

## **BILL ANALYSIS**

C.S.H.B. 1911  
By: White  
Homeland Security & Public Safety  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties contend that requiring Texans to obtain a license to legally carry a handgun infringes on their constitutional rights. C.S.H.B. 1911 seeks to grant authority to carry a handgun to certain unlicensed persons and to revise certain related regulatory provisions and criminal offenses.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 1911 amends the Penal Code to exempt from the offense of unlawful carrying of weapons a person who is at least 21 years of age who has not been convicted of a felony, is fully qualified under applicable federal law to purchase and possess a handgun, meets the eligibility requirements for a handgun license, other than a requirement relating to the license application, is not a member of a criminal street gang, and is carrying a handgun in a concealed manner or in a holster. The bill revises provisions relating to the offenses of unlawful carrying of weapons, possessing or going with a prohibited weapon in a place where weapons are prohibited, and unlawful carrying of a handgun by a handgun license holder to include references to a person who is legally authorized to carry a handgun in a manner other than by licensure and to make changes relating to that inclusion. The bill removes certain references to Subchapter H, Chapter 411, Government Code, in relation to carrying a handgun, to conform to the bill's provisions.

C.S.H.B. 1911 expands the exemption from the offenses of unlawful carrying of weapons and possessing or going with a prohibited weapon in a place where weapons are prohibited for certain persons to also exempt those persons from the offense of unlawful carrying of a handgun by a handgun license holder or other person legally authorized to carry a handgun. The bill removes the specification that a person must be carrying a handgun license to qualify for an exemption from the offense of unlawful carrying of weapons that is based on the person carrying such a license and carrying a handgun in a concealed or holstered manner. The bill revises provisions regarding certain weapons offenses, provisions relating to a defense to prosecution for certain offenses, and provisions providing an exemption from certain weapons offenses to remove the specifications in those provisions that the holster in which a handgun is carried is a shoulder or belt holster.

C.S.H.B. 1911 reduces the penalty for criminal trespass from a Class B misdemeanor to a Class

C misdemeanor punishable by a fine capped at \$200 if the sole basis on which entry on the property or land or in the building was forbidden is that entry with a firearm was forbidden and the person was carrying in a concealed manner or in a holster a handgun that the person was legally authorized to carry at the time of the offense. The bill expands the conduct that constitutes a Class A misdemeanor criminal trespass offense to include, in addition to the described contingency and conduct in the foregoing Class C misdemeanor offense and as shown at the trial of the offense, the actor's failure to depart the property, land, or building after being personally given notice by oral communication that entry with a firearm was forbidden. The bill makes related changes to the defense to prosecution for criminal trespass. The bill removes the intentional, knowing, or reckless carrying of a handgun on the premises of an established place of religious worship, regardless of whether the handgun is concealed or carried in a holster, from the conduct constituting the unlawful carrying of a handgun by a handgun license holder or by, as provided by the bill, a person otherwise legally authorized to carry a handgun.

C.S.H.B. 1911 amends the Government Code to revise certain provisions regulating handgun licenses to update certain references to license holders in those provisions and to conform those provisions to the bill's provisions relating to the carrying of a firearm by a person otherwise legally authorized to do so. The bill revises and conforms to the bill's provisions the requirement that a person carrying a handgun display the person's driver's license or identification certificate issued by the Department of Public Safety and the person's handgun license, if applicable, when a magistrate or a peace officer demands such a display and includes the person's display of other proof of identity as an alternative to the display of the person's driver's license or identification certificate. The bill repeals a provision establishing that a business that has a permit or license issued under the Alcoholic Beverage Code and that is not otherwise required to display a sign giving notice that it is unlawful to carry a handgun on the business's premises may be required to display a warning sign giving such notice.

C.S.H.B. 1911 amends the Human Resources Code to include a reference to a person otherwise legally authorized to carry a handgun in a statutory provision relating to the transport of a foster child in a vehicle where a handgun is present.

C.S.H.B. 1911 amends the Local Government Code to include a reference to a person otherwise legally authorized to carry a handgun in statutory provisions relating to municipal authority to regulate the carrying of a firearm or air gun at certain locations or events.

C.S.H.B. 1911 amends the Parks and Wildlife Code to make an exemption for handgun license holders from the prohibition against hunting with, possessing, or shooting weapons on or across the land of the Lower Colorado River Authority applicable to a person who is carrying a handgun the person is legally authorized to carry and to make certain conforming changes. The bill makes a limitation on the prohibition against the discharge of a firearm in or on the bed or bank of a navigable river or stream located wholly or partly in Dimmit, Edwards, Frio, Kenedy, Llano, Maverick, Real, Uvalde, or Zavala County applicable to any person carrying a handgun that the person legally is authorized to carry. The bill removes certain references to Subchapter H, Chapter 411, Government Code, in relation to carrying a handgun, to conform to the bill's provisions.

