higher education, a private or independent institution of higher education that has not adopted rules prohibiting a license holder from carrying a handgun on the institution's premises, and an officer or employee of such institutions among the entities that are immune from:

- liability for damages caused by an action authorized under concealed handgun licensing provisions of law, a failure to perform a duty imposed by such provisions of law, or by the actions of a concealed handgun license holder or applicant that occur after the applicant has received a license or been denied a license; and

- having a cause of action in damages brought against the entities for the actions of a concealed handgun license applicant or license holder.

The bill makes such immunities inapplicable to an institution of higher education, a private or independent institution of higher education that has not adopted rules prohibiting a license holder from carrying a handgun on the institution's premises, and an officer or employee of such institutions if the institution's or employee's act or failure to act was capricious or arbitrary.

H.B. 750 provides for the meanings of "institution of higher education" and "private or independent institution of higher education" by reference to the Education Code and for the meaning of "premises" by reference to the Penal Code. The bill defines "license holder," for purposes of its provisions on carrying a handgun on campuses, as a person to whom a concealed handgun license has been issued by DPS, including a nonresident license. The bill excludes from the term a person to whom a concealed handgun license has been issued by another state, regardless of whether such a license is recognized under an agreement negotiated by the governor.

H.B. 750 amends the Penal Code to clarify that the offense of possessing or going with a firearm, illegal knife, club, or other specified prohibited weapon on the premises or passenger transportation vehicle of a school or educational institution or on any grounds or building on which an activity sponsored by a school or educational institution is being conducted applies to those locations with regard to a school or an institution of higher education or private or independent institution of higher education. The bill creates an exception to the offense for an actor who possesses or goes on the 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 by DPS to carry. The bill establishes that a provision of law making it an offense, under certain circumstances, for a concealed handgun license holder to intentionally, knowingly, or recklessly carry a handgun on or about the license holder's person, regardless of whether the handgun is concealed, on the premises where a high school, collegiate, or professional sporting event or interscholastic event is taking place does not apply if the actor was not given effective notice under provisions of law relating to trespass by a concealed handgun license holder.

H.B. 750 provides for the meanings of "institution of higher education" and "private or independent institution of higher education" by reference to the Education Code and removes the definition of "institution of higher education" from provisions of law relating to penalties for an offense committed within a weapon-free school zone. The bill makes conforming and nonsubstantive changes.

EFFECTIVE DATE

September 1, 2011.