

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 11  
By: Birdwell et al.  
State Affairs  
2/17/2015  
Committee Report (Substituted)

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

C.S.S.B. 11 affects adult faculty, staff, students and visitors who are 21 years of age or older (unless in the military), who have passed state and federal criminal records checks, completed a firearms proficiency test, and completed Department of Public Safety-mandated training and education.

C.S.S.B. 11 removes criminal prohibitions in the Texas Penal Code on the possession of concealed handguns by concealed handgun licensees (CHLs) on the campuses of public or private institutions of higher education.

The bill states that public institutions of higher education may not circumvent the intent of the Act by imposing administrative bans and sanctions on CHLs on their campuses. Private or independent institutions of higher education may, after consulting with students, faculty and staff, establish rules or regulations prohibiting CHLs on their campuses. The structure of this bill tracks with how public and private property are generally treated elsewhere in the state under the concealed carry law.

C.S.S.B. 11 allows institutions of higher education to establish rules and regulations governing the storage of handguns by CHLs in dorms and residential facilities and to post athletic events and sporting venues as off-limits to CHLs. Locations that are off-limits under the Penal Code (bars, hospitals, and churches, for example) will remain off-limits to CHLs even if they happen to be located on a campus.

C.S.S.B. 11 provides institutions of higher education with immunity from liability for actions of CHLs on campus (except in cases where private or independent institutions of higher education have adopted administrative prohibitions for CHLs on campus).

The substitute bill notes that should both S.B. 11 and S.B. 17 (as proposed) pass, the unconcealed or "open" carrying of handguns by CHLs would be prohibited on the campuses of institutions of higher education.

As proposed, C.S.S.B. 11 amends current law relating to the carrying of concealed handguns on the campuses of and certain other locations associated with institutions of higher education.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to an institution of higher education or private or independent institution of higher education in this state in SECTION 1 (Section 411.2031, Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter H, Chapter 411, Government Code, by adding Section 411.2031, as follows:

Section 411.2031. CARRYING OF HANDGUNS BY LICENSE HOLDERS ON CERTAIN CAMPUSES. (a) Defines "campus," "institution of higher education,"

"private or independent institution of higher education," and "premises" for purposes of this section.

(b) Authorizes a license holder to 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) Prohibits an institution of higher education or private or independent institution of higher education in this state from adopting any rule, regulation, or other provision prohibiting license holders from carrying handguns on the campus of the institution, except as provided by Subsection (d) or (e).

(d) Authorizes an institution of higher education or private or independent institution of higher education in this state to 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) Authorizes a private or independent institution of higher education in this state, after consulting with students, staff, and faculty of the institution, to 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) Prohibits a person from possessing a concealed handgun, or going 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 (Trespass by Holder of License to Carry Concealed Handgun), Penal Code. Defines "hospital."

(g) Prohibits a person from possessing a concealed handgun, or going 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.

SECTION 2. Provides that if S.B. 17, Acts of the 84th Legislature, Regular Session, 2015, becomes law, Subchapter H, Chapter 411, Government Code, is amended by adding Section 411.2033, as follows:

Sec. 411.2033. CARRYING OF UNCONCEALED HANDGUNS BY LICENSE HOLDERS ON PUBLIC OR PRIVATE HIGHER EDUCATION CAMPUSES. (a) Defines, for the purposes of this section, "campus," "institution of higher education," and "private or independent institution of higher education" to have the meanings assigned by Section 411.2031 (Carrying of Handguns by License Holders on Certain Campuses).

(b) Prohibits a license holder from carrying a handgun on the campus of an institution of higher education or private or independent institution of higher education in this state if the handgun is wholly or partially visible, regardless of whether the handgun is carried in a shoulder or belt holster, notwithstanding any other law.

SECTION 3. Amends Section 411.208, Government Code, by amending Subsections (a), (b), and (d) and adding Subsection (f), as follows:

(a) Prohibits a court from holding 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 certain actions.

(b) Prohibits a cause of action in damages from being 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) Provides that 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

(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) Defines "campus," "institution of higher education," and "private or independent institution of higher education" for purposes of this section.

SECTION 4. Amends Section 46.03, Penal Code, by amending Subsections (a) and (c) and adding Subsections (j) and (k), as follows:

(a) Provides that 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) (relating to the commission of an offense by intentionally possessing certain prohibited weapons):

(1) on certain premises and grounds, 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;

Makes a nonsubstantive change to this subdivision.

(2)-(6) Makes no change to these subdivisions.

(c) Defines "institution of higher education," "private or independent institution of higher education," "premises," and "secured area." Makes nonsubstantive changes.

(j) Provides that Subsection (a)(1)(B) prohibits a person from possessing a concealed handgun, or going 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. Defines "hospital."

(k) Provides that Subsection (a)(1)(B) prohibits a person from possessing a concealed handgun, or going 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 5. Amends Section 46.035, Penal Code, by adding Subsection (l), to provide that Subsection (b)(2) (relating to the commission of an offense by carrying a handgun on the premises where a high school collegiate or professional sporting or interscholastic event is taking place) 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.

SECTION 6. Provides that 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. Makes application of this Act prospective.

SECTION 7. Provides that the change in law made by this Act applies only to an offense committed on or after the effective date of this Act. Makes application of this Act prospective.

SECTION 8. Effective date: September 1, 2015.