

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Guillen, Springer, Eiland, Clardy,  
et al.

H.B. No. 508

A BILL TO BE ENTITLED

AN ACT

relating to certain offenses relating to carrying concealed  
handguns on property owned or leased by a governmental entity;  
providing a civil penalty.

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

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 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 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.

(c) Each day of a continuing violation of Subsection (a)

1 constitutes a separate violation.

2 (d) A citizen of this state or a person licensed to carry a  
3 concealed handgun under this subchapter may file a complaint with  
4 the attorney general that a state agency or political subdivision  
5 is in violation of Subsection (a). A complaint filed under this  
6 subsection must include evidence of the violation.

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

11 (f) Before a suit may be brought against a state agency or a  
12 political subdivision of the state for a violation of Subsection  
13 (a), the attorney general must investigate the complaint to  
14 determine whether legal action is warranted. If legal action is  
15 warranted, the attorney general must give the chief administrative  
16 officer of the agency or political subdivision charged with the  
17 violation a written notice that:

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

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

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

27 (g) 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), the attorney general or the appropriate county or district attorney may sue to collect the civil penalty provided by Subsection (b). The attorney general may also file a petition for a writ of mandamus or apply for other appropriate equitable relief. A suit or petition under this subsection may 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. The attorney general may 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) Sovereign immunity to suit is waived and abolished to the extent of liability created by this section.

SECTION 2. Section 46.035(c), Penal Code, is amended to read as follows:

(c) 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, in the room or rooms where a [at any] meeting of a governmental entity is held and if the meeting is an open meeting subject to Chapter 551, Government Code, and the entity provided notice as required by that chapter.

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

1 before the effective date of this Act is governed by the law in  
2 effect on the date the offense was committed, and the former law is  
3 continued in effect for that purpose. For purposes of this section,  
4 an offense was committed before the effective date of this Act if  
5 any element of the offense occurred before that date.

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

ADOPTED

FLOOR AMENDMENT NO. 1

MAY 20 2013

BY: Carina

*Stephane Gaud*  
State Auditor

1 Amend H.B. No. 508 (senate committee report) as follows:

2 (1) In SECTION 3 of the bill, in the transition language  
3 (page 2, line 29), between "SECTION 3." and "The change", insert  
4 "(a)".

5 (2) In SECTION 3 of the bill, in the transition language  
6 (page 2, line 30), strike "Section 46.035(c)" and substitute  
7 "Subsections (c) and (h-1), Section 46.035, and Subsection (a),  
8 Section 46.15".

9 (3) In SECTION 3 of the bill, in the transition language  
10 (page 2, between lines 36 and 37), insert the following:

11 (b) The change in law made by this Act to Subdivision (1),  
12 Subsection (a), Section 411.201, Government Code, applies only  
13 to an application to obtain or renew a license to carry a  
14 concealed handgun submitted on or after the effective date of  
15 this Act. An application submitted before the effective date of  
16 this Act is governed by the law in effect when the application  
17 was submitted, and the former law is continued in effect for  
18 that purpose.

19 (4) Add the following appropriately numbered SECTIONS to  
20 the bill and renumber subsequent SECTIONS of the bill  
21 accordingly:

22 SECTION \_\_\_\_\_. Subsection (a), Section 411.1882, Government  
23 Code, is amended to read as follows:

24 (a) A person who is serving in this state as a judge or  
25 justice of a federal court, as an active judicial officer, as  
26 defined by Section 411.201, or as the holder of a statewide  
27 office, as defined by Section 1.005, Elections Code, a member of  
28 the house of representatives or the senate, the state  
29 prosecuting attorney or an assistant state prosecuting attorney,  
30 an assistant attorney general, United States attorney, assistant

1 United States attorney, special assistant United States  
2 attorney, [a] district attorney, assistant district attorney,  
3 criminal district attorney, assistant criminal district  
4 attorney, county attorney, or assistant county attorney may  
5 establish handgun proficiency for the purposes of this  
6 subchapter by obtaining from a handgun proficiency instructor  
7 approved by the Commission on Law Enforcement Officer Standards  
8 and Education for purposes of Section 1702.1675, Occupations  
9 Code, a sworn statement that:

10 (1) indicates that the person, during the 12-month  
11 period preceding the date of the person's application to the  
12 department, demonstrated to the instructor proficiency in the  
13 use of handguns; and

14 (2) designates the categories of handguns with  
15 respect to which the person demonstrated proficiency.

