

By: Stickland

H.B. No. 195

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the carrying of handguns; providing for the open
3 carrying of handguns; removing the requirement that a person who
4 may lawfully possess handguns obtain a Concealed Handgun License in
5 order to carry a handgun lawfully in the state of Texas, and
6 conforming changes.

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

8 SECTION 1. This act shall be known and cited as the Texas
9 Constitutional Carry Act of 2015.

10 SECTION 2. Section 46.02 Penal Code is amended to read as
11 follows:

12 Sec. 46.02. UNLAWFUL CARRYING WEAPONS.

13 ~~[(a) A person commits an offense if the person~~
14 ~~intentionally, knowingly, or recklessly carries on or about his or~~
15 ~~her person a handgun, illegal knife, or club if the person is not:~~

16 ~~[(1) on the person's own premises, or premises under~~
17 ~~the person's control, or with permission of the premises owner, or~~

18 ~~[(2) inside of or directly en route to a motor vehicle~~
19 ~~or watercraft that is owned by the person or under the person's~~
20 ~~control.~~

21 (a) ~~[(a-1)]~~ A person commits an offense if the person
22 intentionally, knowingly, or recklessly carries on or about his or
23 her person a handgun in a motor vehicle or watercraft that is owned
24 by the person or under the person's control at any time in which the

1 person is:

2 ~~[(1) the handgun is in plain view, or~~

3 ~~[(2) the person is:~~

4 (1) ~~[(A)]~~ engaged in criminal activity, other than a
5 Class C misdemeanor that is a violation of a law or ordinance
6 regulating traffic or boating;

7 (2) ~~[(B)]~~ prohibited by law from possessing a firearm;
8 or

9 (3) ~~[(C)]~~ a member of a criminal street gang, as
10 defined by Section 71.01.

11 SECTION 3. Sect. 46.035, Penal Code, is amended to read as
12 follows:

13 Sec. 46.035. UNLAWFUL CARRYING OF HANDGUN ~~[BY LICENSE~~
14 ~~HOLDER]~~.

15 ~~[(a) A license holder commits an offense if the license~~
16 ~~holder carries a handgun on or about the license holder's person~~
17 ~~under the authority of Subchapter H, Chapter 411, Government Code,~~
18 ~~and intentionally fails to conceal the handgun.~~

19 (a) ~~[(b)]~~ A ~~[license holder]~~ person in possession of a
20 handgun commits an offense if they ~~[the license holder]~~
21 intentionally, knowingly, or recklessly ~~[carries]~~ carry a handgun
22 ~~[under the authority of Subchapter H, Chapter 411, Government Code,~~
23 ~~regardless of whether the handgun is concealed,]~~ on or about their
24 ~~[the license holder's]~~ person:

25 (1) on the premises of a business that has a permit or
26 license issued under Chapter 25, 28, 32, 69, or 74, Alcoholic
27 Beverage Code, if the business derives 51 percent or more of its

1 income from the sale or service of alcoholic beverages for
2 on-premises consumption, as determined by the Texas Alcoholic
3 Beverage Commission under Section 104.06, Alcoholic Beverage Code;

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

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

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

14 (5) in an amusement park; ~~[or]~~

15 (6) on the premises of a church, synagogue, or other
16 established place of religious worship; ~~[or]~~

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

22 (8) ~~[(d) A license holder commits an offense if,~~
23 ~~while intoxicated [or the license holder carries a handgun under the~~
24 ~~authority of Subchapter H, Chapter 411, Government Code, regardless~~
25 ~~of whether the handgun is concealed].~~

26 (b) ~~[(c)]~~ A ~~[license holder]~~ person who is licensed as a
27 security officer under Chapter 1702, Occupations Code, and employed

1 as a security officer commits an offense if, while in the course and
2 scope of the security officer's employment, the security officer
3 violates a provision of Subchapter H, Chapter 411, Government Code.

4 (c) In this section:

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

14 ~~[(2) "License holder" means a person licensed to carry~~
15 ~~a handgun under Subchapter H, Chapter 411, Government Code.~~

16 (2) ~~[(3)]~~ "Premises" means a building or a portion of
17 a building. The term does not include any public or private
18 driveway, street, sidewalk or walkway, parking lot, parking garage,
19 or other parking area.