C.S.H.B. 1911 repeals Section 411.204(d), Government Code, and the following provisions of the Alcoholic Beverage Code:

- Section 11.041
- Section 11.61(e)
- Section 61.11
- Section 61.71(f)

**EFFECTIVE DATE**

September 1, 2017.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 1911 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

**INTRODUCED**

**HOUSE COMMITTEE SUBSTITUTE**

SECTION 1. Chapter 506, Business & Commerce Code, as added by Chapter 794 (H.B. 2739), Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

No equivalent provision.

CHAPTER 506. LICENSE TO CARRY ~~[CONCEALED]~~ HANDGUN ~~[LICENSES]~~ AS VALID FORM ~~[FORMS]~~ OF PERSONAL IDENTIFICATION

Sec. 506.001. ~~[CONCEALED HANDGUN]~~ LICENSE TO CARRY HANDGUN AS VALID PROOF OF IDENTIFICATION. (a) A person may not deny the holder of a ~~[concealed]~~ handgun license issued under Subchapter H, Chapter 411, Government Code, access to goods, services, or facilities, except as provided by Section 521.460, Transportation Code, or in regard to the operation of a motor vehicle, because the holder has or presents a ~~[concealed]~~ handgun license rather than a driver's license or other acceptable form of personal identification.

(b) This section does not affect:  
(1) the requirement under Section 411.205, Government Code, that a person subject to that section present a driver's license or identification certificate or other proof of identity on the request of a magistrate or peace officer ~~[in addition to a concealed handgun license]~~; or  
(2) the types of identification required under federal law to access airport premises or pass through airport security.

No equivalent provision.

SECTION 2. Section 51.220(g), Education Code, is amended to read as follows:

(g) A public junior college employee's status as a school marshal becomes inactive on:  
(1) expiration of the employee's school marshal license under Section 1701.260, Occupations Code;

- (2) suspension or revocation of the employee's license to carry a ~~[concealed]~~ handgun issued under Subchapter H, Chapter 411, Government Code;
- (3) termination of the employee's employment with the public junior college;
- or
- (4) notice from the governing board of the public junior college that the employee's services as school marshal are no longer required.

SECTION 3. Section 231.302(c-1), Family Code, is amended to read as follows:

(c-1) For purposes of issuing a license to carry a ~~[concealed]~~ handgun under Subchapter H, Chapter 411, Government Code, the Department of Public Safety is not required to request, and an applicant is not required to provide, the applicant's social security number.

SECTION 4. The heading to Subchapter H, Chapter 411, Government Code, is amended.

SECTION 5. Sections 411.1741(a) and (b), Government Code, are amended.

SECTION 6. Section 411.190(c), Government Code, is amended to read as follows:

(c) In the manner applicable to a person who applies for a license to carry a handgun, the department shall conduct a background check of a person who applies for certification as a qualified handgun instructor. If the background check indicates that the applicant for certification would not qualify to receive a handgun license, the department may not certify the applicant as a qualified handgun instructor. If the background check indicates that the applicant for certification would qualify to receive a handgun license, the department shall provide handgun instructor training to the applicant. The applicant shall pay a fee of \$100 to the department for the training. The applicant must take and successfully complete the training offered by the department and pay the training fee before the department may certify the applicant as a qualified handgun instructor. The department shall issue a license to carry a

No equivalent provision.

SECTION 1. Same as introduced version.

SECTION 2. Same as introduced version.

No equivalent provision.

handgun under ~~[the authority of]~~ this subchapter to any person who is certified as a qualified handgun instructor and who pays to the department a fee of \$100 in addition to the training fee. The department by rule may prorate or waive the training fee for an employee of another governmental entity.

SECTION 7. Sections 411.201(c), (e), and (h), Government Code, are amended to read as follows:

(c) An active judicial officer is eligible for a license to carry a handgun under ~~[the authority of]~~ this subchapter. A retired judicial officer is eligible for a license to carry a handgun under ~~[the authority of]~~ this subchapter if the officer:

- (1) has not been convicted of a felony;
- (2) has not, in the five years preceding the date of application, been convicted of a Class A or Class B misdemeanor or equivalent offense;
- (3) is not charged with the commission of a Class A or Class B misdemeanor or equivalent offense or of a felony under an information or indictment;
- (4) is not a chemically dependent person; and
- (5) is not a person of unsound mind.

(e) On receipt of all the application materials required by this section, the department shall:

- (1) if the applicant is an active judicial officer, issue a license to carry a handgun under ~~[the authority of]~~ this subchapter; or
- (2) if the applicant is a retired judicial officer, conduct an appropriate background investigation to determine the applicant's eligibility for the license and, if the applicant is eligible, issue a license to carry a handgun under ~~[the authority of]~~ this subchapter.

(h) The department shall issue a license to carry a handgun under ~~[the authority of]~~ this subchapter to an elected attorney representing the state in the prosecution of felony cases who meets the requirements of this section for an active judicial officer. The department shall waive any fee required for the issuance of an original, duplicate, or renewed license under this subchapter for an applicant who is an attorney elected or employed to represent the state in the prosecution of felony cases.

No equivalent provision.

SECTION 8. Section 411.203, Government Code, is amended to read as follows:

Sec. 411.203. RIGHTS OF EMPLOYERS.

