

By: Springer

H.B. No. 49

A BILL TO BE ENTITLED

AN ACT

relating to the places where a person may carry a handgun if the person is licensed to carry a concealed handgun.

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

SECTION 1. Section 30.06(c)(2), Penal Code, is amended to read as follows:

(2) "License holder" has the meaning assigned by Section 46.035(d) [~~46.035(f)~~].

SECTION 2. Section 30.06(e) and (f), Penal Code, is amended to read as follows:

(e) It is an exception to the application of this section that the property on which the license holder carries a handgun is owned or leased by a governmental entity [~~and is not a premises or other place on which the license holder is prohibited from carrying the handgun under Section 46.03 or 46.035~~].

SECTION 3. Section 46.03(c)(1), Penal Code, is amended to read as follows:

(1) "Premises" means a building or a portion of a building. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area, or any portion of the building in which the activity prompting the prohibition is not then ongoing [~~has the meaning assigned by Section 46.035~~].

SECTION 4. Section 46.035, Penal Code, as amended by

1 Chapters 1214 (H.B. 1889) and 1222 (H.B. 2300), Acts of the 80th
2 Legislature, Regular Session, 2007, is amended to read as follows:

3 Sec. 46.035. UNLAWFUL CARRYING OF HANDGUN BY LICENSE
4 HOLDER. (a) A license holder commits an offense if the license
5 holder carries a handgun on or about the license holder's person
6 under the authority of Subchapter H, Chapter 411, Government Code,
7 and intentionally fails to conceal the handgun.

8 (b) ~~[A license holder commits an offense if the license~~
9 ~~holder intentionally, knowingly, or recklessly carries a handgun~~
10 ~~under the authority of Subchapter H, Chapter 411, Government Code,~~
11 ~~regardless of whether the handgun is concealed, on or about the~~
12 ~~license holder's person:~~

13 ~~[(1) on the premises of a business that has a permit or~~
14 ~~license issued under Chapter 25, 28, 32, 69, or 74, Alcoholic~~
15 ~~Beverage Code, if the business derives 51 percent or more of its~~
16 ~~income from the sale or service of alcoholic beverages for~~
17 ~~on-premises consumption, as determined by the Texas Alcoholic~~
18 ~~Beverage Commission under Section 104.06, Alcoholic Beverage Code,~~

19 ~~[(2) on the premises where a high school, collegiate,~~
20 ~~or professional sporting event or interscholastic event is taking~~
21 ~~place, unless the license holder is a participant in the event and a~~
22 ~~handgun is used in the event,~~

23 ~~[(3) on the premises of a correctional facility,~~

24 ~~[(4) on the premises of a hospital licensed under~~
25 ~~Chapter 241, Health and Safety Code, or on the premises of a nursing~~
26 ~~home licensed under Chapter 242, Health and Safety Code, unless the~~
27 ~~license holder has written authorization of the hospital or nursing~~

1 ~~home administration, as appropriate,~~

2 ~~[(5) in an amusement park, or~~

3 ~~[(6) on the premises of a church, synagogue, or other~~
4 ~~established place of religious worship.~~

5 ~~[(c) A license holder commits an offense if the license~~
6 ~~holder intentionally, knowingly, or recklessly carries a handgun~~
7 ~~under the authority of Subchapter H, Chapter 411, Government Code,~~
8 ~~regardless of whether the handgun is concealed, at any meeting of a~~
9 ~~governmental entity.~~

10 ~~[(d)] A license holder commits an offense if, while~~
11 ~~intoxicated, the license holder carries a handgun under the~~
12 ~~authority of Subchapter H, Chapter 411, Government Code, regardless~~
13 ~~of whether the handgun is concealed.~~

14 (c) ~~[(e)]~~ A license holder who is licensed as a security
15 officer under Chapter 1702, Occupations Code, and employed as a
16 security officer commits an offense if, while in the course and
17 scope of the security officer's employment, the security officer
18 violates a provision of Subchapter H, Chapter 411, Government Code.

