

By: Hall

S.B. No. 2146

A BILL TO BE ENTITLED

AN ACT

relating to the carrying of concealed handguns by handgun license holders on the campus of a school district or open-enrollment charter school.

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

SECTION 1. Subchapter C, Chapter 37, Education Code, is amended by adding Section 37.0818 to read as follows:

Sec. 37.0818. CARRYING OF HANDGUNS BY SCHOOL EMPLOYEES.

(a) For purposes of this section, "premises" has the meaning assigned by Section 46.035, Penal Code.

(b) Except as provided by Sections 37.0811(c) and (d), the board of trustees of a school district or the governing body of an open-enrollment charter school may not adopt any rule, regulation, or other provision prohibiting or restricting a district or school employee, while performing job duties on the premises of a district or school, from carrying in a concealed manner a handgun that the person is licensed to carry under Subchapter H, Chapter 411, Government Code.

SECTION 2. Section 411.2032(a), Government Code, is amended by amending Subdivision (1) and adding Subdivision (3) to read as follows:

(1) "Campus" means all land and buildings owned or leased by a school district, open-enrollment charter school, [an] institution of higher education, or private or independent

1 institution of higher education.

2 (3) "Open-enrollment charter school" and "school
3 district" have the meanings assigned by Section 411.2033.

4 SECTION 3. Section 411.2032(b), Government Code, is amended
5 to read as follows:

6 (b) A school district, open-enrollment charter school, [An]
7 institution of higher education, or private or independent
8 institution of higher education in this state may not adopt or
9 enforce any rule, regulation, or other provision or take any other
10 action, including posting notice under Section 30.06 or 30.07,
11 Penal Code, prohibiting or placing restrictions on the storage or
12 transportation of a firearm or ammunition in a locked, privately
13 owned or leased motor vehicle by a person, including a student or
14 employee ~~[enrolled at that institution]~~, who holds a license to
15 carry a handgun under this subchapter and lawfully possesses the
16 firearm or ammunition:

17 (1) on a street or driveway located on the campus of
18 the district, school, or institution; or

19 (2) in a parking lot, parking garage, or other parking
20 area located on the campus of the district, school, or institution.

21 SECTION 4. Subchapter H, Chapter 411, Government Code, is
22 amended by adding Section 411.2033 to read as follows:

23 Sec. 411.2033. CARRYING OF HANDGUNS BY LICENSE HOLDERS ON
24 PUBLIC SCHOOL CAMPUSES. (a) For purposes of this section:

25 (1) "Campus" means all land and buildings owned or
26 leased by a school district or open-enrollment charter school.

27 (2) "Open-enrollment charter school" means a school

1 that has been granted a charter under Subchapter D, Chapter 12,
2 Education Code.

3 (3) "School district" means any public school district
4 in this state.

5 (b) A license holder may carry a concealed handgun on or
6 about the license holder's person while the license holder is on the
7 campus of a school district or open-enrollment charter school in
8 this state.

9 (c) A school district or open-enrollment charter school in
10 this state may not adopt any rule, regulation, or other provision
11 prohibiting license holders from carrying handguns on a campus of
12 the district or school.

13 SECTION 5. Sections 411.208(a), (b), and (d), Government
14 Code, are amended to read as follows:

15 (a) A court may not hold the state, an agency or subdivision
16 of the state, an officer or employee of the state, a school district
17 or open-enrollment charter school, an officer or employee of a
18 school district or open-enrollment charter school, an institution
19 of higher education, an officer or employee of an institution of
20 higher education, a private or independent institution of higher
21 education that has not adopted rules under Section 411.2031(e), an
22 officer or employee of a private or independent institution of
23 higher education that has not adopted rules under Section
24 411.2031(e), a peace officer, a qualified handgun instructor, or an
25 approved online course provider liable for damages caused by:

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

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

(b) A cause of action in damages may not be brought against the state, an agency or subdivision of the state, an officer or employee of the state, a school district or open-enrollment charter school, an officer or employee of a school district or open-enrollment charter school, 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 a private or independent institution of higher education that has not adopted rules under Section 411.2031(e), a peace officer, a qualified handgun instructor, or an approved online course provider for any damage caused by the actions of an applicant or license holder under this subchapter.

