

By: White, Burns, Phelan, Lang, Metcalf,
et al.

H.B. No. 1911

Substitute the following for H.B. No. 1911:

By: Schaefer

C.S.H.B. No. 1911

A BILL TO BE ENTITLED

1 AN ACT
2 relating to granting authority to carry a firearm to certain
3 unlicensed persons and to related regulatory provisions and
4 criminal offenses.

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

6 SECTION 1. The heading to Subchapter H, Chapter 411,
7 Government Code, is amended to read as follows:

8 SUBCHAPTER H. LICENSE TO CARRY [A] HANDGUN AND OTHER PROVISIONS
9 RELATING TO CARRYING OF FIREARMS

10 SECTION 2. Sections 411.1741(a) and (b), Government Code,
11 are amended to read as follows:

12 (a) When a person applies for an original or renewal license
13 to carry a [~~concealed~~] handgun under this subchapter, the person
14 may make a voluntary contribution in any amount to the fund for
15 veterans' assistance established by Section 434.017.

16 (b) The department shall:

17 (1) include space on the first page of each
18 application for an original or renewal license to carry a
19 [~~concealed~~] handgun that allows a person applying for an original
20 or renewal license to carry a [~~concealed~~] handgun to indicate the
21 amount that the person is voluntarily contributing to the fund; and

22 (2) provide an opportunity for the person to
23 contribute to the fund during the application process for an
24 original or renewal license to carry a [~~concealed~~] handgun on the

1 department's Internet website.

2 SECTION 3. Section 411.204(c), Government Code, is amended
3 to read as follows:

4 (c) The sign required under Subsections (a) and (b) must
5 give notice in both English and Spanish that it is unlawful for a
6 person, including a person licensed under this subchapter or a
7 person otherwise legally authorized to carry a handgun, to carry a
8 handgun on the premises. The sign must appear in contrasting colors
9 with block letters at least one inch in height and must include on
10 its face the number "51" printed in solid red at least five inches
11 in height. The sign shall be displayed in a conspicuous manner
12 clearly visible to the public.

13 SECTION 4. Section 411.205, Government Code, is amended to
14 read as follows:

15 Sec. 411.205. REQUIREMENT TO DISPLAY IDENTIFICATION AND
16 HANDGUN LICENSE. If a person [~~license holder~~] is carrying a handgun
17 [~~on or about the license holder's person~~] when a magistrate or a
18 peace officer demands that the person [~~license holder~~] display
19 identification, the person [~~license holder~~] shall display [~~both~~]
20 the person's [~~license holder's~~] driver's license or identification
21 certificate issued by the department or other proof of identity. If
22 the person is a license holder under this subchapter and is carrying
23 the person's handgun license, the person also shall display [~~and~~]
24 the person's [~~license holder's~~] handgun license.

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

27 (b) A peace officer who is acting in the lawful discharge of

1 the officer's official duties may temporarily disarm a person who
2 is a license holder or otherwise legally authorized to carry a
3 handgun when the person [~~a license holder~~] enters a nonpublic,
4 secure portion of a law enforcement facility, if the law
5 enforcement agency provides a gun locker where the peace officer
6 can secure the person's [~~license holder's~~] handgun. The peace
7 officer shall secure the handgun in the locker and shall return the
8 handgun to the person [~~license holder~~] immediately after the person
9 [~~license holder~~] leaves the nonpublic, secure portion of the law
10 enforcement facility.

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

20 SECTION 6. Section [42.042](#)(e-2), Human Resources Code, is
21 amended to read as follows:

22 (e-2) The department may not prohibit the foster parent of a
23 child who resides in the foster family's home from transporting the
24 child in a vehicle where a handgun is present if the handgun is in
25 the possession and control of the foster parent and the foster
26 parent is licensed to carry the handgun under Subchapter H, Chapter
27 [411](#), Government Code, or is otherwise legally authorized to carry a

1 handgun.

2 SECTION 7. Section 229.001(b), Local Government Code, is
3 amended to read as follows:

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

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

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

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

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

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

26 (6) regulate the carrying of a firearm or air gun by a
27 person other than a person licensed to carry a handgun under

1 Subchapter H, Chapter 411, Government Code, or a person otherwise
2 legally authorized to carry the handgun, at a:

- 3 (A) public park;
- 4 (B) public meeting of a municipality, county, or
5 other governmental body;
- 6 (C) political rally, parade, or official
7 political meeting; or
- 8 (D) nonfirearms-related school, college, or
9 professional athletic event;

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

- 16 (8) regulate the carrying of an air gun by a minor on:
 - 17 (A) public property; or
 - 18 (B) private property without consent of the
19 property owner.