19 (d) ~~[(f)]~~ In this section, "license [+

20 ~~[(1) "Amusement park" means a permanent indoor or~~
21 ~~outdoor facility or park where amusement rides are available for~~
22 ~~use by the public that is located in a county with a population of~~
23 ~~more than one million, encompasses at least 75 acres in surface~~
24 ~~area, is enclosed with access only through controlled entries, is~~
25 ~~open for operation more than 120 days in each calendar year, and has~~
26 ~~security guards on the premises at all times. The term does not~~
27 ~~include any public or private driveway, street, sidewalk or~~

1 ~~walkway, parking lot, parking garage, or other parking area.~~

2 ~~[(2) "License] holder"~~ means a person licensed to
3 carry a handgun under Subchapter H, Chapter 411, Government Code.

4 ~~[(3) "Premises" means a building or a portion of a~~
5 ~~building. The term does not include any public or private driveway,~~
6 ~~street, sidewalk or walkway, parking lot, parking garage, or other~~
7 ~~parking area.]~~

8 (e) ~~[(g)]~~ An offense under this section ~~[Subsection (a),~~
9 ~~(b), (c), (d), or (e)]~~ is a Class C ~~[A]~~ misdemeanor, unless the
10 offense is committed under Subsection (b) and the license holder
11 has previously been convicted of an offense under Subsection (b),
12 in which the event the offense is a Class B Misdemeanor ~~[(b)(1) or~~
13 ~~(b)(3), in which event the offense is a felony of the third degree].~~

14 (f) ~~[(h)]~~ It is a defense to prosecution under Subsection
15 (a) that the actor, at the time of the commission of the offense,
16 displayed the handgun under circumstances in which the actor would
17 have been justified in the use of ~~[deadly]~~ force or threat of force
18 under Chapter 9.

19 (g) Subsection (a) does ~~[(h-1) It is a defense to~~
20 ~~prosecution under Subsections (b) and (c) that the actor, at the~~
21 ~~time of the commission of the offense, was:~~

22 ~~[(1) an active judicial officer, as defined by Section~~
23 ~~411.201, Government Code, or~~

24 ~~[(2) a bailiff designated by the active judicial~~
25 ~~officer and engaged in escorting the officer.~~

26 ~~[(h-1) It is a defense to prosecution under Subsections~~
27 ~~(b)(1), (2), and (4)-(6), and (c) that at the time of the commission~~

1 ~~of the offense, the actor was:~~

2 ~~[(1) a judge or justice of a federal court,~~

3 ~~[(2) an active judicial officer, as defined by Section~~
4 ~~411.201, Government Code, or~~

5 ~~[(3) a district attorney, assistant district~~
6 ~~attorney, criminal district attorney, assistant criminal district~~
7 ~~attorney, county attorney, or assistant county attorney.~~

8 ~~[(i) Subsections (b)(4), (b)(5), (b)(6), and (c) do not~~
9 ~~apply if the actor was not given effective notice under Section~~
10 ~~30.06.~~

11 ~~[(j) Subsections (a) and (b)(1) do]~~ not apply to a
12 historical reenactment performed in compliance with the rules of
13 the Texas Alcoholic Beverage Commission.

14 ~~[(k) It is a defense to prosecution under Subsection (b)(1)~~
15 ~~that the actor was not given effective notice under Section~~
16 ~~411.204, Government Code.]~~

17 SECTION 5. Sections 46.15(a) and (b), Penal Code, are
18 amended to read as follows:

19 (a) Sections 46.02 and 46.03 do not apply to:

20 (1) peace officers or special investigators under
21 Article 2.122, Code of Criminal Procedure, and neither section
22 prohibits a peace officer or special investigator from carrying a
23 weapon in this state, including in an establishment in this state
24 serving the public, regardless of whether the peace officer or
25 special investigator is engaged in the actual discharge of the
26 officer's or investigator's duties while carrying the weapon;

27 (2) parole officers and neither section prohibits an

1 officer from carrying a weapon in this state if the officer is:

2 (A) engaged in the actual discharge of the
3 officer's duties while carrying the weapon; and

4 (B) in compliance with policies and procedures
5 adopted by the Texas Department of Criminal Justice regarding the
6 possession of a weapon by an officer while on duty;

7 (3) community supervision and corrections department
8 officers appointed or employed under Section 76.004, Government
9 Code, and neither section prohibits an officer from carrying a
10 weapon in this state if the officer is:

