

By: Gooden

H.B. No. 1356

Substitute the following for H.B. No. 1356:

By: Pena

C.S.H.B. No. 1356

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the carrying of concealed handguns on certain premises
3 of or locations associated with schools or institutions of higher
4 education.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Subchapter H, Chapter 411, Government Code, is
7 amended by adding Section 411.2031 to read as follows:

8 Sec. 411.2031. CARRYING OF HANDGUNS BY CERTAIN LICENSE
9 HOLDERS ON CAMPUSES. (a) For purposes of this section:

10 (1) "Institution of higher education" and "private or
11 independent institution of higher education" have the meanings
12 assigned by Section 61.003, Education Code.

13 (2) "License holder" means a person to whom a license
14 to carry a concealed handgun has been issued under this subchapter,
15 including a nonresident license issued under Section 411.173(a).
16 The term does not include a person to whom a license to carry a
17 concealed handgun has been issued by another state, regardless of
18 whether a license issued by that state is recognized pursuant to an
19 agreement negotiated by the governor under Section 411.173(b).

20 (3) "Premises" has the meaning assigned by Section
21 46.035, Penal Code.

22 (b) Except as provided by Subsection (c), an institution of
23 higher education or private or independent institution of higher
24 education in this state may not adopt any rule, regulation, or other

1 provision prohibiting a license holder who is a faculty member,
2 staff member, or employee of the institution from carrying a
3 handgun on the campus of the institution.

4 (c) A private or independent institution of higher
5 education in this state may, after consulting with students, staff,
6 and faculty of the institution, adopt rules, regulations, or other
7 provisions prohibiting a license holder who is a faculty member,
8 staff member, or employee of the institution from carrying a
9 handgun on premises that are owned or operated by the institution
10 and located on the campus of the institution.

11 SECTION 2. Section 411.208, Government Code, is amended by
12 amending Subsections (a), (b), and (d) and adding Subsection (f) to
13 read as follows:

14 (a) A court may not hold the state, an agency or subdivision
15 of the state, an officer or employee of the state, an institution of
16 higher education or a private or independent institution of higher
17 education, an officer or employee of an institution of higher
18 education or a private or independent institution of higher
19 education, a peace officer, or a qualified handgun instructor
20 liable for damages caused by:

21 (1) an action authorized under this subchapter or a
22 failure to perform a duty imposed by this subchapter; or

23 (2) the actions of an applicant or license holder that
24 occur after the applicant has received a license or been denied a
25 license under this subchapter.

26 (b) A cause of action in damages may not be brought against
27 the state, an agency or subdivision of the state, an officer or

1 employee of the state, an institution of higher education or a
2 private or independent institution of higher education, an officer
3 or employee of an institution of higher education or a private or
4 independent institution of higher education, a peace officer, or a
5 qualified handgun instructor for any damage caused by the actions
6 of an applicant or license holder under this subchapter.

7 (d) The immunities granted under Subsections (a), (b), and
8 (c) do not apply to:

9 (1) an act or a failure to act by the state, an agency
10 or subdivision of the state, an officer of the state, an institution
11 of higher education or a private or independent institution of
12 higher education, an officer or employee of an institution of
13 higher education or a private or independent institution of higher
14 education, or a peace officer if the act or failure to act was
15 capricious or arbitrary; or

16 (2) personal liability of a person who is a faculty
17 member, staff member, or employee of an institution of higher
18 education or a private or independent institution of higher
19 education arising from the person's unlawful or unjustified use of
20 a firearm while on the campus of the institution of higher education
21 or private or independent institution of higher education.

22 (f) For purposes of this section, "institution of higher
23 education" and "private or independent institution of higher
24 education" have the meanings assigned by Section 411.2031.

25 SECTION 3. Sections 46.03(a) and (c), Penal Code, are
26 amended to read as follows:

27 (a) A person commits an offense if the person intentionally,

1 knowingly, or recklessly possesses or goes with a firearm, illegal
2 knife, club, or prohibited weapon listed in Section 46.05(a):

3 (1) on the ~~[physical]~~ premises of a school or
4 ~~[educational]~~ institution of higher education or private or
5 independent institution of higher education, any grounds or
6 building on which an activity sponsored by a school or
7 ~~[educational]~~ institution of higher education or private or
8 independent institution of higher education is being conducted, or
9 a passenger transportation vehicle of a school or ~~[educational]~~
10 institution of higher education or private or independent
11 institution of higher education, whether the school or
12 ~~[educational]~~ institution is public or private, unless:

13 (A) pursuant to written regulations or written
14 authorization of the school or institution; or

15 (B) the person:

16 (i) possesses or goes on the premises of an
17 institution of higher education or private or independent
18 institution of higher education, or on any grounds or building on
19 which an activity sponsored by the institution is being conducted,
20 with a concealed handgun that the person is licensed to carry
21 pursuant to a license issued under Subchapter H, Chapter 411,
22 Government Code; and

23 (ii) is a faculty member, staff member, or
24 employee of that institution;

25 (2) on the premises of a polling place on the day of an
26 election or while early voting is in progress;

27 (3) on the premises of any government court or offices

1 utilized by the court, unless pursuant to written regulations or
2 written authorization of the court;

3 (4) on the premises of a racetrack;

4 (5) in or into a secured area of an airport; or

5 (6) within 1,000 feet of premises the location of
6 which is designated by the Texas Department of Criminal Justice as a
7 place of execution under Article 43.19, Code of Criminal Procedure,
8 on a day that a sentence of death is set to be imposed on the
9 designated premises and the person received notice that:

10 (A) going within 1,000 feet of the premises with
11 a weapon listed under this subsection was prohibited; or

12 (B) possessing a weapon listed under this
13 subsection within 1,000 feet of the premises was prohibited.

14 (c) In this section:

15 (1) "Institution of higher education" and "private or
16 independent institution of higher education" have the meanings
17 assigned by Section 61.003, Education Code.

18 (2) [~~1~~] "Premises" has the meaning assigned by
19 Section 46.035.

20 (3) [~~2~~] "Secured area" means an area of an airport
21 terminal building to which access is controlled by the inspection
22 of persons and property under federal law.

23 SECTION 4. Section 46.035(i), Penal Code, is amended to
24 read as follows:

25 (i) Subsections (b)(2), (b)(4), (b)(5), (b)(6), and (c) do
26 not apply if the actor was not given effective notice under Section
27 30.06.

1 SECTION 5. Section 46.11(c)(1), Penal Code, is amended to
2 read as follows:

3 (1) "Premises" has the meaning [~~"Institution of higher~~
4 ~~education" and "premises" have the meanings~~] assigned by Section
5 481.134, Health and Safety Code.

6 SECTION 6. Section 411.208, Government Code, as amended by
7 this Act, applies only to a cause of action that accrues on or after
8 the effective date of this Act. A cause of action that accrued
9 before the effective date of this Act is governed by the law in
10 effect immediately before the effective date of this Act, and the
11 former law is continued in effect for that purpose.

12 SECTION 7. Sections 46.03 and 46.035, Penal Code, as
13 amended by this Act, apply only to an offense committed on or after
14 the effective date of this Act. An offense committed before the
15 effective date of this Act is covered by the law in effect when the
16 offense was committed, and the former law is continued in effect for
17 that purpose. For purposes of this section, an offense was
18 committed before the effective date of this Act if any element of
19 the offense occurred before that date.

20 SECTION 8. This Act takes effect September 1, 2011.