20 SECTION 8. Sections 62.082(d) and (e), Parks and Wildlife
21 Code, are amended to read as follows:

- 22 (d) Section 62.081 does not apply to:
 - 23 (1) an employee of the Lower Colorado River Authority;
 - 24 (2) a person authorized to hunt under Subsection (c);
 - 25 (3) a peace officer as defined by Article 2.12, Code of
26 Criminal Procedure; or
 - 27 (4) a person who:

1 (A) is carrying [~~possesses~~] a handgun the person
2 is legally authorized to carry [~~and a license issued under~~
3 ~~Subchapter H, Chapter 411, Government Code, to carry a handgun~~]; or

4 (B) under circumstances in which the person would
5 be justified in the use of deadly force under Chapter 9, Penal Code,
6 shoots a handgun the person is legally authorized [~~licensed~~] to
7 carry [~~under Subchapter H, Chapter 411, Government Code~~].

8 (e) A state agency, including the department, the
9 Department of Public Safety, and the Lower Colorado River
10 Authority, may not adopt a rule that prohibits a person [~~who~~
11 ~~possesses a license issued under Subchapter H, Chapter 411,~~
12 ~~Government Code,~~] from entering or crossing the land of the Lower
13 Colorado River Authority while:

14 (1) carrying [~~possessing~~] a handgun that the person is
15 legally authorized to carry; or

16 (2) under circumstances in which the person would be
17 justified in the use of deadly force under Chapter 9, Penal Code,
18 shooting a handgun.

19 SECTION 9. Section 284.001(e), Parks and Wildlife Code, is
20 amended to read as follows:

21 (e) This section does not limit a person's [~~the~~] ability to
22 carry a handgun if the person is legally authorized [~~of a license~~
23 ~~holder~~] to carry a handgun [~~under the authority of Subchapter H,~~
24 ~~Chapter 411, Government Code~~].

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

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

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

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

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

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

11 (3) a Class A misdemeanor if:

12 (A) the offense is committed:

13 (i) in a habitation or a shelter center;

14 (ii) on a Superfund site; or

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

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

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

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

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

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

1 if:

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

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

8 (3) it is shown on the trial of the offense that, after
9 entering the property, land, or building, the actor was personally
10 given notice by oral communication that entry with a firearm was
11 forbidden and subsequently failed to depart.

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

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

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

17 (A) a license issued under Subchapter H, Chapter
18 [411](#), Government Code, to carry a handgun; and

19 (B) a handgun:

20 (i) in a concealed manner; or

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

22 SECTION 11. Section [30.07](#)(f), Penal Code, is amended to
23 read as follows:

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

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

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

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

9 (2) the person is:

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

13 (B) prohibited by law from possessing a firearm;
14 or

15 (C) a member of a criminal street gang, as
16 defined by Section 71.01.

17 SECTION 13. Sections 46.03(e-1) and (e-2), Penal Code, are
18 amended to read as follows:

19 (e-1) It is a defense to prosecution under Subsection (a)(5)
20 that the actor:

21 (1) possessed, at the screening checkpoint for the
22 secured area, a [~~concealed~~] handgun that the actor was legally
23 authorized [~~licensed~~] to carry [~~under Subchapter H, Chapter 411,~~
24 ~~Government Code~~]; and

25 (2) exited the screening checkpoint for the secured
26 area immediately on [~~upon~~] completion of the required screening
27 processes and notification that the actor possessed the handgun.

1 (e-2) A peace officer investigating conduct that may
2 constitute an offense under Subsection (a)(5) and that consists
3 only of an actor's possession of a ~~[concealed]~~ handgun that the
4 actor is legally authorized ~~[licensed]~~ to carry ~~[under Subchapter~~
5 ~~H, Chapter 411, Government Code,~~] may not arrest the actor for the
6 offense unless:

7 (1) the officer advises the actor of the defense
8 available under Subsection (e-1) and gives the actor an opportunity
9 to exit the screening checkpoint for the secured area; and

10 (2) the actor does not immediately exit the checkpoint
11 on ~~[upon]~~ completion of the required screening processes.

12 SECTION 14. The heading to Section 46.035, Penal Code, is
13 amended to read as follows:

14 Sec. 46.035. UNLAWFUL CARRYING OF HANDGUN BY LICENSE HOLDER
15 OR OTHER PERSON LEGALLY AUTHORIZED TO CARRY HANDGUN.

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

18 (a) A person who is a license holder or otherwise legally
19 authorized to carry a handgun commits an offense if the person
20 ~~[license holder]~~ carries a handgun ~~[on or about the license~~
21 ~~holder's person under the authority of Subchapter H, Chapter 411,~~
22 ~~Government Code,~~] and intentionally displays the handgun in plain
23 view of another person in a public place. It is an exception to the
24 application of this subsection that the handgun was partially or
25 wholly visible but was carried in a ~~[shoulder or belt]~~ holster ~~[by~~
26 ~~the license holder]~~.