20 (3) "Intoxicated" has the meaning assigned by Section
21 49.01, Penal Code.

22 (d) ~~[(g)]~~ An offense under Subsection (a) ~~[(b), (c), (d),~~
23 ~~or (e)]~~ is a Class A misdemeanor, unless the offense is committed
24 under Subsection (a)(1) ~~[(b)]~~ or (a)(2) ~~[(b)(3)]~~, in which event
25 the offense is a felony of the third degree.

26 ~~[(h) It is a defense to prosecution under Subsection (a)~~
27 ~~that the actor, at the time of the commission of the offense,~~

1 ~~displayed the handgun under circumstances in which the actor would~~
2 ~~have been justified in the use of deadly force under Chapter 9.]~~

3 (e) [~~(h-1)~~] It is a defense to prosecution under Subsections
4 (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), and (a)(6), [(b)(1), (2),
5 ~~and (4) - (7), and (c)]~~ that the actor, at the time of the commission
6 of the offense, was:

7 (1) an active judicial officer, as defined by Section
8 [411.201](#), Government Code; or

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

11 (f) [~~(h-1)~~] It is a defense to prosecution under
12 Subsections (a)(1) [~~(b)~~], (2), and (4) - (7) [~~(6), and (c)~~] that at
13 the time of the commission of the offense, the actor was:

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

15 (2) an active judicial officer, as defined by Section
16 [411.201](#), Government Code; or

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

20 (g) [~~(i)~~] Subsections (a)(3), (a)(4), (a)(5), (a)(6), and
21 (a)(7) [~~(b)(4), (b)(5), (b)(6), and (c)~~] do not apply if the actor
22 was not given effective notice under Section [30.06](#).

23 (h) [~~(j)~~] Subsection~~s~~ (a)(1) [~~and (b)~~] does not apply to a
24 historical reenactment performed in compliance with the rules of
25 the Texas Alcoholic Beverage Commission.

26 (i) [~~(k)~~] It is a defense to prosecution under
27 Subsection(a)(1) [~~(b)~~] that the actor was not given effective

1 notice under Section 411.204, Government Code.

2 SECTION 4. Sect. 46.15, Penal Code, is amended by adding
3 Subsection (k) to read as follows:

4 (k) Notwithstanding any other provision of this chapter or
5 any other law to the contrary, no person shall be required to obtain
6 any license to carry a handgun as a condition for being able to
7 carry handguns openly or concealed in the State of Texas except a
8 person who is prohibited from possessing a handgun under 18 USC §
9 922.

10 SECTION 5. Sect. 411.207, Government Code, Subsection (A)
11 is amended to read as follows:

12 AUTHORITY OF PEACE OFFICER TO DISARM. (a) A peace officer who
13 is acting in the lawful discharge of the officer's official duties
14 may disarm a [~~license holder~~] person in possession of a handgun at
15 any time the officer [~~reasonably~~] has probable cause to believe[~~s~~
16 ~~it is necessary for~~] that the person [~~the protection of the license~~
17 ~~holder,~~] poses an imminent threat to themselves, the officer, or
18 another individual. The peace officer shall return the handgun to
19 the [~~license holder~~] person before discharging the [~~license holder~~]
20 person from the scene if the officer determines that the [~~license~~
21 ~~holder~~] person is not a threat to themselves, the officer, [~~license~~
22 ~~holder,~~] or another individual and if the [~~license holder~~] person
23 has not [~~violated any provision of this subchapter or~~] committed
24 any [~~other~~] violation that results in [~~the~~] their arrest [~~of the~~
25 ~~license holder~~]. The mere possession or carrying of a firearm,
26 openly or concealed, with or without a Concealed Handgun License,
27 shall not constitute probable cause for a peace officer to disarm or

1 detain an otherwise law-abiding person.

2 SECTION 5. Sect. 411.205, Government Code is hereby
3 repealed.

4 SECTION 6. This Act takes effect immediately if it receives
5 a vote of two-thirds of all the members elected to each house, as
6 provided by Section 39, Article III, Texas Constitution. If this
7 Act does not receive the vote necessary for immediate effect, this
8 Act takes effect on the 91st day after the last day of the
9 legislative session.