(a) This subchapter does not prevent or otherwise limit the right of a public or private employer to prohibit persons who are licensed under this subchapter or otherwise legally authorized to carry a handgun or other firearm from carrying a handgun or other firearm on the premises of the business.

(b) In this section, "premises" has the meaning assigned by Section 46.035(f) [~~46.035(f)(3)~~], Penal Code.

SECTION 9. Section 411.204(c), Government Code, is amended.

SECTION 10. Section 411.205, Government Code, is amended.

SECTION 11. The heading to Section 411.206, Government Code, is amended to read as follows:

Sec. 411.206. SEIZURE OF HANDGUN AND HANDGUN LICENSE.

SECTION 12. Sections 411.206(a) and (c), Government Code, are amended to read as follows:

(a) If a peace officer arrests and takes into custody a person [~~license holder~~] who is carrying a handgun [~~under the authority of this subchapter~~], the officer shall seize the person's [~~license holder's~~] handgun and, if the person is a license holder under this subchapter and is carrying the person's handgun license, the person's handgun license as evidence.

(c) Any judgment of conviction entered by any court for an offense under Section 46.035, Penal Code, must contain the handgun license number of the convicted person, if the person is a handgun license holder. A certified copy of the judgment is conclusive and sufficient evidence to justify revocation of a license under Section 411.186(a)(4).

SECTION 13. Sections 411.207(a), (b), and (c), Government Code, are amended to read as follows:

(a) A peace officer who is acting in the lawful discharge of the officer's official

No equivalent provision.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.

No equivalent provision.

No equivalent provision.

SECTION 5. Sections 411.207(b) and (c), Government Code, are amended to read as follows:

No equivalent provision.

duties may disarm a person, including a license holder, who is carrying a handgun at any time the officer reasonably believes it is necessary for the protection of the person [~~license holder~~], officer, or another individual. The peace officer shall return the handgun to the person [~~license holder~~] before discharging the person [~~license holder~~] from the scene if the officer determines that the person:

(1) [~~license holder~~] is not a threat to the officer, person [~~license holder~~], or another individual;

(2) [~~and if the license holder~~] has not violated any provision of this subchapter or committed any other violation that results in the arrest of the person; and

(3) is a license holder or otherwise legally authorized to carry a handgun.

(b) A peace officer who is acting in the lawful discharge of the officer's official duties may [~~temporarily~~] disarm only temporarily a person who is a license holder or otherwise legally authorized to carry a handgun when the person [~~a license holder~~] enters a nonpublic, secure portion of a law enforcement facility. ~~The~~ [~~if the~~] law enforcement agency ~~shall provide~~ [~~provides~~] a gun locker where the peace officer can secure the person's [~~license holder's~~] handgun. The peace officer shall secure the handgun in the locker and shall return the handgun to the person [~~license holder~~] immediately after the person [~~license holder~~] leaves the nonpublic, secure portion of the law enforcement facility.

(c) A law enforcement facility shall prominently display at each entrance to a nonpublic, secure portion of the facility a sign that gives notice in both English and Spanish that, under this section, a peace officer may temporarily disarm a person who is a license holder or otherwise legally authorized to carry a handgun when the person [~~license holder~~] enters the nonpublic, secure portion of the facility. The sign must appear in contrasting colors with block letters at least one inch in height. The sign shall be displayed in a clearly visible and conspicuous manner.

SECTION 14. The heading to Section 411.209, Government Code, is amended to read as follows:

(b) A peace officer who is acting in the lawful discharge of the officer's official duties may temporarily disarm a person who is a license holder or otherwise legally authorized to carry a handgun when the person [~~a license holder~~] enters a nonpublic, secure portion of a law enforcement facility, if the law enforcement agency provides

a gun locker where the peace officer can secure the person's [~~license holder's~~] handgun. The peace officer shall secure the handgun in the locker and shall return the handgun to the person [~~license holder~~] immediately after the person [~~license holder~~] leaves the nonpublic, secure portion of the law enforcement facility.

(c) Same as introduced version.

No equivalent provision.

Sec. 411.209. WRONGFUL EXCLUSION OF PERSON LEGALLY AUTHORIZED TO CARRY [CONCEALED] HANDGUN [LICENSE HOLDER].

SECTION 15. Sections 411.209(a) and (d), Government Code, are amended to read as follows:

(a) A state agency or a political subdivision of the state may not provide notice by a communication described by Section 30.06 or 30.07, Penal Code, or by any sign expressly referring to either of those provisions ~~[that law or to a concealed handgun license]~~, that a person who is ~~[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 a person is ~~[license holders are]~~ prohibited from carrying a handgun on the premises or other place by Section 46.03 or 46.035, Penal Code, or other law.

(d) A resident ~~[citizen]~~ of this state or a person licensed to carry a ~~[concealed]~~ handgun under this subchapter may file a complaint with the attorney general that a state agency or political subdivision is in violation of Subsection (a) if the resident ~~[citizen]~~ or license holder ~~[person]~~ provides the agency or subdivision a written notice that describes the violation and specific location of the sign found to be in violation and the agency or subdivision does not cure the violation before the end of the third business day after the date of receiving the written notice. A complaint filed under this subsection must include evidence of the violation and a copy of the written notice.

