

## **BILL ANALYSIS**

Senate Research Center

H.B. 508  
By: Guillen et al. (Hinojosa)  
Intergovernmental Relations  
5/14/2013  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Current Texas law prohibits a concealed handgun license holder from carrying a handgun on certain public premises, including at any governmental entity meeting.

In addition, Texas law makes it an offense for a license holder to carry a handgun on another's property without effective consent if the license holder receives notice that entering or remaining on the property with a concealed handgun is forbidden and then fails to depart.

However, there is an exemption from that offense if the license holder carries a handgun on property owned or leased by a governmental entity and is not otherwise prohibited by law from carrying the handgun.

It has been reported that many entities are misinterpreting and incorrectly enforcing these laws, are not fully complying with the notification requirements, and are confusing concealed handgun license holders regarding the premises on which the license holder may or may not carry a concealed handgun.

H.B. 508 seeks to address this issue by prohibiting a state agency or political subdivision from providing false notice to a compliant concealed handgun license holder that entering or remaining on certain government premises with a concealed handgun is prohibited.

H.B. 508 amends current law relating to certain offenses relating to carrying concealed handguns on property owned or leased by a governmental entity and provides a civil penalty.

### **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 Subchapter H, Chapter 411, Government Code, by adding Section 411.209, as follows:

Sec. 411.209. **WRONGFUL EXCLUSION OF CONCEALED HANDGUN LICENSE HOLDER.** (a) Prohibits a state agency or a political subdivision of the state from providing notice by a communication described by Section 30.06 (Trespass by Holder of License to Carry Concealed Handgun), Penal Code, or by any sign expressly referring to that law or to a concealed handgun license, that a license holder carrying a handgun under the authority of this subchapter is prohibited from entering or remaining on a premises or other place owned or leased by the governmental entity unless license holders are prohibited from carrying a handgun on the premises or other place by Section 46.03 (Places Weapons Prohibited) or 46.035 (Unlawful Carrying of Handgun by License Holder), Penal Code.

(b) Provides that a state agency or a political subdivision of the state that violates Subsection (a) is liable for a civil penalty of not less than \$1,000 and not more

than \$1,500 for the first violation and not less than \$10,000 and not more than \$10,500 for the second or a subsequent violation.

(c) Provides that each day of a continuing violation of Subsection (a) constitutes a separate violation.

(d) Authorizes a citizen of this state or a person licensed to carry a concealed handgun under this subchapter to file a complaint with the attorney general that a state agency or political subdivision is in violation of Subsection (a). Requires that a complaint filed under this subsection include evidence of the violation.

(e) Requires that a civil penalty collected by the attorney general under this section be deposited to the credit of the compensation to victims of crime fund established under Subchapter B (Crime Victims' Compensation), Chapter 56 (Rights of Crime Victims), Code of Criminal Procedure.

(f) Requires the attorney general, before a suit may be brought against a state agency or a political subdivision of the state for a violation of Subsection (a), to investigate the complaint to determine whether legal action is warranted. Requires the attorney general, if legal action is warranted, to give the chief administrative officer of the agency or political subdivision charged with the violation a written notice that:

(1) describes the violation and specific location of the sign found to be in violation;

(2) states the amount of the proposed penalty for the violation; and

(3) gives the agency or political subdivision 15 days from receipt of the notice to remove the sign and cure the violation to avoid the penalty, unless the agency or political subdivision was found liable by a court for previously violating Subsection (a).

(g) Authorizes the attorney general or the appropriate county or district attorney, if the attorney general determines that legal action is warranted and that the state agency or political subdivision has not cured the violation within the 15-day period provided by Subsection (f)(3), to sue to collect the civil penalty provided by Subsection (b). Authorizes the attorney general to also file a petition for a writ of mandamus or apply for other appropriate equitable relief. Authorizes a suit or petition under this subsection to be filed in a district court in Travis County or in a county in which the principal office of the state agency or political subdivision is located. Authorizes the attorney general to recover reasonable expenses incurred in obtaining relief under this subsection, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition costs.

(h) Provides that sovereign immunity to suit is waived and abolished to the extent of liability created by this section.

SECTION 2. Amends Section 46.035(c), Penal Code, as follows:

(c) Provides that a license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun under the authority of Subchapter H (License to Carry a Concealed Handgun), Chapter 411 (Department of Public Safety of the State of Texas), Government Code, regardless of whether the handgun is concealed, in the room or rooms where a meeting of a governmental entity is held and if the meeting is an open meeting subject to Chapter 551 (Open Meetings), Government Code, and the entity provided notice as required by that chapter. Makes a nonsubstantive change.

SECTION 3. Makes application of Section 46.035(c), as amended by this Act, prospective.

SECTION 4. Effective date: September 1, 2013.