11 (A) engaged in the actual discharge of the
12 officer's duties while carrying the weapon; and

13 (B) authorized to carry a weapon under Section
14 76.0051, Government Code;

15 (4) ~~[an active judicial officer as defined by Section
16 411.201, Government Code, who is licensed to carry a concealed
17 handgun under Subchapter H, Chapter 411, Government Code,~~

18 ~~[(5)]~~ an honorably retired peace officer or federal
19 criminal investigator who holds a certificate of proficiency issued
20 under Section 1701.357, Occupations Code, and is carrying a photo
21 identification that:

22 (A) verifies that the officer honorably retired
23 after not less than 15 years of service as a commissioned officer;
24 and

25 (B) is issued by a state or local law enforcement
26 agency;

27 (5) a person who is carrying a concealed handgun and a

1 valid license issued under Subchapter H, Chapter 411, Government
2 Code, to carry a concealed handgun of the same category as the
3 handgun the person is carrying.

4 (6) [~~9~~] a juvenile probation officer who is
5 authorized to carry a firearm under Section 142.006, Human
6 Resources Code.

7 (b) Section 46.02 does not apply to a person who:

8 (1) is in the actual discharge of official duties as a
9 member of the armed forces or state military forces as defined by
10 Section 431.001, Government Code, or as a guard employed by a penal
11 institution;

12 (2) is traveling;

13 (3) is engaging in lawful hunting, fishing, or other
14 sporting activity on the immediate premises where the activity is
15 conducted, or is en route between the premises and the actor's
16 residence, motor vehicle, or watercraft, if the weapon is a type
17 commonly used in the activity;

18 (4) holds a security officer commission issued by the
19 Texas Private Security Board, if the person is engaged in the
20 performance of the person's duties as an officer commissioned under
21 Chapter 1702, Occupations Code, or is traveling to or from the
22 person's place of assignment and is wearing the officer's uniform
23 and carrying the officer's weapon in plain view;

24 (5) acts as a personal protection officer and carries
25 the person's security officer commission and personal protection
26 officer authorization, if the person:

27 (A) is engaged in the performance of the person's

1 duties as a personal protection officer under Chapter 1702,
2 Occupations Code, or is traveling to or from the person's place of
3 assignment; and

4 (B) is either:

5 (i) wearing the uniform of a security
6 officer, including any uniform or apparel described by Section
7 1702.323(d), Occupations Code, and carrying the officer's weapon in
8 plain view; or

9 (ii) not wearing the uniform of a security
10 officer and carrying the officer's weapon in a concealed manner;

11 ~~(6) [is carrying a concealed handgun and a valid~~
12 ~~license issued under Subchapter H, Chapter 411, Government Code, to~~
13 ~~carry a concealed handgun of the same category as the handgun the~~
14 ~~person is carrying;~~

15 ~~(7)~~ holds an alcoholic beverage permit or license or
16 is an employee of a holder of an alcoholic beverage permit or
17 license if the person is supervising the operation of the permitted
18 or licensed premises; or

19 (7) ~~(8)~~ is a student in a law enforcement class
20 engaging in an activity required as part of the class, if the weapon
21 is a type commonly used in the activity and the person is:

22 (A) on the immediate premises where the activity
23 is conducted; or

24 (B) en route between those premises and the
25 person's residence and is carrying the weapon unloaded.

26 SECTION 6. Section 411.179(c), Government Code, is amended
27 to read as follows:

1 (c) In adopting the form of the license under Subsection
2 (a), the department shall establish a procedure for the license of a
3 qualified handgun instructor [~~or of a judge, justice, prosecuting~~
4 ~~attorney, or assistant prosecuting attorney, as described by~~
5 ~~Section 46.15(a)(5)(A), (B), or (C) [46.15(a)(4) or (6)], Penal~~
6 ~~Code,~~] to indicate on the license the license holder's status as a
7 qualified handgun instructor [~~or as a judge, justice, district~~
8 ~~attorney, criminal district attorney, or county attorney~~]. In
9 establishing the procedure, the department shall require
10 sufficient documentary evidence to establish the license holder's
11 status under this subsection.