SECTION 16. Section 12.092(b), Health and Safety Code, is amended to read as follows:

(b) The medical advisory board shall assist the Department of Public Safety of the State of Texas in determining whether:

(1) an applicant for a driver's license or a license holder is capable of safely operating a motor vehicle; or

(2) an applicant for or holder of a license to carry a handgun under ~~[the authority of]~~ Subchapter H, Chapter 411, Government Code, or an applicant for or holder of a commission as a security officer under

No equivalent provision.

No equivalent provision.



Chapter 1702, Occupations Code, is capable of exercising sound judgment with respect to the proper use and storage of a handgun.

SECTION 17. Section 42.042(e-2), Human Resources Code, is amended.

SECTION 18. Section 52.062(a), Labor Code, is amended to read as follows:

(a) Section 52.061 does not:

(1) authorize a person who holds a license to carry a handgun under Subchapter H, Chapter 411, Government Code, who otherwise lawfully possesses a firearm, or who lawfully possesses ammunition to possess a firearm or ammunition on any property where the possession of a firearm or ammunition is prohibited by state or federal law; or

(2) apply to:

(A) a vehicle owned or leased by a public or private employer and used by an employee in the course and scope of the employee's employment, unless the employee is required to transport or store a firearm in the official discharge of the employee's duties;

(B) a school district;

(C) an open-enrollment charter school, as defined by Section 5.001, Education Code;

(D) a private school, as defined by Section 22.081, Education Code;

(E) property owned or controlled by a person, other than the employer, that is subject to a valid, unexpired oil, gas, or other mineral lease that contains a provision prohibiting the possession of firearms on the property; or

(F) property owned or leased by a chemical manufacturer or oil and gas refiner with an air authorization under Chapter 382, Health and Safety Code, and on which the primary business conducted is the manufacture, use, storage, or transportation of hazardous, combustible, or explosive materials, except in regard to an employee who holds a license to carry a handgun under Subchapter H, Chapter 411, Government Code, who otherwise lawfully possesses a firearm, or who lawfully possesses ammunition and who stores the [a] firearm or ammunition ~~[the employee is authorized by law to possess]~~ in a locked, privately owned motor vehicle in a parking lot, parking garage, or other parking area the employer provides for

SECTION 6. Same as introduced version.

No equivalent provision.

employees that is outside of a secured and restricted area:

- (i) that contains the physical plant;
- (ii) that is not open to the public; and
- (iii) the ingress into which is constantly monitored by security personnel.

SECTION 19. Section 191.010(a), Local Government Code, is amended to read as follows:

(a) In this section, "photo identification" means one of the following forms of photo identification:

- (1) a driver's license, election identification certificate, or personal identification card issued to the person by any state or territory of the United States that has not expired or that expired no earlier than 60 days before the date of presentation;
- (2) a United States military identification card that contains the person's photograph that has not expired or that expired no earlier than 60 days before the date of presentation;
- (3) a United States citizenship certificate issued to the person that contains the person's photograph;
- (4) a United States Permanent Resident Card that has not expired or that expired no earlier than 60 days before the date of presentation;
- (5) an identification card issued by a municipality intended to serve as a general identification card for the holder that has not expired or that expired no earlier than 60 days before the date of presentation;
- (6) a federally recognized tribal enrollment card or other form of tribal identification that has not expired or that expired no earlier than 60 days before the date of presentation;
- (7) a United States passport or a passport issued by a foreign government recognized by the United States issued to the person that has not expired or that expired no earlier than 60 days before the date of presentation; or
- (8) a license to carry a ~~concealed~~ handgun issued to the person by the Department of Public Safety that has not expired or that expired no earlier than 60 days before the date of presentation.

SECTION 20. Section 229.001(b), Local Government Code, is amended to read as

No equivalent provision.

SECTION 7. Substantially the same as introduced version.

follows:

(b) Subsection (a) does not affect the authority a municipality has under another law to:

(1) require residents or public employees to be armed for personal or national defense, law enforcement, or another lawful purpose;

(2) regulate the discharge of firearms or air guns within the limits of the municipality, other than at a sport shooting range;

(3) regulate the use of property, the location of a business, or uses at a business under the municipality's fire code, zoning ordinance, or land-use regulations as long as the code, ordinance, or regulations are not used to circumvent the intent of Subsection (a) or Subdivision (5) of this subsection;

(4) regulate the use of firearms, air guns, or knives in the case of an insurrection, riot, or natural disaster if the municipality finds the regulations necessary to protect public health and safety;

(5) regulate the storage or transportation of explosives to protect public health and safety, except that 25 pounds or less of black powder for each private residence and 50 pounds or less of black powder for each retail dealer are not subject to regulation;

(6) regulate the carrying of a firearm or air gun, ~~[by a person]~~ other than a ~~[person licensed to carry a]~~ handgun carried by a person licensed under Subchapter H, Chapter 411, Government Code, or by a person otherwise legally authorized to carry the handgun, at a:

(A) public park;

(B) public meeting of a municipality, county, or other governmental body;

(C) political rally, parade, or official political meeting; or

(D) nonfirearms-related school, college, or professional athletic event;

(7) regulate the hours of operation of a sport shooting range, except that the hours of operation may not be more limited than the least limited hours of operation of any other business in the municipality other than a business permitted or licensed to sell or serve alcoholic beverages for on-premises consumption; or

(8) regulate the carrying of an air gun by a minor on:

(A) public property; or

(B) private property without consent of the property owner.

