

## **BILL ANALYSIS**

C.S.H.B. 508  
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Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

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. C.S.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.

### **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. 508 amends the Government Code to prohibit a state agency or a political subdivision of the state from providing notice by oral or written communication, or by any substantially similar communication, to a concealed handgun license holder carrying a concealed handgun that entering or remaining on a premises or other place owned or leased by the governmental entity is prohibited if the license holder is not prohibited under state law from carrying a handgun on the premises or other place. The bill makes a state agency or a political subdivision of the state in violation of that prohibition 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. The bill establishes that each day of a continuing violation of that prohibition constitutes a separate violation.

C.S.H.B. 508 requires the attorney general, on request of a Texas citizen or a person licensed in Texas to carry a concealed handgun, to sue to collect the civil penalty and requires a civil penalty collected by the attorney general to be deposited to the credit of the compensation to victims of crime fund under the Crime Victims' Compensation Act. The bill requires the attorney general, before a suit may be brought against a state agency or a political subdivision of the state for a violation, to give the chief administrative officer of the agency or political subdivision charged with the violation a written notice and sets out the required content of the notice. The bill waives and abolishes sovereign immunity to suit to the extent of liability created by the bill's provisions.

C.S.H.B. 508 amends the Penal Code to specify that the Class A misdemeanor offense of a license holder carrying a handgun, regardless of whether the handgun is concealed, at any

meeting of a governmental entity applies in any room or rooms where such a meeting is held and if the meeting is an open meeting for which the entity provided the written notice required under the state's open meetings laws.

### **EFFECTIVE DATE**

September 1, 2013.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 508 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

#### **INTRODUCED**

SECTION 1. Chapter 30, Penal Code, is amended by adding Section 30.061 to read as follows:

Sec. 30.061. WRONGFUL EXCLUSION OF CONCEALED HANDGUN LICENSE HOLDER.

(a) In this section:

(1) "License holder" has the meaning assigned by Section 46.035(f).

(2) "Public employee" means an employee or appointed officer other than an independent contractor who is paid to perform services for a state or local governmental entity.

(b) A person commits an offense if the person is a public employee who provides notice under Section 30.06 to a license holder carrying a handgun under the authority of Subchapter H, Chapter 411, Government Code, that entering or remaining on a premises or other place owned or leased by a governmental entity is prohibited and:

(1) the license holder is not prohibited from carrying a handgun on the premises or other place by Section 46.03 or Section 46.035; and

(2) the public employee is reckless as to whether a license holder is prohibited from carrying a handgun on the premises or other place.

(c) An offense under this section is a Class C misdemeanor with a minimum fine of \$250.

#### **HOUSE COMMITTEE SUBSTITUTE**

SECTION 1. Subchapter H, Chapter 411, Government Code, is amended by adding Section 411.209 to read as follows:

Sec. 411.209. WRONGFUL EXCLUSION OF CONCEALED HANDGUN LICENSE HOLDER.

(a) A state agency or a political subdivision of the state may not provide notice by a communication described by Section 30.06, Penal Code, or by any substantially similar communication to a license holder carrying a handgun under the authority of this subchapter that entering or remaining on a premises or other place owned or leased by the governmental entity is prohibited if the license holder is not prohibited from carrying a handgun on the premises or other place by Section 46.03 or 46.035, Penal Code.

(b) A state agency or a political subdivision of the state that violates Subsection (a) is liable for a civil penalty of:

(1) not less than \$1,000 and not more than \$1,500 for the first violation; and

(2) not less than \$10,000 and not more than \$10,500 for the second or a subsequent violation.

If it is shown on the trial of the offense that the notice was provided by written communication, each day of a continuing violation constitutes a separate violation.

No equivalent provision.

No equivalent provision.

No equivalent provision.

No equivalent provision.

SECTION 2. Section 46.035(c), Penal Code, is amended.

SECTION 3. The change in law made by this Act in amending Section 46.035(c), Penal Code, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of

(c) Each day of a continuing violation of Subsection (a) constitutes a separate violation.

(d) On request of a citizen of this state or a person licensed to carry a concealed handgun under Subchapter H, Chapter 411, Government Code, the attorney general shall sue to collect the civil penalty provided by Subsection (b).

(e) A civil penalty collected by the attorney general under this section shall be deposited to the credit of the compensation to victims of crime fund established under Subchapter B, Chapter 56, Code of Criminal Procedure.

(f) Before a suit may be brought against a state agency or a political subdivision of the state for a violation of Subsection (a), the attorney general must 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) Sovereign immunity to suit is waived and abolished to the extent of liability created by this section.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.

this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 4. This Act takes effect September 1, 2013.

SECTION 4. Same as introduced version.