16 SECTION \_\_\_\_\_. Subdivision (1), Subsection (a), Section  
17 411.201, Government Code, is amended to read as follows:

18 (1) "Active judicial officer" means:

19 (A) a person serving as a judge or justice of  
20 the supreme court, the court of criminal appeals, a court of  
21 appeals, a district court, a criminal district court, a  
22 constitutional county court, a statutory county court, a justice  
23 court, or a municipal court;

24 (B) a federal judge who is a resident of this  
25 state; or

26 (C) a person appointed and serving as:

27 (i) an associate judge under Chapter 201,  
28 Family Code, or Chapter 54 or 54A; or

29 (ii) a master or magistrate under Chapter  
30 54.

31 SECTION \_\_\_\_\_. Subsection (h-1), Section 46.035, Penal Code,  
32 as added by Chapters 1214 (H.B. 1889) and 1222 (H.B. 2300), Acts

1 of the 80th Legislature, Regular Session, 2007, is reenacted and  
2 amended to read as follows:

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

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

7 (2) an active judicial officer, as defined by Section  
8 411.201, Government Code; ~~or~~

9 (3) ~~(2)~~ a bailiff designated by the active judicial  
10 officer and engaged in escorting the officer; or

11 (4) the holder of a statewide office, as defined by  
12 Section 1.005, Elections Code, a member of the house of  
13 representatives or the senate, the state prosecuting attorney,  
14 an assistant state prosecuting attorney, an assistant attorney  
15 general, or a United States attorney, assistant United States  
16 attorney, special assistant United States attorney, ~~(3)~~a  
17 district attorney, assistant district attorney, criminal  
18 district attorney, assistant criminal district attorney, county  
19 attorney, or assistant county attorney.

20 SECTION \_\_\_\_\_. Subsection (a), Section 46.15, Penal Code, is  
21 amended to read as follows:

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

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

31 (2) parole officers and neither section prohibits an  
32 officer from carrying a weapon in this state if the officer is:

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

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

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

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

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

14 (4) a judge or justice of a federal court or an  
15 active judicial officer as defined by Section 411.201,  
16 Government Code, who is licensed to carry a concealed handgun  
17 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  
20 issued under Section 1701.357, Occupations Code, and is carrying  
21 a photo identification that:

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

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

27 (6) the holder of a statewide office, as defined by  
28 Section 1.005, Elections Code, a member of the house of  
29 representatives or the senate, the state prosecuting attorney,  
30 or United States attorney, or a district attorney, criminal  
31 district attorney, county attorney, or municipal attorney who is

1 licensed to carry a concealed handgun under Subchapter H,  
2 Chapter 411, Government Code;

3 (7) an assistant state prosecuting attorney,  
4 assistant attorney general, assistant United States attorney,  
5 special assistant United States attorney, assistant district  
6 attorney, assistant criminal district attorney, or assistant  
7 county attorney who is licensed to carry a concealed handgun  
8 under Subchapter H, Chapter 411, Government Code;

9 (8) a bailiff designated by an active judicial  
10 officer as defined by Section 411.201, Government Code, who is:

11 (A) licensed to carry a concealed handgun under  
12 Chapter 411, Government Code; and

13 (B) engaged in escorting the judicial officer;  
14 or

15 (9) a juvenile probation officer who is authorized to  
16 carry a firearm under Section 142.006, Human Resources Code.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**May 22, 2013**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB508** by Guillen (Relating to certain offenses relating to carrying concealed handguns on property owned or leased by a governmental entity; providing a civil penalty.). **As Passed 2nd House**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would prevent a state agency or political subdivision from communicating to a concealed handgun license holder carrying a handgun that he or she is prohibited from carrying a handgun on the premises if such conduct is not prohibited by Section 46.03 or 46.035, Penal Code.

The bill would also provide for civil penalties of \$1,000 to \$1,500 for a first offense and \$10,000 to \$10,500 for subsequent violations. Each day of a continuing violation would be a separate violation.

The bill would require the attorney general to investigate a complaint on behalf of a citizen of this state or an individual licensed to carry a concealed handgun if the individual so requests and presents evidence that his or her right to carry a concealed handgun was violated under this section. The attorney general or appropriate county or district attorney would be permitted to sue the responsible state agency or subdivision. After recovering reasonable expenses incurred by the attorney general, any civil penalty collected under this section would be deposited to the credit of the compensation to victims of crime fund.

The bill would include certain officeholders in the concealed handgun license procedures available to judges. According to the Office of Court Administration, none of these provisions are expected to have a significant fiscal impact on the State.

The Office of the Attorney General (OAG) reported that the bill would have a slight positive fiscal impact on the victims of crime fund; however, OAG does not anticipate that this revenue would be significant.

OAG reported that any legal work or costs associated with the bill would be absorbed with existing resources.

