

BILL ANALYSIS

Senate Research Center

S.B. 321
By: Hegar et al.
Criminal Justice
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 321 seeks to prohibit employers from adopting policies that prohibit their employees from storing legal firearms and/or ammunition in their locked vehicles in the employers' parking lot. Employers would retain the ability to prohibit firearms in the office and in company vehicles. Employers are protected from any liability "for damages resulting from or arising out of an occurrence involving a firearm or ammunition transported." S.B. 321 would not affect those places where firearms are not permitted by state or federal law. Schools would retain the ability to disallow firearms in their parking lots.

S.B. 321 amends current law relating to an employee's transportation and storage of certain firearms or ammunition while on certain property owned or controlled by the employee's employer.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 52, Labor Code, by adding Subchapter G, as follows:

SUBCHAPTER G. RESTRICTIONS ON PROHIBITING EMPLOYEE TRANSPORTATION OR STORAGE OF CERTAIN FIREARMS OR AMMUNITION

Sec. 52.061. **RESTRICTION ON PROHIBITING EMPLOYEE ACCESS TO OR STORAGE OF FIREARM OR AMMUNITION.** Prohibits a public or private employer from prohibiting an employee who holds a license to carry a concealed handgun under Subchapter H (License to Carry a Concealed Handgun), Chapter 411 (Department of Public Safety of the State of Texas), Government Code, who otherwise lawfully possesses a firearm, or who lawfully possesses ammunition from transporting or storing a firearm or ammunition the employee is authorized by law to possess in a locked, privately owned motor vehicle in a parking lot, parking garage, or other parking area the employer provides for employees.

Sec. 52.062. **EXCEPTIONS.** (a) Provides that Section 52.061 does not:

(1) authorize a person who holds a license to carry a concealed handgun under Subchapter H, Chapter 411, Government Code, who otherwise lawfully possesses a firearm, or who lawfully possesses ammunition to possess a firearm or ammunition on any property where the possession of a firearm or ammunition is prohibited by state or federal law; or

(2) apply to:

(A) 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;

(B) a school district;

(C) an open-enrollment charter school, as defined by Section 5.001 (Definitions), Education Code;

(D) a private school, as defined by Section 22.081 (Definitions), Education Code;

(E) property owned or controlled by a person, other than the employer, that is subject to a valid, unexpired oil, gas, or other mineral lease that contains a provision prohibiting the possession or firearms on the property; or

(F) property owned or leased by a chemical manufacturer or oil and gas refiner with an air authorization under Chapter 382 (Clean Air Act), Health and Safety Code, 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 under Subchapter H (License to Carry a Concealed Handgun), Chapter 411 (Department of Public Safety of the State of Texas), Government Code, and who stores a firearm or ammunition the employee is authorized by law to possess in a locked, privately owned motor vehicle in a parking lot, parking garage, or other parking area the employer provides for employees that is outside of a secured and restricted area:

(i) that contains the physical plant;

(ii) that is not open to the public; and

(iii) the ingress into which is constantly monitored by security personnel.

(b) Provides that Section 52.061 does not prohibit an employer from prohibiting an employee who holds a license to carry a concealed handgun under Subchapter H, Chapter 411, Government Code, 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. Defines "premises" in this subsection.

Sec. 52.063. IMMUNITY FROM CIVIL LIABILITY. (a) Provides that, except in cases of gross negligence, a public or private employer, or the employer's principal, officer, director, employee, or agent, is not liable in a civil action for personal injury, death, property damage, or any other damages resulting from or arising out of an occurrence involving a firearm or ammunition that the employer is required to allow on the employer's property under this subchapter.

(b) Provides that the presence of a firearm or ammunition on an employer's property under the authority of this subchapter does not by itself constitute a failure by the employer to provide a safe workplace.

(c) Provides that, for purposes of this section, a public or private employer, or the employer's principal, officer, director, employee, or agent, does not have a duty:

(1) to patrol, inspect, or secure:

(A) any parking lot, parking garage, or other parking area the employer provides for employees; or

(B) any privately owned motor vehicle located in a parking lot, parking garage, or other parking area described by Paragraph (A); or

(2) to investigate, confirm, or determine an employee's compliance with laws related to the ownership or possession of a firearm or ammunition or the transportation and storage of a firearm or ammunition.

Sec. 52.064. CONSTRUCTION OF PROVISION RELATING TO IMMUNITY FROM CIVIL LIABILITY. Provides that Section 52.063 does not limit or alter the personal liability of:

(1) an individual who causes harm or injury by using a firearm or ammunition;

(2) an individual who aids, assists, or encourages another individual to cause harm or injury by using a firearm or ammunition; or

(3) an employee who transports or stores a firearm or ammunition on the property of the employee's employer but who fails to comply with the requirements of Section 52.061.

SECTION 2. Amends Section 411.203, Government Code, to define "premises" in this section.

SECTION 3. Makes application of the change in law made by this Act to a cause of action that accrues on or after the effective date of this Act, prospective.

SECTION 4. Effective date: September 1, 2011.