SECTION 21. Sections 62.082(d) and (e), Parks and Wildlife Code, are amended.

SECTION 22. Section 284.001(e), Parks and Wildlife Code, is amended.

SECTION 23. Section 30.05(f), Penal Code, is amended to read as follows:

No equivalent provision.

No equivalent provision.

No equivalent provision.

SECTION 8. Same as introduced version.

SECTION 9. Same as introduced version.

SECTION 10. Section 30.05, Penal Code, is amended by amending Subsections (d) and (f) and adding Subsections (d-1) and (d-2) to read as follows:

(d) Subject to Subsections (d-1) and (d-2), an [A~~n~~] offense under this section is:

(1) a Class B misdemeanor, except as provided by Subdivisions (2) and (3);

(2) a Class C misdemeanor, except as provided by Subdivision (3), if the offense is committed:

(A) on agricultural land and within 100 feet of the boundary of the land; or

(B) on residential land and within 100 feet of a protected freshwater area; and

(3) a Class A misdemeanor if:

(A) the offense is committed:

(i) in a habitation or a shelter center;

(ii) on a Superfund site; or

(iii) on or in a critical infrastructure facility; or

(B) the person carries a deadly weapon during the commission of the offense.

(d-1) An offense under this section is a Class C misdemeanor punishable by a fine not to exceed \$200 if:

(1) the sole basis on which entry on the property or land or in the building was forbidden is that entry with a firearm was forbidden; and

(2) the person was carrying in a concealed manner or in a holster a handgun that the person was legally authorized to carry at the time of the offense.

(d-2) An offense under this section is a Class A misdemeanor if:

(1) the sole basis on which entry on the property or land or in the building was forbidden is that entry with a firearm was forbidden;

(2) the person was carrying in a concealed manner or in a holster a handgun that the person was legally authorized to carry at the time of the offense; and

(3) it is shown on the trial of the offense that, after entering the property, land, or building, the actor was personally given notice by oral communication that entry with a firearm was forbidden and

(f) It is a defense to prosecution under this section that:

(1) the basis on which entry on the property or land or in the building was forbidden is that entry with a firearm [~~handgun~~] was forbidden; and

(2) the person was carrying only:

~~[(A) a license issued under Subchapter H, Chapter 411, Government Code, to carry a handgun; and~~

~~[(B)] a handgun that at the time of the offense the person was legally authorized to carry:~~

~~(A) [(i)] in a concealed manner; or~~

~~(B) [(ii)] in a shoulder or belt holster.~~

SECTION 24. The heading to Section 30.06, Penal Code, is amended to read as follows:

Sec. 30.06. TRESPASS BY PERSON [~~LICENSE—HOLDER~~] WITH [A] CONCEALED HANDGUN.

SECTION 25. Sections 30.06(a), (c), (d), and (e), Penal Code, are amended to read as follows:

(a) A person [~~license holder~~] commits an offense if the person [~~license holder~~]:

(1) carries a concealed handgun [~~under the authority of Subchapter H, Chapter 411, Government Code,~~] on property of another without effective consent; and

(2) received notice that entry on the property by a person [~~license holder~~] with a concealed handgun was forbidden.

(c) In this section:

(1) "Entry" has the meaning assigned by Section 30.05(b).

(2) [~~"License holder" has the meaning assigned by Section 46.035(f).~~

~~[(3)] "Written communication" means:~~

~~(A) a card or other document on which is written language identical to the following: "Pursuant to Section 30.06, Penal Code (trespass by person [~~license holder~~] with [a] concealed handgun), a person [~~licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law),~~] may not enter this property with a concealed handgun"; or~~

~~(B) a sign posted on the property that:~~

~~(i) includes the language described by Paragraph (A) in both English and Spanish;~~

subsequently failed to depart.

(f) It is a defense to prosecution under this section that:

(1) the sole basis on which entry on the property or land or in the building was forbidden is that entry with a firearm [~~handgun~~] was forbidden; and

(2) at the time of the offense the person was carrying:

(A) a license issued under Subchapter H, Chapter 411, Government Code, to carry a handgun; and

(B) a handgun:

(i) in a concealed manner; or

(ii) in a [~~shoulder or belt~~] holster.

No equivalent provision.

No equivalent provision.

(ii) appears in contrasting colors with block letters at least one inch in height; and  
(iii) is displayed in a conspicuous manner clearly visible to the public at each entrance to the property.

(d) An offense under this section is a Class C misdemeanor punishable by a fine not to exceed \$200, except that the offense is a Class A misdemeanor if it is shown on the trial of the offense that, after entering the property, the person [~~license holder~~] was personally given the notice by oral communication described by Subsection (b) and subsequently failed to depart.

