

BILL ANALYSIS

C.S.H.B. 972
By: Fletcher
Homeland Security & Public Safety
Committee Report (Substituted)

BACKGROUND AND PURPOSE

To be eligible to obtain a license to carry a concealed handgun in Texas, an applicant must meet certain age, residency, and character requirements and be fully qualified under applicable federal and state law to purchase a handgun. Additionally, the applicant cannot have been convicted of a felony or a Class A or B misdemeanor within a certain time frame and cannot be charged with the commission of certain offenses, be chemically dependent, be delinquent in payments of state or local taxes or child support, or be subject to certain protective or restraining orders.

Current law makes it an offense for a person to possess or go with a certain weapon, including a concealed handgun, on the premises of or the premises associated with a Texas school or institution of higher education. Interested parties note that law-abiding concealed handgun license holders who have satisfied the background check process and successfully completed appropriate education and training courses should be able to protect themselves in the event of a situation that threatens innocent lives on an educational campus. The goal of C.S.H.B. 972 is to provide students, faculty, and visitors on educational campuses the protections that may be necessary in life-threatening situations.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to an institution of higher education in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 972 amends the Government Code to authorize a public institution of higher education in Texas, after consulting with the institution's students, staff, and faculty, to adopt written rules or regulations prohibiting concealed handgun license holders from carrying handguns on premises owned or leased and operated by the institution, on any grounds or building owned or leased by the institution and on which an activity sponsored by the institution is being conducted, or on a passenger transportation vehicle of the institution. The bill requires an institution that adopts such a rule or regulation to give notice of the rule or regulation by posting signs that meet the statutory requirements for notice of trespass by a license holder, and requires an institution that does not adopt such a rule or regulation to adopt written rules or regulations concerning the storage of handguns in dormitories or other residential facilities that are owned or leased and operated by the institution and the carrying of concealed handguns by license holders at collegiate sporting events that take place on grounds or buildings owned or leased and operated by the institution.

C.S.H.B. 972 authorizes a private or independent institution of higher education in Texas, after consulting with the institution's students, staff, and faculty, to adopt written rules or regulations allowing license holders to carry handguns on premises owned or leased and operated by the institution, on any grounds or building owned or leased by the institution and on which an activity sponsored by the institution is being conducted, or on a passenger transportation vehicle of the institution. The bill requires an institution that adopts such a rule or regulation to also

adopt written rules or regulations concerning the storage of handguns in dormitories or other residential facilities owned or leased and operated by the institution and the carrying of concealed handguns by license holders at collegiate sporting events that take place on grounds or buildings owned or leased and operated by the institution.

C.S.H.B. 972 prohibits a court from holding a public, private, or independent institution of higher education, or an officer or employee of such institution, liable for damages caused by an action authorized under statutory provisions relating to concealed handgun licensing, by a failure to perform a duty imposed by such provisions, or by the actions of a concealed handgun license holder or applicant that occur after the applicant has received or been denied a license. The bill prohibits the bringing of a cause of action in damages against such an institution, officer, or employee for any damage caused by the actions of a concealed handgun license applicant or license holder. The bill makes such immunities from liability for damages and from a cause of action in damages inapplicable if the institution's, officer's, or employee's act or failure to act was capricious or arbitrary.

C.S.H.B. 972 amends the Penal Code to clarify that the offense of possessing or going with a firearm, illegal knife, club, or other specified prohibited weapon on the premises or passenger transportation vehicle of a school or educational institution or on any grounds or building on which an activity sponsored by a school or educational institution is being conducted applies to those locations with regard to a school or a public, private, or independent institution of higher education. The bill creates an exception to that offense for a person who possesses or goes on premises owned or leased and operated by a public institution of higher education, on any grounds or building owned or leased by the institution and on which an activity sponsored by the institution is being conducted, or on a passenger transportation vehicle of the institution with a concealed handgun that the person is licensed by the Department of Public Safety to carry but specifies that this exception does not preclude a public institution of higher education from adopting written rules or regulations prohibiting license holders from carrying handguns under the bill's provisions. The bill establishes that the statutory provision making it an offense for a concealed handgun license holder to intentionally, knowingly, or recklessly carry a handgun on or about the license holder's person, regardless of whether the handgun is concealed, on certain premises does not apply on premises owned or leased and operated by a public institution of higher education where a collegiate sporting event sponsored by the institution is taking place unless the actor is given notice under statutory provisions relating to trespass by a concealed handgun license holder that entering or remaining on the property with a concealed handgun was forbidden. The bill makes it a Class A misdemeanor offense for a concealed handgun license holder to carry a handgun on certain premises associated with a public institution of higher education in violation of rules adopted by such an institution under the bill's provisions prohibiting license holders from carrying handguns on the institution's premises, unless the actor was not given the previously described effective notice.

