

By: Springer

H.B. No. 560

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the places where a person may carry a handgun if the
3 person is licensed to carry a handgun and to certain related
4 criminal offenses.

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

6 SECTION 1. Section 30.06(e), Penal Code, is amended to read
7 as follows:

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

13 SECTION 2. Section 46.03(a), Penal Code, is amended to read
14 as follows:

15 (a) A person commits an offense if the person intentionally,
16 knowingly, or recklessly possesses or goes with a firearm, illegal
17 knife, club, or prohibited weapon listed in Section 46.05(a):

18 (1) on the physical premises of a school or
19 educational institution, the portion of any grounds or building on
20 which an activity sponsored by a school or educational institution
21 is being conducted, or a passenger transportation vehicle of a
22 school or educational institution, whether the school or
23 educational institution is public or private, unless:

24 (A) pursuant to written regulations or written

1 authorization of the institution; or

2 (B) the person possesses or goes with a concealed
3 handgun that the person is licensed to carry under Subchapter H,
4 Chapter 411, Government Code, and no other weapon to which this
5 section applies, on the premises of an institution of higher
6 education or private or independent institution of higher
7 education, on the portion of any grounds or building on which an
8 activity sponsored by the institution is being conducted, or in a
9 passenger transportation vehicle of the institution;

10 (2) on the portion of the premises of a polling place
11 where voting or other election-related activities are occurring on
12 the day of an election or while early voting is in progress;

13 (3) on the premises of any government court or offices
14 utilized by the court, unless pursuant to written regulations or
15 written authorization of the court;

16 (4) on the premises of a racetrack;

17 (5) in or into a secured area of an airport; or

18 (6) within 1,000 feet of premises the location of
19 which is designated by the Texas Department of Criminal Justice as a
20 place of execution under Article 43.19, Code of Criminal Procedure,
21 on a day that a sentence of death is set to be imposed on the
22 designated premises and the person received notice that:

23 (A) going within 1,000 feet of the premises with
24 a weapon listed under this subsection was prohibited; or

25 (B) possessing a weapon listed under this
26 subsection within 1,000 feet of the premises was prohibited.

27 SECTION 3. Sections 46.035(g), (h), and (j), Penal Code, as

1 amended by Chapters 437 (H.B. 910) and 438 (S.B. 11), Acts of the
2 84th Legislature, Regular Session, 2015, are reenacted and amended
3 to read as follows:

4 (g) An offense under this section [~~(a-1), (a-2), (a-3),~~] is
5 a Class A misdemeanor, except that an [~~unless the~~] offense [~~is~~
6 ~~committed~~] under:

7 (1) Subsection (a) or (e) is a Class C misdemeanor; and
8 (2) Subsection (d) is a Class C misdemeanor, unless
9 the license holder has previously been convicted of an offense
10 under that subsection, in which event the offense is a Class B
11 misdemeanor [~~(b)(1) or (b)(3), in which event the offense is a~~
12 ~~felony of the third degree]~~.

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

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

21 SECTION 4. Sections 46.15(a) and (b), Penal Code, are
22 amended to read as follows:

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

24 (1) peace officers or special investigators under
25 Article 2.122, Code of Criminal Procedure, and neither section
26 prohibits a peace officer or special investigator from carrying a
27 weapon in this state, including in an establishment in this state

1 serving the public, regardless of whether the peace officer or
2 special investigator is engaged in the actual discharge of the
3 officer's or investigator's duties while carrying the weapon;

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

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

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

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

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

17 (B) authorized to carry a weapon under Section
18 76.0051, Government Code;

19 ~~(4) [an active judicial officer as defined by Section~~
20 ~~411.201, Government Code, who is licensed to carry a handgun under~~
21 ~~Subchapter H, Chapter 411, Government Code,~~

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

1 that the officer is:

- 2 (A) an honorably retired peace officer;
- 3 (B) a qualified retired law enforcement officer;
- 4 (C) a federal criminal investigator; or
- 5 (D) a former reserve law enforcement officer who
- 6 has served in that capacity not less than a total of 15 years with
- 7 one or more state or local law enforcement agencies;

8 (5) a person who is carrying a handgun and a license
9 issued under Subchapter H, Chapter 411, Government Code, to carry
10 the handgun; or

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

14 ~~[(7) an assistant district attorney, assistant~~
15 ~~criminal district attorney, or assistant county attorney who is~~
16 ~~licensed to carry a handgun under Subchapter H, Chapter 411,~~
17 ~~Government Code,~~

18 ~~[(8) a bailiff designated by an active judicial~~
19 ~~officer as defined by Section 411.201, Government Code, who is:~~

20 ~~[(A) licensed to carry a handgun under Subchapter~~
21 ~~H, Chapter 411, Government Code, and~~

22 ~~[(B) engaged in escorting the judicial officer,~~

23 ~~or~~

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

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

27 (1) is in the actual discharge of official duties as a

1 member of the armed forces or state military forces as defined by
2 Section 437.001, Government Code, or as a guard employed by a penal
3 institution;

4 (2) is traveling;

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

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

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

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

23 (B) is either:

24 (i) wearing the uniform of a security
25 officer, including any uniform or apparel described by Section
26 1702.323(d), Occupations Code, and carrying the officer's weapon in
27 plain view; or

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

3 (6) ~~[is carrying:~~

4 ~~[(A) a license issued under Subchapter H, Chapter~~
5 ~~411, Government Code, to carry a handgun; and~~

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

7 ~~[(i) in a concealed manner; or~~

8 ~~[(ii) in a shoulder or belt holster;~~

9 ~~[(7)]~~ holds an alcoholic beverage permit or license or
10 is an employee of a holder of an alcoholic beverage permit or
11 license if the person is supervising the operation of the permitted
12 or licensed premises; or

13 (7) ~~[(8)]~~ is a student in a law enforcement class
14 engaging in an activity required as part of the class, if the weapon
15 is a type commonly used in the activity and the person is:

16 (A) on the immediate premises where the activity
17 is conducted; or

18 (B) en route between those premises and the
19 person's residence and is carrying the weapon unloaded.