(e) It is an exception to the application of this section that the property on which the person [~~license holder~~] carries a handgun is owned or leased by a governmental entity and is not a premises or other place on which the person [~~license holder~~] is prohibited from carrying the handgun under Section 46.03 or 46.035 or other law.

SECTION 26. The heading to Section 30.07, Penal Code, is amended to read as follows:

Sec. 30.07. TRESPASS BY PERSON [~~LICENSE HOLDER~~] WITH [~~AN~~] OPENLY CARRIED HANDGUN.

No equivalent provision.

SECTION 27. Sections 30.07(a), (c), (d), and (e), Penal Code, are amended to read as follows:

(a) A person [~~license holder~~] commits an offense if the person [~~license holder~~]:

(1) openly carries a handgun [~~under the authority of Subchapter H, Chapter 411, Government Code,~~] on property of another without effective consent; and

(2) received notice that entry on the property by a person [~~license holder~~] openly carrying a handgun was forbidden.

(c) In this section:

(1) "Entry" has the meaning assigned by Section 30.05(b).

(2) [~~"License holder" has the meaning assigned by Section 46.035(f).~~

[~~(3)~~] "Written communication" means:

(A) a card or other document on which is written language identical to the following: "Pursuant to Section 30.07, Penal Code (trespass by person [~~license holder~~] with [~~an~~] openly carried handgun), a person [~~licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law),~~]

No equivalent provision.

may not enter this property with a handgun that is carried openly"; or

(B) a sign posted on the property that:

(i) includes the language described by Paragraph (A) in both English and Spanish;

(ii) appears in contrasting colors with block letters at least one inch in height; and

(iii) is displayed in a conspicuous manner clearly visible to the public at each entrance to the property.

(d) An offense under this section is a Class C misdemeanor punishable by a fine not to exceed \$200, except that the offense is a Class A misdemeanor if it is shown on the trial of the offense that, after entering the property, the person [~~license holder~~] was personally given the notice by oral communication described by Subsection (b) and subsequently failed to depart.

(e) It is an exception to the application of this section that the property on which the person [~~license holder~~] openly carries a the handgun is owned or leased by a governmental entity and is not a premises or other place on which the person [~~license holder~~] is prohibited from carrying the handgun under Section 46.03 or 46.035 or other law.

**No equivalent provision.**

SECTION 28. Section 46.02(a-1), Penal Code, is amended to read as follows:

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

(1) the handgun is in plain view, unless the person is legally authorized [~~licensed~~] to carry a handgun [~~under Subchapter H, Chapter 411, Government Code~~], and the handgun is carried in a **shoulder or belt** holster; or

(2) the person is:

(A) engaged in criminal activity, other than a Class C misdemeanor that is a violation of a law or ordinance regulating traffic or boating;

SECTION 11. Section 30.07(f), Penal Code, is amended to read as follows:

(f) It is not a defense to prosecution under this section that the handgun was carried in a [~~shoulder or belt~~] holster.

SECTION 12. Section 46.02(a-1), Penal Code, is amended to read as follows:

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

(1) the handgun is in plain view, unless the person is legally authorized [~~licensed~~] to carry a handgun [~~under Subchapter H, Chapter 411, Government Code~~], and the handgun is carried in a [~~shoulder or belt~~] holster; or

(2) the person is:

(A) engaged in criminal activity, other than a Class C misdemeanor that is a violation of a law or ordinance regulating traffic or boating;

- (B) prohibited by law from possessing a firearm; or
- (C) a member of a criminal street gang, as defined by Section 71.01.

SECTION 29. Sections 46.03(e-1) and (e-2), Penal Code, are amended.

SECTION 30. Section 46.03(f), Penal Code, as amended by Chapters 437 (H.B. 910) and 1001 (H.B. 554), Acts of the 84th Legislature, Regular Session, 2015, is reenacted and amended to read as follows:

(f) Except as provided by Subsection (a)(1)(B) or (e-1), it is not a defense to prosecution under this section that the actor possessed a handgun and was:

- (1) licensed to carry a handgun under Subchapter H, Chapter 411, Government Code; or
- (2) otherwise legally authorized to carry a handgun.

SECTION 31. The heading to Section 46.035, Penal Code, is amended.

SECTION 32. Section 46.035, Penal Code, is amended by amending Subsections (a), (b), (c), and (d) and adding Subsection (b-1) to read as follows:

(a) A person who is a license holder or otherwise legally authorized to carry a handgun commits an offense if the person [~~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 displays the handgun in plain view of another person in a public place. It is an exception to the application of this subsection that the handgun was partially or wholly visible but was carried in a shoulder or belt holster [~~by the license holder~~].

(b) A person who is a license holder or otherwise legally authorized to carry a handgun commits an offense if the person [~~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 or carried in a shoulder or belt holster [~~, 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,

- (B) prohibited by law from possessing a firearm; or
- (C) a member of a criminal street gang, as defined by Section 71.01.

SECTION 13. Same as introduced version.

No equivalent provision.

SECTION 14. Same as introduced version.