C.S.H.B. 972 amends the Government Code and Penal Code to establish that the bill's provisions do not permit a person to possess a concealed handgun, or go with a concealed handgun, on the premises of a hospital maintained or operated by, or on the premises of a preschool, elementary school, or secondary school that is located on the grounds or premises of, a public institution of higher education if the hospital or institution, as applicable, gives notice under statutory provisions relating to trespass by a concealed handgun license holder that entering or remaining on the property with a concealed handgun was forbidden.

EFFECTIVE DATE

January 1, 2014.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 972 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. Subchapter H, Chapter 411, Government Code, is amended by adding Section 411.2031 to read as follows:

Sec. 411.2031. CARRYING OF HANDGUNS BY LICENSE HOLDERS ON CERTAIN CAMPUSES.

(a) For purposes of this section:

(1) "Campus" means all land and buildings owned or leased by an institution of higher education or private or independent institution of higher education.

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

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

(b) A license holder may carry a concealed handgun on or about the license holder's person while the license holder is on the campus of an institution of higher education or private or independent institution of higher education in this state.

(c) Except as provided by Subsection (d) or (e), an institution of higher education or private or independent institution of higher education in this state may not adopt any rule, regulation, or other provision prohibiting license holders from carrying handguns on the campus of the institution.

HOUSE COMMITTEE SUBSTITUTE

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

Sec. 411.2031. CARRYING OF HANDGUNS BY LICENSE HOLDERS ON CERTAIN PREMISES OWNED OR LEASED BY INSTITUTION OF HIGHER EDUCATION.

(a) For purposes of this section:

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

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

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

(b) An institution of higher education in this state, after consulting with students, staff, and faculty of the institution, may adopt written rules or regulations prohibiting license holders from carrying handguns on premises owned or leased and operated by the institution, on any grounds or building owned or leased by the institution and on which an activity sponsored by the institution is being conducted, or on a passenger transportation vehicle of the institution. An institution of higher

(d) An institution of higher education or private or independent institution of higher education in this state may establish rules, regulations, or other provisions concerning the storage of handguns in dormitories or other residential facilities that are owned or leased and operated by the institution and located on the campus of the institution.

(e) A private or independent institution of higher education in this state, after consulting with students, staff, and faculty of the institution, may establish rules, regulations, or other provisions prohibiting license holders from carrying handguns on premises that are owned or leased and operated by the institution and located on the campus of the institution.

(f) This section does not permit a person to possess a concealed handgun, or go with a concealed handgun, on the premises of a hospital maintained or operated by an institution of higher education or private or independent institution of higher education if the hospital gives effective notice under Section 30.06, Penal Code. In this subsection, "hospital" has the meaning assigned by Section 241.003, Health and Safety Code.

(g) This section does not permit a person to possess a concealed handgun, or go with a concealed handgun, on the premises of a preschool, elementary school, or secondary school that is located on the campus of an institution of higher education or private or independent institution of higher education if the institution gives effective notice under Section 30.06, Penal Code.

education that adopts a rule or regulation under this subsection shall give notice of the rule or regulation by posting signs that meet the requirements for notice under Section 30.06, Penal Code.

(c) An institution of higher education that does not adopt a rule or regulation under Subsection (b) shall adopt written rules or regulations concerning:

(1) the storage of handguns in dormitories or other residential facilities that are owned or leased and operated by the institution; and

(2) the carrying of concealed handguns by license holders at collegiate sporting events that take place on grounds or buildings owned or leased and operated by the institution.

(d) A private or independent institution of higher education in this state, after consulting with students, staff, and faculty of the institution, may adopt written rules or regulations allowing license holders to carry handguns on premises owned or leased and operated by the institution, on any grounds or building owned or leased by the institution and on which an activity sponsored by the institution is being conducted, or on a passenger transportation vehicle of the institution. An institution that adopts a rule or regulation under this subsection shall also adopt written rules or regulations described by Subsection (c).

(e) This section does not permit a person to possess a concealed handgun, or go with a concealed handgun, on the premises of a hospital maintained or operated by an institution of higher education if the hospital gives notice under Section 30.06, Penal Code. In this subsection, "hospital" has the meaning assigned by Section 241.003, Health and Safety Code.

(f) This section does not permit a person to possess a concealed handgun, or go with a concealed handgun, on the premises of a preschool, elementary school, or secondary school that is located on the grounds or premises of an institution of higher education if the institution gives notice under Section 30.06, Penal Code.

