

BILL ANALYSIS

Senate Research Center

H.B. 1177
By: Phelan et al. (Creighton)
State Affairs
5/9/2019
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, when an area is under a mandatory evacuation, Texans must decide whether they obey restrictive licensing laws on carrying their firearms or follow those laws, resulting in being unarmed and unprotected, risking those firearms being stolen from looting crimes. H.B. 1177 eliminates this conundrum by allowing Texans without a license-to-carry to carry their firearms when their property is under a mandatory evacuation.

H.B. 1177 amends current law relating to carrying a handgun during a state of disaster.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 46.15, Penal Code, by adding Subsections (k) and (l), as follows:

(k) Provides that Section 46.02 (Unlawful Carrying Weapons) does not apply to a person who carries a handgun if:

(1) the person carries the handgun while:

(A) evacuating from an area following the declaration of a state of disaster under Section 418.014 (Declaration of State of Disaster), Government Code, or a local state of disaster under Section 418.108 (Declaration of Local Disaster), Government Code, with respect to that area; or

(B) reentering that area following the person's evacuation;

(2) not more than 168 hours have elapsed since the state of disaster or local state of disaster was declared, or more than 168 hours have elapsed since the time the declaration was made and the governor has extended the period during which a person is authorized to carry a handgun under this subsection; and

(3) the person is not prohibited by state or federal law from possessing a firearm.

(l) Provides that Sections 46.02, 46.03(a)(1) (relating to providing that a person commits an offense if the person intentionally, knowingly, or recklessly possesses or goes with a firearm on the physical premises of a school or educational institution, any grounds or building on which an activity sponsored by a school or educational institution is being conducted, or a passenger transportation vehicle of a school or educational institution, whether the school or educational institution is public or private, unless under certain conditions), (a)(2) (relating to providing that a person commits an offense if the person intentionally, knowingly, or recklessly possesses or goes with a firearm on the premises of a polling place on the day of an election or while early voting is in progress), (a)(3) (relating to providing that a person commits an offense if the person intentionally, knowingly, or recklessly possesses or goes with a firearm on the premises of any

government court or offices utilized by the court, unless pursuant to written regulations or written authorization of the court), (a)(4) (relating to providing that a person commits an offense if the person intentionally, knowingly, or recklessly possesses or goes with a firearm on the premises of a racetrack), 46.035(a) (relating to providing that the license holder commits an offense if the license holder carries a handgun on or about the license holder's person, and intentionally displays the handgun in plain view of another person in a public place), (a-1) (relating to providing that a license holder commits an offense if the license holder carries a partially or wholly visible handgun, regardless of whether the handgun is holstered, on or about the license holder's person, and intentionally or knowingly displays the handgun in plain view of another person in certain areas), (a-2) (relating to providing that a license holder commits an offense if the license holder carries a handgun on the campus of a private or independent institution of higher education in this state that has established rules, regulations, or other provisions prohibiting license holders from carrying or on the grounds or building on which an activity sponsored by such an institution is being conducted, or in a passenger transportation vehicle of such an institution, regardless of whether the handgun is concealed, provided the institution gives effective notice), (a-3) (relating to providing that a license holder commits an offense if the license holder intentionally carries a concealed handgun on a portion of a premises located on the campus of an institution of higher education in this state on which the carrying of a concealed handgun is prohibited by rules, regulations, or other provisions provided the institution gives effective notice with respect to that portion), (b)(1) (relating to providing that a license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun regardless of whether the handgun is concealed or carried in a shoulder or belt holster, on or about the license holder's person on the premises of a business that has a permit or license, if the business derives 51 percent or more of its income from the sale or service of alcoholic beverages for on-premises consumption), (b)(5) (relating to providing that a license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun, regardless of whether the handgun is concealed or carried in a shoulder or belt holster, on or about the license holder's person in an amusement park), and (b)(6) (relating to providing that a license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun, regardless of whether the handgun is concealed or carried in a shoulder or belt holster, on or about the license holder's person on the premises of a church, synagogue, or other established place of religious worship) do not apply to a person who carries a handgun if:

- (1) the person carries the handgun on the premises, as defined by the statute providing the applicable offense, of a location operating as an emergency shelter during a state of disaster declared under Section 418.014, Government Code, or a local state of disaster declared under Section 418.108, Government Code;
- (2) the owner, controller, or operator of the premises or a person acting with the apparent authority of the owner, controller, or operator, authorized the carrying of the handgun;
- (3) the person carrying the handgun complies with any rules and regulations of the owner, controller, or operator of the premises that govern the carrying of a handgun on the premises; and
- (4) the person is not prohibited by state or federal law from possessing a firearm.

SECTION 2. Makes application of this Act prospective. Provides that, for purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 3. Effective date: September 1, 2019.