

By: Estes

S.B. No. 299

A BILL TO BE ENTITLED

AN ACT

relating to the unintentional display of a weapon by a person licensed to carry a concealed handgun.

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

SECTION 1. Section 46.035, Penal Code, is amended to read as follows:

Sec. 46.035. UNLAWFUL CARRYING OF HANDGUN BY LICENSE HOLDER. (a) A license holder commits an offense if the license holder carries a handgun on or about the license holder's person under the authority of Subchapter H, Chapter 411, Government Code, and intentionally ~~[fails to conceal the handgun]~~ displays the handgun in plain view of another person in a public place in a manner calculated to cause alarm and not pursuant to a justified use of force or threat of force as described in Chapter 9.

(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

1 Beverage Commission under Section 104.06, Alcoholic Beverage Code;

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

6 (3) on the premises of a correctional facility;

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

12 (5) in an amusement park; or

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

15 (c) A license holder commits an offense if the license
16 holder intentionally, knowingly, or recklessly carries a handgun
17 under the authority of Subchapter H, Chapter 411, Government Code,
18 regardless of whether the handgun is concealed, at any meeting of a
19 governmental entity.

20 (d) A license holder commits an offense if, while
21 intoxicated, the license holder carries a handgun under the
22 authority of Subchapter H, Chapter 411, Government Code, regardless
23 of whether the handgun is concealed.

24 (e) A license holder who is licensed as a security officer
25 under Chapter 1702, Occupations Code, and employed as a security
26 officer commits an offense if, while in the course and scope of the
27 security officer's employment, the security officer violates a

1 provision of Subchapter H, Chapter 411, Government Code.

2 (f) In this section:

3 (1) "Amusement park" means a permanent indoor or
4 outdoor facility or park where amusement rides are available for
5 use by the public that is located in a county with a population of
6 more than one million, encompasses at least 75 acres in surface
7 area, is enclosed with access only through controlled entries, is
8 open for operation more than 120 days in each calendar year, and has
9 security guards on the premises at all times. The term does not
10 include any public or private driveway, street, sidewalk or
11 walkway, parking lot, parking garage, or other parking area.

12 (2) "License holder" means a person licensed to carry
13 a handgun under Subchapter H, Chapter 411, Government Code.

14 (3) "Premises" means a building or a portion of a
15 building. The term does not include any public or private driveway,
16 street, sidewalk or walkway, parking lot, parking garage, or other
17 parking area.

18 (g) An offense under Subsection (a), (b), (c), (d), or (e)
19 is a Class A misdemeanor, unless the offense is committed under
20 Subsection (b)(1) or (b)(3), in which event the offense is a felony
21 of the third degree.

22 ~~[(h) It is a defense to prosecution under Subsection (a) that~~
23 ~~the actor, at the time of the commission of the offense, displayed~~
24 ~~the handgun under circumstances in which the actor would have been~~
25 ~~justified in the use of deadly force under Chapter 9.]~~

26 ~~[Text of subsection as added by Acts 2007, 80th Leg., R.S.,~~
27 ~~Ch. 1214, Sec. 2]~~

1 ~~[(h-1)]~~ (h) It is a defense to prosecution under Subsections
2 (b) and (c) that the actor, at the time of the commission of the
3 offense, was:

4 (1) an active judicial officer, as defined by Section
5 411.201, Government Code; or

6 (2) a bailiff designated by the active judicial
7 officer and engaged in escorting the officer.

8 ~~[Text of subsection as added by Acts 2007, 80th Leg., R.S.,
9 Ch. 1222, Sec. 5]~~

10 (h-1) It is a defense to prosecution under Subsections
11 (b)(1), (2), and (4)-(6), and (c) that at the time of the commission
12 of the offense, the actor was:

13 (1) a judge or justice of a federal court;

14 (2) an active judicial officer, as defined by Section
15 411.201, Government Code; or

16 (3) a district attorney, assistant district attorney,
17 criminal district attorney, assistant criminal district attorney,
18 county attorney, or assistant county attorney.

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

21 (j) Subsections (a) and (b)(1) do not apply to a historical
22 reenactment performed in compliance with the rules of the Texas
23 Alcoholic Beverage Commission.

24 (k) It is a defense to prosecution under Subsection (b)(1)
25 that the actor was not given effective notice under Section
26 411.204, Government Code.

27 SECTION 2. This Act takes effect September 1, 2003.