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

(a) A court may not hold the state, an agency or subdivision of the state, an officer or employee of the state, an institution of higher education, an officer or employee of an institution of higher education, a private or independent institution of higher education that has not adopted rules under Section 411.2031(e), an officer or employee of a private or independent institution of higher education that has not adopted rules under Section 411.2031(e), a peace officer, or a qualified handgun instructor liable for damages caused by:

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

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

(b) A cause of action in damages may not be brought against the state, an agency or subdivision of the state, an officer or employee of the state, an institution of higher education, an officer or employee of an institution of higher education, a private or independent institution of higher education that has not adopted rules under Section 411.2031(e), an officer or employee of a private or independent institution of higher education that has not adopted rules under Section 411.2031(e), a peace officer, or a qualified handgun instructor for any damage caused by the actions of an applicant or license holder under this subchapter.

(d) The immunities granted under Subsections (a), (b), and (c) do not apply to: (1) an act or a failure to act by the state, an agency or subdivision of the state, an officer of the state, an institution of higher education, an officer or employee of an institution of higher education, a private or independent institution of higher education that has not adopted rules under Section 411.2031(e), an officer or employee of a private or independent institution of higher education that has not adopted rules under Section 411.2031(e), or a peace officer if the act or failure to act was capricious or arbitrary; or

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

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

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

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

(b) A cause of action in damages may not be brought against the state, an agency or subdivision of the state, an officer or employee of the state, an institution of higher education or a private or independent institution of higher education, an officer or employee of an institution of higher education or a private or independent institution of higher education, a peace officer, or a qualified handgun instructor for any damage caused by the actions of an applicant or license holder under this subchapter.

(d) The immunities granted under Subsections (a), (b), and (c) do not apply to an act or a failure to act by the state, an agency or subdivision of the state, an officer of the state, an institution of higher education or a private or independent institution of higher education, an officer or employee of an institution of higher education or a private or independent institution of higher education, or a peace officer if the act or failure to act was capricious or arbitrary.

(2) any officer or employee of an institution of higher education or a private or independent institution of higher education who possesses a handgun on the campus of that institution and whose conduct with regard to the handgun is made the basis of a claim for personal injury or property damage.

(f) For purposes of this section:

(1) "Campus" has the meaning assigned by Section 411.2031.

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

SECTION 3. Section 46.03, Penal Code, is amended by amending Subsections (a) and (c) and adding Subsections (j) and (k) to read as follows:

(a) A person commits an offense if the person intentionally, knowingly, or recklessly possesses or goes with a firearm, illegal knife, club, or prohibited weapon listed in Section 46.05(a):

(1) on the physical premises of a school or educational institution, any grounds or building on which an activity sponsored by a school or educational institution is being conducted, or a passenger transportation vehicle of a school or educational institution, whether the school or educational institution is public or private, unless:

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

(B) the person possesses or goes with a concealed handgun that the person is licensed to carry under Subchapter H, Chapter 411, Government Code, and no other weapon to which this section applies, on the premises of an institution of higher education or private or independent institution of higher education, on any grounds or building on which an activity sponsored by the institution is being conducted, or in a passenger transportation vehicle of the institution;

(f) For purposes of this section, "institution of higher education" and "private or independent institution of higher education" have the meanings assigned by Section 61.003, Education Code.

SECTION 3. Section 46.03, Penal Code, is amended by amending Subsections (a) and (c) and adding Subsections (j), (k), and (l) to read as follows:

(a) A person commits an offense if the person intentionally, knowingly, or recklessly possesses or goes with a firearm, illegal knife, club, or prohibited weapon listed in Section 46.05(a):

(1) on the physical premises of a school or educational institution of higher education or private or independent institution of higher education, any grounds or building on which an activity sponsored by a school or educational institution of higher education or private or independent institution of higher education is being conducted, or a passenger transportation vehicle of a school or educational institution of higher education or private or independent institution of higher education, whether the school or educational institution is public or private, unless:

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

(B) the person possesses or goes on premises owned or leased and operated by an institution of higher education, on any grounds or building owned or leased by the institution and on which an activity sponsored by the institution is being conducted, or on a passenger transportation vehicle of the institution with a concealed handgun that the person is licensed to carry pursuant to a license issued under Subchapter H, Chapter 411, Government Code;

- (2) on the premises of a polling place on the day of an election or while early voting is in progress;
- (3) on the premises of any government court or offices utilized by the court, unless pursuant to written regulations or written authorization of the court;
- (4) on the premises of a racetrack;
- (5) in or into a secured area of an airport; or
- (6) within 1,000 feet of premises the location of which is designated by the Texas Department of Criminal Justice as a place of execution under Article 43.19, Code of Criminal Procedure, on a day that a sentence of death is set to be imposed on the designated premises and the person received notice that:
 - (A) going within 1,000 feet of the premises with a weapon listed under this subsection was prohibited; or
 - (B) possessing a weapon listed under this subsection within 1,000 feet of the premises was prohibited.
- (c) In this section:
 - (1) "Institution of higher education" and "private or independent institution of higher education" have the meanings assigned by Section 61.003, Education Code.
 - (2) "Premises" has the meaning assigned by Section 46.035.
 - (3) ~~(2)~~ "Secured area" means an area of an airport terminal building to which access is controlled by the inspection of persons and property under federal law.