12 SECTION 7. Section 411.198(b), Government Code, is amended
13 to read as follows:

14 (b) It is a defense to prosecution under Section 46.035(a)
15 [~~46.035~~], Penal Code, that the actor, at the time of the commission
16 of the offense, was the holder of an alias license issued under this
17 section.

18 SECTION 8. Section 11.041(a), Alcoholic Beverage Code, is
19 amended to read as follows:

20 (a) Each holder of a permit [~~who is not otherwise required~~
21 ~~to display a sign under Section 411.204, Government Code,~~] shall
22 display in a prominent place on the permit holder's premises a sign
23 giving notice that it is unlawful for a person to carry a weapon on
24 the premises unless the weapon is a concealed handgun of the same
25 category the person is licensed to carry under Subchapter H,
26 Chapter 411, Government Code.

27 SECTION 9. Section 11.61(e), Alcoholic Beverage Code, is

1 amended to read as follows:

2 (e) Except as provided by Subsection (f) or (i), the
3 commission or administrator shall cancel an original or renewal
4 permit if it is found, after notice and hearing, that the permittee
5 knowingly allowed a person to possess a firearm in a building on the
6 licensed premises. This subsection does not apply to a person:

7 (1) who holds a security officer commission issued
8 under Chapter 1702, Occupations Code, if:

9 (A) the person is engaged in the performance of
10 the person's duties as a security officer;

11 (B) the person is wearing a distinctive uniform;
12 and

13 (C) the weapon is in plain view;

14 (2) who is a peace officer;

15 (3) who is a permittee or an employee of a permittee if
16 the person is supervising the operation of the premises; or

17 (4) who possesses a concealed handgun of the same
18 category the person is licensed to carry under Subchapter H,
19 Chapter 411, Government Code [~~unless the person is on the premises
20 of a business described by Section 46.035(b)(1), Penal Code~~].

21 SECTION 10. Section 61.11(a), Alcoholic Beverage Code, is
22 amended to read as follows:

23 (a) Each holder of a license [~~who is not otherwise required
24 to display a sign under Section 411.204, Government Code,~~] shall
25 display in a prominent place on the license holder's premises a sign
26 giving notice that it is unlawful for a person to carry a weapon on
27 the premises unless the weapon is a concealed handgun of the same

1 category the person is licensed to carry under Subchapter H,
2 Chapter 411, Government Code.

3 SECTION 11. Section 61.71(f), Alcoholic Beverage Code, is
4 amended to read as follows:

5 (f) Except as provided by Subsection (g) or (j), the
6 commission or administrator shall cancel an original or renewal
7 dealer's on-premises or off-premises license if it is found, after
8 notice and hearing, that the licensee knowingly allowed a person to
9 possess a firearm in a building on the licensed premises. This
10 subsection does not apply to a person:

11 (1) who holds a security officer commission issued
12 under Chapter 1702, Occupations Code, if:

13 (A) the person is engaged in the performance of
14 the person's duties as a security officer;

15 (B) the person is wearing a distinctive uniform;
16 and

17 (C) the weapon is in plain view;

18 (2) who is a peace officer;

19 (3) who is a licensee or an employee of a licensee if
20 the person is supervising the operation of the premises; or

21 (4) who possesses a concealed handgun of the same
22 category the person is licensed to carry under Subchapter H,
23 Chapter 411, Government Code [~~unless the person is on the premises
24 of a business described by Section 46.035(b)(1), Penal Code~~].

25 SECTION 12. The following provisions are repealed:

26 (1) Section 104.06, Alcoholic Beverage Code;

27 (2) Sections 411.203 and 411.204, Government Code; and

1 (3) Section 46.03(f), Penal Code.

2 SECTION 13. The change in law made by this Act applies only
3 to an offense committed on or after the effective date of this Act.
4 An offense committed before the effective date of this Act is
5 governed by the law in effect when the offense was committed, and
6 the former law is continued in effect for that purpose. For
7 purposes of this section, an offense was committed before the
8 effective date of this Act if any element of the offense occurred
9 before that date.

10 SECTION 14. This Act takes effect immediately if it
11 receives a vote of two-thirds of all the members elected to each
12 house, as provided by Section 39, Article III, Texas Constitution.
13 If this Act does not receive the vote necessary for immediate
14 effect, this Act takes effect September 1, 2013.