

BILL ANALYSIS

C.S.H.B. 1356
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Homeland Security & Public Safety
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties observe that, during a recent legislative interim, a house committee with jurisdiction over issues related to law enforcement studied the impact of current Texas laws banning the carrying of firearms by concealed handgun license holders on the premises of educational institutions. Those parties observe that Texas' concealed carry laws have been in effect for over a dozen years and statistics show that concealed handgun licensees have consistently demonstrated law-abiding and responsible behavior. However, those parties contend that an individual who has 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 is prohibited from possessing a firearm on certain premises or locations associated with public or private college or university campuses.

C.S.H.B. 1356 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 provide those individuals the means to protect themselves in these settings.

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. 1356 amends the Government Code to prohibit an institution of higher education or private or independent institution of higher education in Texas, except as provided by the bill's provisions, from adopting any rule, regulation, or other provision prohibiting the holder of a concealed handgun license issued by the Department of Public Safety (DPS) who is a faculty member, staff member, or employee of the institution from carrying a handgun on the campus of the institution. The bill authorizes a private or independent institution of higher education in Texas, after consulting with the institution's students, staff, and faculty, to adopt rules, regulations, or other provisions prohibiting a license holder who is a faculty member, staff member, or employee of the institution from carrying a handgun on premises that are owned or operated by the institution and located on the campus of the institution. The bill, for purposes of its provisions relating to carrying of handguns by certain license holders on campuses, 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, for purposes of its provisions relating to carrying of handguns by certain license holders on campuses, defines "license holder" 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.

C.S.H.B. 1356 includes an institution of higher education, a private or independent institution of higher education, 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 any damage caused by 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, and an officer or employee of such an institution if the institution's or employee's act or failure to act was capricious or arbitrary. The bill makes such immunities inapplicable to personal liability of a person who is a faculty member, staff member, or employee of an institution of higher education or a private or independent institution of higher education arising from the person's unlawful or unjustified use of a firearm while on the institution's campus. The bill provides for the meanings of "institution of higher education" and "private or independent institution of higher education," for purposes of its provisions relating to limitation of liability, by reference to the Education Code.

C.S.H.B. 1356 amends the Penal Code to specify 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 conducted applies to a school or institution of higher education or private or independent institution of higher education. The bill creates an exception to the offense for a person who possesses or goes with a firearm on the premises of a school, any grounds or building on which an activity sponsored by a school is being conducted, or a passenger transportation vehicle of a school, whether the school is public or private, when the person does so pursuant to written regulations or written authorization of the school. The bill creates another exception to the offense for a faculty member, staff member, or employee of an institution of higher education or private or independent institution of higher education who possesses or goes on the premises of such an institution, 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 oral or written notice that entry on the property by a license holder with a concealed handgun was forbidden or that remaining on the property with a concealed handgun was forbidden.

C.S.H.B. 1356 provides for the meanings of "institution of higher education" and "private or independent institution of higher education," for purposes of its provisions relating to places where certain weapons are prohibited, 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.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 1356 contains provisions not included in the original authorizing a private or independent institution of higher education in Texas, after consulting with the institution's students, staff, and faculty, to adopt rules, regulations, or other provisions prohibiting a license holder who is a faculty member, staff member, or employee of the institution from carrying a handgun on premises that are owned or operated by the institution and located on the campus of the institution and making a conforming change to reflect that authorization.