(j) Subsection (a)(1)(B) does not permit a person to possess a concealed handgun, or go with a concealed handgun, on the premises of a hospital maintained or operated by an institution of higher education or private or independent institution of higher education if the hospital gives effective notice under Section 30.06. In this subsection, "hospital" has the meaning assigned by Section 241.003, Health and Safety Code.

(k) Subsection (a)(1)(B) does not permit a person to possess a concealed handgun, or go with a concealed handgun, on the premises of a preschool, elementary school,

- (2) on the premises of a polling place on the day of an election or while early voting is in progress;
- (3) on the premises of any government court or offices utilized by the court, unless pursuant to written regulations or written authorization of the court;
- (4) on the premises of a racetrack;
- (5) in or into a secured area of an airport; or
- (6) within 1,000 feet of premises the location of which is designated by the Texas Department of Criminal Justice as a place of execution under Article 43.19, Code of Criminal Procedure, on a day that a sentence of death is set to be imposed on the designated premises and the person received notice that:
 - (A) going within 1,000 feet of the premises with a weapon listed under this subsection was prohibited; or
 - (B) possessing a weapon listed under this subsection within 1,000 feet of the premises was prohibited.
- (c) In this section:
 - (1) "Institution of higher education" and "private or independent institution of higher education" have the meanings assigned by Section 61.003, Education Code.
 - (2) ~~(4)~~ "Premises" has the meaning assigned by Section 46.035.
 - (3) ~~(2)~~ "Secured area" means an area of an airport terminal building to which access is controlled by the inspection of persons and property under federal law.

(j) Subsection (a)(1)(B) does not preclude an institution of higher education from adopting written rules or regulations prohibiting license holders from carrying handguns under Section 411.2031(b), Government Code.

(k) Subsection (a)(1)(B) does not permit a person to possess a concealed handgun, or go with a concealed handgun, on the premises of a hospital maintained or operated by an institution of higher education if the hospital gives notice under Section 30.06. In this subsection, "hospital" has the meaning assigned by Section 241.003, Health and Safety Code.

(l) Subsection (a)(1)(B) does not permit a person to possess a concealed handgun, or go with a concealed handgun, on the premises of a preschool, elementary school,

or secondary school that is located on the premises of an institution of higher education or private or independent institution of higher education if the institution gives effective notice under Section 30.06.

SECTION 4. Section 46.035, Penal Code, is amended by adding Subsection (1) to read as follows:

No equivalent provision.

or secondary school that is located on the grounds or premises of an institution of higher education if the institution gives notice under Section 30.06.

SECTION 4. Section 46.035, Penal Code, is amended by amending Subsections (b) and (i) and adding Subsection (1) to read as follows:

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

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

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

(3) on the premises of a correctional facility;

(4) on the premises of a hospital licensed under Chapter 241, Health and Safety Code, or on the premises of a nursing home licensed under Chapter 242, Health and Safety Code, unless the license holder has written authorization of the hospital or nursing home administration, as appropriate;

(5) in an amusement park; ~~or~~

(6) on the premises of a church, synagogue, or other established place of religious worship; or

(7) in violation of rules adopted under Section 411.2031(b), Government Code, by an institution of higher education, as defined by Section 61.003, Education Code, on premises owned or leased and operated by the institution, on any grounds or building owned or leased by the institution and on which an activity sponsored by the

institution is being conducted, or on a passenger transportation vehicle of the institution.

No equivalent provision.

(i) Subsections (b)(4), (b)(5), (b)(6), (b)(7), and (c) do not apply if the actor was not given effective notice under Section 30.06.

(l) Subsection (b)(2) does not apply on the premises where a collegiate sporting event is taking place if the actor was not given effective notice under Section 30.06.

(l) Subsection (b)(2) does not apply on premises owned or leased and operated by an institution of higher education as defined by Section 61.003, Education Code, where a collegiate sporting event sponsored by the institution is taking place unless the actor is given notice under Section 30.06.

SECTION 5. Section 411.208, Government Code, as amended by this Act, applies only to a cause of action that accrues on or after September 1, 2014. A cause of action that accrued before that date is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 5. Section 411.208, Government Code, as amended by this Act, applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrued before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 6. Sections 46.03(a) and (c), Penal Code, as amended by this Act, and Sections 46.03(j) and (k) and 46.035(l), Penal Code, as added by this Act, apply only to an offense committed on or after September 1, 2014. An offense committed before September 1, 2014, is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before September 1, 2014, if any element of the offense occurred before that date.

SECTION 6. Sections 46.03 and 46.035, Penal Code, as amended by this Act, apply 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 this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 7. This Act takes effect September 1, 2013.

SECTION 7. This Act takes effect January 1, 2014.