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

(1) an act or a failure to act by the state, an agency or subdivision of the state, an officer of the state, a school district or open-enrollment charter school, an officer or employee of a school district or open-enrollment charter school, 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 a private or independent institution of higher education that has not adopted

1 rules under Section 411.2031(e), or a peace officer if the act or
2 failure to act was capricious or arbitrary; or

3 (2) any officer or employee of a school district,
4 open-enrollment charter school, ~~[an]~~ institution of higher
5 education, or private or independent institution of higher
6 education described by Subdivision (1) who possesses a handgun on
7 the campus of that district, school, or institution and whose
8 conduct with regard to the handgun is made the basis of a claim for
9 personal injury or property damage.

10 SECTION 6. Section 411.208(f), Government Code, is amended
11 by amending Subdivision (1) and adding Subdivision (3) to read as
12 follows:

13 (1) "Campus" means all land and buildings owned or
14 leased by a school district, open-enrollment charter school,
15 institution of higher education, or private or independent
16 institution of higher education ~~[has the meaning assigned by~~
17 ~~Section 411.2031]~~.

18 (3) "Open-enrollment charter school" and "school
19 district" have the meanings assigned by Section 411.2033.

20 SECTION 7. Section 46.03(a), Penal Code, is amended to read
21 as follows:

22 (a) A person commits an offense if the person intentionally,
23 knowingly, or recklessly possesses or goes with a firearm,
24 location-restricted knife, club, or prohibited weapon listed in
25 Section 46.05(a):

26 (1) on the physical premises of a school or
27 educational institution, any grounds or building on which an

1 activity sponsored by a school or educational institution is being
2 conducted, or a passenger transportation vehicle of a school or
3 educational institution, whether the school or educational
4 institution is public or private, unless:

5 (A) pursuant to written regulations or written
6 authorization of the institution; or

7 (B) the person possesses or goes with a concealed
8 handgun that the person is licensed to carry under Subchapter H,
9 Chapter 411, Government Code, and no other weapon to which this
10 section applies, on the premises of a school district,
11 open-enrollment charter school, ~~[an]~~ institution of higher
12 education, or private or independent institution of higher
13 education, on any grounds or building on which an activity
14 sponsored by the district, school, or institution is being
15 conducted, or in a passenger transportation vehicle of the
16 institution;

17 (2) on the premises of a polling place on the day of an
18 election or while early voting is in progress;

19 (3) on the premises of any government court or offices
20 utilized by the court, unless pursuant to written regulations or
21 written authorization of the court;

22 (4) on the premises of a racetrack;

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

24 (6) within 1,000 feet of premises the location of
25 which is designated by the Texas Department of Criminal Justice as a
26 place of execution under Article 43.19, Code of Criminal Procedure,
27 on a day that a sentence of death is set to be imposed on the

designated premises and the person received notice that:

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

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

SECTION 8. Section 46.03(c), Penal Code, is amended by adding Subdivisions (4) and (5) to read as follows:

(4) "Open-enrollment charter school" means a school that has been granted a charter under Subchapter D, Chapter 12, Education Code.

(5) "School district" means any public school district in this state.

SECTION 9. Section 46.035(a-1), Penal Code, as added by Chapter 438 (S.B. 11), Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a-1) Notwithstanding Subsection (a), 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 under the authority of Subchapter H, Chapter 411, Government Code, and intentionally or knowingly displays the handgun in plain view of another person:

(1) on the premises of a school district, open-enrollment charter school, ~~an~~ institution of higher education, or private or independent institution of higher education; or

(2) on any public or private driveway, street,

sidewalk or walkway, parking lot, parking garage, or other parking area of a school district, open-enrollment charter school, [an] institution of higher education, or private or independent institution of higher education.

SECTION 10. Section 46.035(f), Penal Code, is amended by adding Subdivisions (2-a) and (4) to read as follows:

(2-a) "Open-enrollment charter school" means a school that has been granted a charter under Subchapter D, Chapter 12, Education Code.

(4) "School district" means any public school district in this state.

SECTION 11. The following provisions are repealed:

(1) Section 37.0815, Education Code; and

(2) Section 46.035(a-1), Penal Code, as added by Chapter 437 (H.B. 910), Acts of the 84th Legislature, Regular Session, 2015.

SECTION 12. Section 411.208, Government Code, as amended by this Act, applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrues before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 13. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For

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1 purposes of this section, an offense was committed before the
2 effective date of this Act if any element of the offense occurred
3 before that date.

4 SECTION 14. This Act takes effect August 1, 2020.