27 (b) A person who is a license holder or otherwise legally

1 authorized to carry a handgun commits an offense if the person
2 [~~license holder~~] intentionally, knowingly, or recklessly carries a
3 handgun [~~under the authority of Subchapter H, Chapter 411,~~
4 ~~Government Code~~], regardless of whether the handgun is concealed or
5 carried in a [~~shoulder or belt~~] holster[~~, on or about the license~~
6 ~~holder's person~~]:

7 (1) on the premises of a business that has a permit or
8 license issued under Chapter 25, 28, 32, 69, or 74, Alcoholic
9 Beverage Code, if the business derives 51 percent or more of its
10 income from the sale or service of alcoholic beverages for
11 on-premises consumption, as determined by the Texas Alcoholic
12 Beverage Commission under Section 104.06, Alcoholic Beverage Code;

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

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

18 (4) on the premises of a hospital licensed under
19 Chapter 241, Health and Safety Code, or on the premises of a nursing
20 facility licensed under Chapter 242, Health and Safety Code, unless
21 the person [~~license holder~~] has written authorization of the
22 hospital or nursing facility administration, as appropriate; or

23 (5) in an amusement park[~~, or~~

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

26 (c) A person who is a license holder or otherwise legally
27 authorized to carry a handgun commits an offense if the person

1 ~~[license holder]~~ intentionally, knowingly, or recklessly carries a
2 handgun ~~[under the authority of Subchapter H, Chapter 411,~~
3 ~~Government Code]~~, regardless of whether the handgun is concealed or
4 carried in a ~~[shoulder or belt]~~ holster, in the room or rooms where
5 a meeting of a governmental entity is held and if the meeting is an
6 open meeting subject to Chapter 551, Government Code, and the
7 entity provided notice as required by that chapter.

8 (d) A person who is a license holder or otherwise legally
9 authorized to carry a handgun commits an offense if the person~~[,~~
10 ~~while intoxicated, the license holder]~~ carries a handgun while the
11 person is intoxicated ~~[under the authority of Subchapter H, Chapter~~
12 ~~411, Government Code]~~, regardless of whether the handgun is
13 concealed or carried in a ~~[shoulder or belt]~~ holster.

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

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

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

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

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

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

3 (3) a district attorney, assistant district attorney,
4 criminal district attorney, assistant criminal district attorney,
5 county attorney, or assistant county attorney.

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

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

9 (1) peace officers or special investigators under
10 Article [2.122](#), Code of Criminal Procedure, and neither section
11 prohibits a peace officer or special investigator from carrying a
12 weapon in this state, including in an establishment in this state
13 serving the public, regardless of whether the peace officer or
14 special investigator is engaged in the actual discharge of the
15 officer's or investigator's duties while carrying the weapon;

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

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

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

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

27 (A) engaged in the actual discharge of the

1 officer's duties while carrying the weapon; and

2 (B) authorized to carry a weapon under Section
3 76.0051, Government Code;

4 (4) an active judicial officer as defined by Section
5 411.201, Government Code, who is licensed to carry a handgun under
6 Subchapter H, Chapter 411, Government Code;

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

14 (A) an honorably retired peace officer;

15 (B) a qualified retired law enforcement officer;

16 (C) a federal criminal investigator; or

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

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

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

27 (8) a bailiff designated by an active judicial officer

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

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

4 (B) engaged in escorting the judicial officer; or

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

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

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

12 (2) is traveling;

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

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

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

27 (A) is engaged in the performance of the person's

1 duties as a personal protection officer under Chapter 1702,
2 Occupations Code, or is traveling to or from the person's place of
3 assignment; and

4 (B) is either:

5 (i) wearing the uniform of a security
6 officer, including any uniform or apparel described by Section
7 1702.323(d), Occupations Code, and carrying the officer's weapon in
8 plain view; or

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

11 (6) is ~~carrying:~~

12 ~~[(A)]~~ a license holder ~~[issued]~~ under Subchapter
13 H, Chapter 411, Government Code, ~~[to carry a handgun,]~~ and is
14 carrying

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

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

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

18 (7) is at least 21 years of age and:

19 (A) has not been convicted of a felony;

20 (B) is fully qualified under applicable federal
21 law to purchase and possess a handgun;

22 (C) meets the requirements under Sections
23 411.172(a)(1)-(13), Government Code;

24 (D) is not a member of a criminal street gang, as
25 defined by Section 71.01; and

26 (E) is carrying a handgun:

27 (i) in a concealed manner; or

1 (ii) in a holster;

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

6 (9) [~~(8)~~] is a student in a law enforcement class
7 engaging in an activity required as part of the class, if the weapon
8 is a type commonly used in the activity and the person is:

9 (A) on the immediate premises where the activity
10 is conducted; or

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

13 SECTION 18. The following provisions are repealed:

14 (1) Sections 11.041, 11.61(e), 61.11, and 61.71(f),
15 Alcoholic Beverage Code; and

16 (2) Section 411.204(d), Government Code.

17 SECTION 19. The changes in law made by this Act relating to
18 the authority of a person to carry a handgun apply to the carrying
19 of a handgun on or after the effective date of this Act by any person
20 who may legally carry a handgun under this Act.

21 SECTION 20. The changes in law made by this Act apply only
22 to an offense committed on or after the effective date of this Act.
23 An offense committed before the effective date of this Act is
24 governed by the law in effect when the offense was committed, and
25 the former law is continued in effect for that purpose. For
26 purposes of this section, an offense was committed before the
27 effective date of this Act if any element of the offense occurred

1 before that date.

2 SECTION 21. This Act takes effect September 1, 2017.