

By: Howard

H.B. No. 391

A BILL TO BE ENTITLED

AN ACT

relating to the carrying of handguns on the campuses of and certain other locations associated with institutions of higher education.

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

SECTION 1. Section 411.2031(e), Government Code, is amended to read as follows:

(e) An institution of higher education or [A] private or independent institution of higher education in this state, after consulting with students, staff, and faculty of the institution, may establish rules, regulations, or other provisions prohibiting license holders from carrying handguns on the campus of the institution, any grounds or building on which an activity sponsored by the institution is being conducted, or a passenger transportation vehicle owned by the institution.

SECTION 2. Sections 411.208(a), (b), and (d), Government Code, are amended to read as follows:

(a) A court may not hold 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 an institution of higher education or [a] private or independent institution of higher education that has not adopted rules under Section 411.2031(e), a peace officer, or a

1 qualified handgun instructor liable for damages caused by:

2 (1) an action authorized under this subchapter or a
3 failure to perform a duty imposed by this subchapter; or

4 (2) the actions of an applicant or license holder that
5 occur after the applicant has received a license or been denied a
6 license under this subchapter.

7 (b) A cause of action in damages may not be brought against
8 the state, an agency or subdivision of the state, an officer or
9 employee of the state, an institution of higher education~~[, an~~
10 ~~officer]~~ or ~~[employee of an institution of higher education, a]~~
11 private or independent institution of higher education that has not
12 adopted rules under Section 411.2031(e), an officer or employee of
13 an institution of higher education or ~~[a]~~ private or independent
14 institution of higher education that has not adopted rules under
15 Section 411.2031(e), a peace officer, or a qualified handgun
16 instructor for any damage caused by the actions of an applicant or
17 license holder under this subchapter.

18 (d) The immunities granted under Subsections (a), (b), and
19 (c) do not apply to:

20 (1) an act or a failure to act by the state, an agency
21 or subdivision of the state, an officer of the state, an institution
22 of higher education~~[, an officer]~~ or ~~[employee of an institution of~~
23 ~~higher education, a]~~ private or independent institution of higher
24 education that has not adopted rules under Section 411.2031(e), an
25 officer or employee of an institution of higher education or ~~[a]~~
26 private or independent institution of higher education that has not
27 adopted rules under Section 411.2031(e), or a peace officer if the

1 act or failure to act was capricious or arbitrary; or

2 (2) any officer or employee of an institution of
3 higher education or private or independent institution of higher
4 education described by Subdivision (1) who possesses a handgun on
5 the campus of that institution and whose conduct with regard to the
6 handgun is made the basis of a claim for personal injury or property
7 damage.

8 SECTION 3. Section 46.035(a-2), Penal Code, is amended to
9 read as follows:

10 (a-2) Notwithstanding Subsection (a) or Section 46.03(a), a
11 license holder commits an offense if the license holder carries a
12 handgun on the campus of an institution of higher education or [a]
13 private or independent institution of higher education in this
14 state that has established rules, regulations, or other provisions
15 prohibiting license holders from carrying handguns pursuant to
16 Section 411.2031(e), Government Code, or on the grounds or building
17 on which an activity sponsored by such an institution is being
18 conducted, or in a passenger transportation vehicle of such an
19 institution, regardless of whether the handgun is concealed,
20 provided the institution gives effective notice under Section
21 30.06.

22 SECTION 4. Section 46.035(g), Penal Code, as amended by
23 Chapters 437 (H.B. 910) and 438 (S.B. 11), Acts of the 84th
24 Legislature, Regular Session, 2015, is reenacted and amended to
25 read as follows:

26 (g) An offense under this section [~~(a-1), (a-2), (a-3),~~] is
27 a Class A misdemeanor, unless the offense is committed under

1 Subsection (b)(1) or (b)(3), in which event the offense is a felony
2 of the third degree.

3 SECTION 5. Sections 46.035(h) and (j), Penal Code, as
4 amended by Chapters 437 (H.B. 910) and 438 (S.B. 11), Acts of the
5 84th Legislature, Regular Session, 2015, are reenacted and amended
6 to read as follows:

7 (h) It is a defense to prosecution under Subsection (a),
8 (a-1), or (a-2) [~~, or (a-3)~~] that the actor, at the time of the
9 commission of the offense, displayed the handgun under
10 circumstances in which the actor would have been justified in the
11 use of force or deadly force under Chapter 9.

12 (j) Subsections (a), (a-1), (a-2), [~~(a-3)~~] and (b)(1) do
13 not apply to a historical reenactment performed in compliance with
14 the rules of the Texas Alcoholic Beverage Commission.

15 SECTION 6. The following laws are repealed:

16 (1) Sections 411.2031(c), (d-1), (d-2), (d-3), and
17 (d-4), Government Code; and

18 (2) Section 46.035(a-3), Penal Code.

19 SECTION 7. Section 411.208, Government Code, as amended by
20 this Act, applies only to a cause of action that accrues on or after
21 the effective date of this Act. A cause of action that accrues
22 before the effective date of this Act is governed by the law in
23 effect immediately before that date, and that law is continued in
24 effect for that purpose.

25 SECTION 8. The change in law made by this Act applies only
26 to an offense committed on or after the effective date of this Act.
27 An offense committed before the effective date of this Act is

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

6 SECTION 9. This Act takes effect September 1, 2017.