SECTION 15. Sections 46.035(a), (b), (c), (d), (i), and (l), Penal Code, are amended to read as follows:

(a) A person who is a license holder or otherwise legally authorized to carry a handgun commits an offense if the person [~~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 displays the handgun in plain view of another person in a public place. It is an exception to the application of this subsection that the handgun was partially or wholly visible but was carried in a [shoulder or belt] holster [~~by the license holder~~].

(b) A person who is a license holder or otherwise legally authorized to carry a handgun commits an offense if the person [~~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 or carried in a [shoulder or belt] holster [~~, 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 person [~~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 facility licensed under Chapter 242, Health and Safety Code, unless the person [~~license holder~~] has written authorization of the hospital or nursing facility administration, as appropriate;

(5) in an amusement park; or

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

(b-1) A person commits an offense if the person intentionally, knowingly, or recklessly carries a handgun, regardless of whether the handgun is concealed or carried in a shoulder or belt holster, on the premises of a business that has a permit or license issued under Subtitle A or B, Title 3, Alcoholic Beverage Code, other than a business described by Subsection (b)(1), unless the person is a license holder under Subchapter H, Chapter 411, Government Code.

(c) A person who is a license holder or otherwise legally authorized to carry a handgun commits an offense if the person [~~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 or carried in a ~~shoulder or belt~~ holster, in the room or rooms where a 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.

(d) A person who is a license holder or

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 person [~~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 facility licensed under Chapter 242, Health and Safety Code, unless the person [~~license holder~~] has written authorization of the hospital or nursing facility administration, as appropriate; or

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

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

No equivalent provision.

(c) A person who is a license holder or otherwise legally authorized to carry a handgun commits an offense if the person [~~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 or carried in a ~~shoulder or belt~~ holster, in the room or rooms where a 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.

(d) A person who is a license holder or

otherwise legally authorized to carry a handgun commits an offense if the person[; while intoxicated, the license holder] carries a handgun while the person is intoxicated [under the authority of Subchapter H, Chapter 411, Government Code], regardless of whether the handgun is concealed or carried in a shoulder or belt holster.

No equivalent provision.

No equivalent provision.

No equivalent provision.

SECTION 33. Section 46.15(b), Penal Code, is amended to read as follows:

No equivalent provision.

otherwise legally authorized to carry a handgun commits an offense if the person[; while intoxicated, the license holder] carries a handgun while the person is intoxicated [under the authority of Subchapter H, Chapter 411, Government Code], regardless of whether the handgun is concealed or carried in a ~~shoulder or belt~~ holster.

(i) Subsections (b)(4), (b)(5), ~~[(b)(6),]~~ and (c) do not apply to a license holder who [if the actor] was not given effective notice under Section 30.06 or 30.07.

(1) Subsection (b)(2) does not apply to a license holder on the premises where a collegiate sporting event is taking place if the license holder ~~[actor]~~ was not given effective notice under Section 30.06.

SECTION 16. Section 46.035(h-1), Penal Code, as added by Chapter 1222 (H.B. 2300), Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

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

- (1) a judge or justice of a federal court;
- (2) an active judicial officer, as defined by Section 411.201, Government Code; or
- (3) a district attorney, assistant district attorney, criminal district attorney, assistant criminal district attorney, county attorney, or assistant county attorney.

SECTION 17. Sections 46.15(a) and (b), Penal Code, are amended to read as follows:

(a) Sections 46.02, ~~[and]~~ 46.03, and 46.035 do not apply to:

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

in this state if the officer is:

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

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

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

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

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

(4) an active judicial officer as defined by Section 411.201, Government Code, who is licensed to carry a handgun under Subchapter H, Chapter 411, Government Code;

(5) an honorably retired peace officer, qualified retired law enforcement officer, federal criminal investigator, or former reserve law enforcement officer who holds a certificate of proficiency issued under Section 1701.357, Occupations Code, and is carrying a photo identification that is issued by a federal, state, or local law enforcement agency, as applicable, and that verifies that the officer is:

(A) an honorably retired peace officer;

(B) a qualified retired law enforcement officer;

(C) a federal criminal investigator; or

(D) a former reserve law enforcement officer who has served in that capacity not less than a total of 15 years with one or more state or local law enforcement agencies;

(6) a district attorney, criminal district attorney, county attorney, or municipal attorney who is licensed to carry a handgun under Subchapter H, Chapter 411, Government Code;

(7) an assistant district attorney, assistant criminal district attorney, or assistant county attorney who is licensed to carry a handgun under Subchapter H, Chapter 411, Government Code;

(8) a bailiff designated by an active judicial

(b) Section 46.02 does not apply to a person who:

(1) is in the actual discharge of official duties as a member of the armed forces or state military forces as defined by Section 437.001, Government Code, or as a guard employed by a penal institution;

(2) is traveling;

(3) is engaging in lawful hunting, fishing, or other sporting activity on the immediate premises where the activity is conducted, or is en route between the premises and the actor's residence, motor vehicle, or watercraft, if the weapon is a type commonly used in the activity;

(4) holds a security officer commission issued by the Texas Private Security Board, if the person is engaged in the performance of the person's duties as an officer commissioned under Chapter 1702, Occupations Code, or is traveling to or from the person's place of assignment and is wearing the officer's uniform and carrying the officer's weapon in plain view;

