

BILL ANALYSIS

C.S.H.B. 302
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Homeland Security & Public Safety
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that the authority landlords have to prohibit tenants and certain other individuals from carrying, storing, or possessing a firearm or firearm ammunition on the rented property is too expansive. C.S.H.B. 302 seeks to narrow the scope of that authority.

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. 302 amends the Property Code to prohibit the owner of a condominium unit subject to the Uniform Condominium Act, a tenant or guest of such an owner, or a guest of a tenant of such an owner from being prohibited from lawfully possessing, carrying, transporting, or storing a firearm, any part of a firearm, or firearm ammunition, unless possession of a firearm or firearm ammunition on condominium property is prohibited by state or federal law:

- in the condominium unit owner's unit;
- in a vehicle located in a parking area provided for the residents or guests of the condominium property; or
- in other common element locations as necessary to enter or exit the condominium property, the condominium unit owner's unit, or a vehicle on the condominium property or in a parking area provided for residents or guests of the condominium property.

C.S.H.B. 302 applies the prohibition to a condominium for which the declaration was recorded before January 1, 1994, and applies the prohibition notwithstanding any provision of a dedicatory instrument to the contrary and regardless of the date of the provision's adoption.

C.S.H.B. 302 prohibits a landlord from prohibiting a residential tenant or such a tenant's guest or a commercial tenant or such a tenant's employee or agent, customer, or guest from lawfully possessing, carrying, transporting, or storing a firearm, any part of a firearm, or firearm ammunition, unless possession of a firearm or firearm ammunition on a landlord's property is prohibited by state or federal law:

- in the tenant's rental unit;
- in a vehicle located in a parking area provided for such tenants or such tenants' employees or agents, customers, or guests, as applicable, by the landlord of the leased

premises; or

- in other locations controlled by the landlord as necessary to enter or exit the tenant's rental unit, the leased premises, or a vehicle on the leased premises or in a parking area provided by the landlord for such tenants, tenants' employees or agents, customers, or guests, as applicable.

C.S.H.B. 302 amends the Penal Code to establish as a defense to prosecution for the offense of criminal trespass that the following conditions are satisfied:

- the basis on which entry on the applicable property was forbidden is that entry with a firearm or firearm ammunition was forbidden;
- the actor is not otherwise prohibited by law from possessing a firearm or firearm ammunition;
- the actor is an owner of an apartment in a condominium regime governed by the Condominium Act, an owner of a condominium unit governed by the Uniform Condominium Act, a tenant or guest of the owner of such an apartment or condominium unit, or a guest of such a tenant; and
- the actor carries or stores a firearm or firearm ammunition in the condominium apartment or unit owner's apartment or unit or in the actor's vehicle located in a parking area provided for the condominium property's residents or guests or carries a firearm or firearm ammunition directly en route to or from such an apartment, unit, or vehicle.

C.S.H.B. 302 establishes as a defense to prosecution for the offense of criminal trespass that the following conditions are satisfied:

- the basis on which entry on a leased premises governed by Property Code provisions relating to residential tenancies and relating to commercial tenancies was forbidden is that entry with a firearm or firearm ammunition was forbidden;
- the actor is not otherwise prohibited by law from possessing a firearm or firearm ammunition;
- the actor is a tenant of the leased premises or is the tenant's guest, employee, or agent, as applicable; and
- the actor carries or stores a firearm or firearm ammunition in the tenant's rental unit or in the actor's vehicle located in a parking area provided for tenants, the tenant's employees or agents, or guests, as applicable, by the landlord of the leased premises or carries a firearm or firearm ammunition directly en route to or from such a unit or vehicle.

C.S.H.B. 302 establishes as a defense to prosecution for the offenses of trespass by a handgun license holder with a concealed handgun and trespass by a handgun license holder with an openly carried handgun that the following conditions are satisfied:

- the applicable license holder is an owner of an apartment in a condominium regime governed by the Condominium Act or of a condominium unit governed by the Uniform Condominium Act or is a tenant or guest of such an owner or a guest of such a tenant or the applicable license holder is a tenant of a leased premises governed by Property Code provisions relating to residential tenancies or commercial tenancies or is the tenant's guest, employee, or agent, as applicable; and
- the applicable license holder carries or stores a handgun in the condominium apartment or unit owner's apartment or unit, in the applicable tenant's rental unit, or in the license holder's vehicle located in a parking area provided for the applicable resident, tenant, tenants' employees or agents, or guests or carries a handgun directly en route to or from such an apartment, unit, or vehicle.

That defense to prosecution is not available with respect to certain commercial tenancies on whose premises it is unlawful for a handgun license holder to carry a handgun.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 302 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute replaces language creating an exception to the application of the offenses with language establishing a defense to prosecution for those offenses.

The substitute does not include protections for the guest of a tenant of an applicable commercial property but includes protections for an employee or agent of such a tenant.

The substitute makes the respective defense to prosecution established for trespass by a handgun license holder with a concealed or openly carried handgun unavailable with respect to certain commercial tenancies.