20 SECTION 5. Section 411.179(c), Government Code, is amended
21 to read as follows:

22 (c) In adopting the form of the license under Subsection
23 (a), the department shall establish a procedure for the license of a
24 qualified handgun instructor ~~[or of a judge, justice, prosecuting~~
25 ~~attorney, or assistant prosecuting attorney, as described by~~
26 ~~Section 46.15(a)(4) or (6), Penal Code,~~] to indicate on the license
27 the license holder's status as a qualified handgun instructor ~~[or~~

1 ~~as a judge, justice, district attorney, criminal district attorney,~~
2 ~~or county attorney~~]. In establishing the procedure, the department
3 shall require sufficient documentary evidence to establish the
4 license holder's status under this subsection.

5 SECTION 6. Section [411.198\(b\)](#), Government Code, is amended
6 to read as follows:

7 (b) It is a defense to prosecution under Section [46.035\(a\)](#)
8 [~~46.035~~], Penal Code, that the actor, at the time of the commission
9 of the offense, was the holder of an alias license issued under this
10 section.

11 SECTION 7. Section [11.041\(a\)](#), Alcoholic Beverage Code, is
12 amended to read as follows:

13 (a) Each holder of a permit [~~who is not otherwise required~~
14 ~~to display a sign under Section [411.204](#), Government Code,~~] shall
15 display in a prominent place on the permit holder's premises a sign
16 giving notice that it is unlawful for a person to carry a weapon on
17 the premises unless the weapon is a handgun the person is licensed
18 to carry under Subchapter H, Chapter [411](#), Government Code.

19 SECTION 8. Section [11.61\(e\)](#), Alcoholic Beverage Code, is
20 amended to read as follows:

21 (e) Except as provided by Subsection (f) or (i), the
22 commission or administrator shall cancel an original or renewal
23 permit if it is found, after notice and hearing, that the permittee
24 knowingly allowed a person to possess a firearm in a building on the
25 licensed premises. This subsection does not apply to a person:

26 (1) who holds a security officer commission issued
27 under Chapter [1702](#), Occupations Code, if:

1 (A) the person is engaged in the performance of
2 the person's duties as a security officer;

3 (B) the person is wearing a distinctive uniform;
4 and

5 (C) the weapon is in plain view;

6 (2) who is a peace officer;

7 (3) who is a permittee or an employee of a permittee if
8 the person is supervising the operation of the premises; or

9 (4) who possesses a handgun the person is licensed to
10 carry under Subchapter H, Chapter 411, Government Code [~~, unless the~~
11 ~~person is on the premises of a business described by Section~~
12 ~~46.035(b)(1), Penal Code]~~.

13 SECTION 9. Section 61.11(a), Alcoholic Beverage Code, is
14 amended to read as follows:

15 (a) Each holder of a license [~~who is not otherwise required~~
16 ~~to display a sign under Section 411.204, Government Code,~~] shall
17 display in a prominent place on the license holder's premises a sign
18 giving notice that it is unlawful for a person to carry a weapon on
19 the premises unless the weapon is a handgun the person is licensed
20 to carry under Subchapter H, Chapter 411, Government Code.

21 SECTION 10. Section 61.71(f), Alcoholic Beverage Code, is
22 amended to read as follows:

23 (f) Except as provided by Subsection (g) or (j), the
24 commission or administrator shall cancel an original or renewal
25 dealer's on-premises or off-premises license if it is found, after
26 notice and hearing, that the licensee knowingly allowed a person to
27 possess a firearm in a building on the licensed premises. This

1 subsection does not apply to a person:

2 (1) who holds a security officer commission issued
3 under Chapter 1702, Occupations Code, if:

4 (A) the person is engaged in the performance of
5 the person's duties as a security officer;

6 (B) the person is wearing a distinctive uniform;
7 and

8 (C) the weapon is in plain view;

9 (2) who is a peace officer;

10 (3) who is a licensee or an employee of a licensee if
11 the person is supervising the operation of the premises; or

12 (4) who possesses a handgun the person is licensed to
13 carry under Subchapter H, Chapter 411, Government Code[, ~~unless the~~
14 ~~person is on the premises of a business described by Section~~
15 ~~46.035(b)(1), Penal Code~~].

16 SECTION 11. The following provisions are repealed:

17 (1) Section 104.06, Alcoholic Beverage Code;

18 (2) Sections 411.203 and 411.204, Government Code;

19 (3) Section 52.062(b), Labor Code;

20 (4) Section 46.03(f), Penal Code, as amended by
21 Chapters 437 (H.B. 910) and 1001 (H.B. 554), Acts of the 84th
22 Legislature, Regular Session, 2015;

23 (5) Sections 46.035(b), (c), (f)(1), (i), (k), and
24 (l), Penal Code; and

25 (6) Section 46.035(h-1), Penal Code, as added by
26 Chapters 1214 (H.B. 1889) and 1222 (H.B. 2300), Acts of the 80th
27 Legislature, Regular Session, 2007.

1 SECTION 12. The change in law made by this Act applies only
2 to an offense committed on or after the effective date of this Act.
3 An offense committed before the effective date of this Act is
4 governed by the law in effect when the offense was committed, and
5 the former law is continued in effect for that purpose. For
6 purposes of this section, an offense was committed before the
7 effective date of this Act if any element of the offense occurred
8 before that date.

9 SECTION 13. This Act takes effect September 1, 2017.