**Local Government Impact**

A local government would be accountable for the civil penalties established by the bill; however, these costs would depend on the number of cases, if any, and would only apply in the event of

noncompliance.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 407 Commission on Law Enforcement Officer Standards and Education

**LBB Staff:** UP, KKR, ESi

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**May 15, 2013**

**TO:** Honorable Juan Hinojosa, Chair, Senate Committee on Intergovernmental Relations

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB508** by Guillen (Relating to certain offenses relating to carrying concealed handguns on property owned or leased by a governmental entity; providing a civil penalty.), **As Engrossed**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would prevent a state agency or political subdivision from communicating to a concealed handgun license holder carrying a handgun that he or she is prohibited from carrying a handgun on the premises if such conduct is not prohibited by Section 46.03 or 46.035, Penal Code.

The bill would also provide for civil penalties of \$1,000 to \$1,500 for a first offense and \$10,000 to \$10,500 for subsequent violations. Each day of a continuing violation would be a separate violation.

The bill would require the attorney general to investigate a complaint on behalf of a citizen of this state or an individual licensed to carry a concealed handgun if the individual so requests and presents evidence that his or her right to carry a concealed handgun was violated under this section. The attorney general or appropriate county or district attorney would be permitted to sue the responsible state agency or subdivision. After recovering reasonable expenses incurred by the attorney general, any civil penalty collected under this section would be deposited to the credit of the compensation to victims of crime fund.

The Office of the Attorney General (OAG) reported that the bill would have a slight positive fiscal impact on the victims of crime fund; however, OAG does not anticipate that this revenue would be significant.

OAG reported that any legal work or costs associated with the bill would be absorbed with existing resources.

**Local Government Impact**

A local government would be accountable for the civil penalties established by the bill; however, these costs would depend on the number of cases, if any, and would only apply in the event of noncompliance.

**Source Agencies:** 302 Office of the Attorney General

**LBB Staff:** UP, ESI, KKR

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**April 4, 2013**

**TO:** Honorable Abel Herrero, Chair, House Committee on Criminal Jurisprudence

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB508** by Guillen (Relating to certain offenses relating to carrying concealed handguns on property owned or leased by a governmental entity; providing a civil penalty. ),  
**Committee Report 1st House, Substituted**

<p><b>No significant fiscal implication to the State is anticipated.</b></p>
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The bill would prevent a state agency or political subdivision from communicating to a concealed handgun license holder carrying a handgun that they are prohibited from carrying a handgun on the premises if such conduct is not prohibited by Section 46.03 or 46.035, Penal Code.

The bill would also provide for civil penalties of \$1,000 to \$1,500 for a first offense and \$10,000 to \$10,500 for subsequent violations. Each day of a continuing violation would be a separate violation.

The bill would require the attorney general to sue on behalf of an individual licensed to carry a concealed handgun if the individual so requests. Any civil penalty collected under this section would be deposited to the credit of the compensation to victims of crime fund.

The Office of the Attorney General (OAG) reported that the bill would have a slight positive fiscal impact on the victims of crime fund; however, OAG does not anticipate that this revenue would be significant.

OAG reported that any legal work or costs associated with the bill would be absorbed with existing resources.

**Local Government Impact**

A local government would be accountable for the civil penalties established by the bill; however, these costs would depend on the number of cases, if any, and would only apply in the event of noncompliance.

**Source Agencies:** 302 Office of the Attorney General

**LBB Staff:** UP, ESi, KKR

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**March 15, 2013**

**TO:** Honorable Abel Herrero, Chair, House Committee On Criminal Jurisprudence

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB508** by Guillen (Relating to certain laws relating to carrying concealed handguns on property owned or leased by a governmental entity; creating an offense.), **As Introduced**

<b>No fiscal implication to the State is anticipated.</b>
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The bill would amend Penal Code to create a penalty for a public employee who blocks access for a licensed concealed handgun carrier to government property that is not explicitly prohibited by Sections 46.03 or 46.035, Penal Code. Locations covered by these sections include educational institutions, polling places, government courts and court offices, racetracks, secured areas of airports, and within 1,000 feet of a place of execution described by Article 43.19, Code of Criminal Procedure. The penalty to a public employee who commits an offense under the provisions of the bill would be a Class C misdemeanor with a minimum fine of \$250.

The bill would also amend Section 46.035(c), Penal Code, to only include open meetings under Chapter 551, Government Code, as a government meeting in which a handgun is prohibited under this section. Current statute includes all meetings of government entities as a location in which carrying a handgun is prohibited. An offense under this section is a Class A misdemeanor.

A Class C misdemeanor is punishable by a fine of not more than \$500. Costs associated with enforcement and prosecution could likely be absorbed within existing resources. A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both.

**Local Government Impact**

Fiscal impact on local governments would vary depending on the number of cases that occur in a given locality but is not anticipated to be significant.

Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Lost revenue from fewer fines imposed and collected is not anticipated to have a significant fiscal impact.

**Source Agencies:**

**LBB Staff:** UP, ESi, SD, KKR