(5) acts as a personal protection officer and carries the person's security officer commission and personal protection officer authorization, if the person:

(A) is engaged in the performance of the person's duties as a personal protection officer under Chapter 1702, Occupations Code, or is traveling to or from the person's place of assignment; and

(B) is either:

(i) wearing the uniform of a security officer, including any uniform or apparel described by Section 1702.323(d), Occupations Code, and carrying the officer's weapon in plain view; or

(ii) not wearing the uniform of a security officer and carrying the officer's weapon in a concealed manner;

(6) is ~~carrying~~:

(A) a license holder ~~[issued]~~ under Subchapter H, Chapter 411, Government

officer as defined by Section 411.201, Government Code, who is:

(A) licensed to carry a handgun under Subchapter H, Chapter 411, Government Code; and

(B) engaged in escorting the judicial officer; or

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

(b) Section 46.02 does not apply to a person who:

(1) is in the actual discharge of official duties as a member of the armed forces or state military forces as defined by Section 437.001, Government Code, or as a guard employed by a penal institution;

(2) is traveling;

(3) is engaging in lawful hunting, fishing, or other sporting activity on the immediate premises where the activity is conducted, or is en route between the premises and the actor's residence, motor vehicle, or watercraft, if the weapon is a type commonly used in the activity;

(4) holds a security officer commission issued by the Texas Private Security Board, if the person is engaged in the performance of the person's duties as an officer commissioned under Chapter 1702, Occupations Code, or is traveling to or from the person's place of assignment and is wearing the officer's uniform and carrying the officer's weapon in plain view;

(5) acts as a personal protection officer and carries the person's security officer commission and personal protection officer authorization, if the person:

(A) is engaged in the performance of the person's duties as a personal protection officer under Chapter 1702, Occupations Code, or is traveling to or from the person's place of assignment; and

(B) is either:

(i) wearing the uniform of a security officer, including any uniform or apparel described by Section 1702.323(d), Occupations Code, and carrying the officer's weapon in plain view; or

(ii) not wearing the uniform of a security officer and carrying the officer's weapon in a concealed manner;

(6) is ~~carrying~~:

~~(A)~~ a license holder ~~[issued]~~ under Subchapter H, Chapter 411, Government

Code, or a person who meets the requirements under Sections 411.172(a)(1)-(13), Government Code ~~[to carry a handgun]~~; and

- (B) carrying a handgun:
  - (i) in a concealed manner; or
  - (ii) in a shoulder or belt holster;

(7) holds an alcoholic beverage permit or license or is an employee of a holder of an alcoholic beverage permit or license if the person is supervising the operation of the permitted or licensed premises; or

(8) is a student in a law enforcement class engaging in an activity required as part of the class, if the weapon is a type commonly used in the activity and the person is:

- (A) on the immediate premises where the activity is conducted; or
- (B) en route between those premises and the person's residence and is carrying the weapon unloaded.

No equivalent provision.

SECTION 34. The changes in law made by this Act relating to the authority of a person to carry a handgun apply to the carrying of a handgun on or after the effective date of this Act by any person who may legally carry a handgun under this Act.

SECTION 35. The changes in law made 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 when the offense was committed, and the former law is continued in effect for that

Code, ~~[to carry a handgun;]~~ and is carrying

~~[(B)]~~ a handgun:

- ~~(A) [(+)]~~ in a concealed manner; or
- ~~(B) [(+)]~~ in a ~~[shoulder or belt]~~ holster;
- ~~(7)~~ is at least 21 years of age and:
  - ~~(A)~~ has not been convicted of a felony;
  - ~~(B)~~ is fully qualified under applicable federal law to purchase and possess a handgun;
  - ~~(C)~~ meets the requirements under Sections 411.172(a)(1)-(13), Government Code;
  - ~~(D)~~ is not a member of a criminal street gang, as defined by Section 71.01; and
  - ~~(E)~~ is carrying a handgun:
    - ~~(i)~~ in a concealed manner; or
    - ~~(ii)~~ in a holster;

~~(8)~~ holds an alcoholic beverage permit or license or is an employee of a holder of an alcoholic beverage permit or license if the person is supervising the operation of the permitted or licensed premises; or

~~(9)~~ ~~[(8)]~~ is a student in a law enforcement class engaging in an activity required as part of the class, if the weapon is a type commonly used in the activity and the person is:

- (A) on the immediate premises where the activity is conducted; or
- (B) en route between those premises and the person's residence and is carrying the weapon unloaded.

SECTION 18. The following provisions are repealed:

- (1) Sections 11.041, 11.61(e), 61.11, and 61.71(f), Alcoholic Beverage Code; and
- (2) Section 411.204(d), Government Code.

SECTION 19. Same as introduced version.

SECTION 20. Same as introduced version.

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 36. To the extent of any conflict, this Act prevails over another Act of the 85th Legislature, Regular Session, 2017, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 37. This Act takes effect September 1, 2017.

No equivalent provision.

SECTION 21. Same as introduced version.