87R5387 JSC-F

By:  White, Burrows, Canales, Schaefer, H.B. No. 1911

     Hefner, et al.

A BILL TO BE ENTITLED

AN ACT

relating to provisions governing the carrying of a handgun by certain unlicensed persons and to other provisions related to the carrying, possessing, transporting, or storing of a firearm; providing criminal penalties.

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

SECTION 1.  Section 46.02(a-1), Penal Code, is amended to read as follows:

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

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

(2)  the person is:

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

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

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

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

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

(1)  possessed, at the screening checkpoint for the secured area, a [~~concealed~~] handgun;

(2)  [~~that the actor~~] was licensed to carry a handgun under Subchapter H, Chapter 411, Government Code, or, if unlicensed, was not prohibited by state or federal law from carrying a handgun; and

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

(e-2)  A peace officer investigating conduct that may constitute an offense under Subsection (a)(5) and that consists only of an actor's possession of a [~~concealed~~] handgun that the actor is licensed to carry under Subchapter H, Chapter 411, Government Code, or, if unlicensed, is not prohibited by state or federal law from carrying, may not arrest the actor for the offense unless:

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

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

(f)  Except as provided by Subsection (e-1), it is not a defense to prosecution under this section that the actor possessed a handgun and was:

(1)  licensed to carry a handgun under Subchapter H, Chapter 411, Government Code; or

(2)  if unlicensed, not prohibited by state or federal law from carrying a handgun.

SECTION 3.  The heading to Section 46.035, Penal Code, is amended to read as follows:

Sec. 46.035.  UNLAWFUL CARRYING OF HANDGUN [~~BY LICENSE HOLDER~~].

SECTION 4.  Sections 46.035(a), (b), (c), (d), and (i), Penal Code, are amended to read as follows:

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

(b)  A person [~~license holder~~] commits an offense if the person [~~license holder~~] intentionally, knowingly, or recklessly carries a handgun [~~under the authority of Subchapter H, Chapter 411, Government Code~~], regardless of whether the handgun is concealed or carried in a [~~shoulder or belt~~] holster[~~, on or about the license holder's person~~]:

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

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

(3)  on the premises of a correctional facility;

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

(5)  in an amusement park; or

(6)  on the premises of a civil commitment facility.

(c)  A person [~~license holder~~] commits an offense if:

(1)  the person [~~license holder~~] intentionally, knowingly, or recklessly carries a handgun [~~under the authority of Subchapter H, Chapter 411, Government Code~~], regardless of whether the handgun is concealed or carried in a [~~shoulder or belt~~] holster, in the room or rooms where a meeting of a governmental entity is held; and

(2)  [~~if~~] the meeting described by Subdivision (1) is an open meeting subject to Chapter 551, Government Code, and the entity provided notice as required by that chapter.

(d)  A person [~~license holder~~] commits an offense if the person[~~, while intoxicated, the license holder~~] carries a handgun while the person is intoxicated [~~under the authority of Subchapter H, Chapter 411, Government Code~~], regardless of whether the handgun is concealed or carried in a [~~shoulder or belt~~] holster.

(i)  Subsections (b)(4), (b)(5), and (c) do not apply if the actor was not given effective notice under Section 30.05, 30.06, or 30.07.

SECTION 5.  Section 46.15, Penal Code, is amended by amending Subsection (a) and adding Subsection (m) to read as follows:

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

(1)  peace officers or special investigators under Article 2.122, Code of Criminal Procedure, and none of those sections prohibit [~~neither section prohibits~~] a peace officer or special investigator from carrying a weapon in this state, including in an establishment in this state serving the public, regardless of whether the peace officer or special investigator is engaged in the actual discharge of the officer's or investigator's duties while carrying the weapon;

(2)  parole officers, and none of those sections prohibit [~~neither section prohibits~~] an officer from carrying a weapon in this state if the officer is:

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

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

(3)  community supervision and corrections department officers appointed or employed under Section 76.004, Government Code, and none of those sections prohibit [~~neither section prohibits~~] an officer from carrying a weapon in this state if the officer is:

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

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

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

(5)  an honorably retired peace officer or other qualified retired law enforcement officer, as defined by 18 U.S.C. Section 926C, who holds a certificate of proficiency issued under Section 1701.357, Occupations Code, and is carrying a photo identification that is issued by a federal, state, or local law enforcement agency, as applicable, and that verifies that the officer is an honorably retired peace officer or other qualified retired law enforcement officer;

(6)  the attorney general or a United States attorney, district attorney, criminal district attorney, county attorney, or municipal attorney who is licensed to carry a handgun under Subchapter H, Chapter 411, Government Code;

(7)  an assistant United States attorney, assistant attorney general, assistant district attorney, assistant criminal district attorney, or assistant county attorney who is licensed to carry a handgun under Subchapter H, Chapter 411, Government Code;

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

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

(B)  engaged in escorting the judicial officer;

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

(10)  a person who is volunteer emergency services personnel if the person is:

(A)  licensed to carry [~~carrying~~] a handgun under [~~the authority of~~] Subchapter H, Chapter 411, Government Code; and

(B)  engaged in providing emergency services; or

(11)  a judge or justice of a federal court who is licensed to carry a handgun under Subchapter H, Chapter 411, Government Code.

(m)  Sections 46.02(a) and (a-1)(1) do not apply to a person who:

(1)  carries the handgun in a concealed manner or in a holster;

(2)  meets the requirements under Sections 411.172(a)(1)-(13), Government Code; and

(3)  is not:

(A)  a member of a criminal street gang, as defined by Section 71.01;

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

(C)  in a location in which carrying a handgun or other firearm is prohibited under Section 46.03(a) or 46.035(b) or (c) or other law.

SECTION 6.  Chapter 507, Business & Commerce Code, is amended to read as follows:

CHAPTER 507. LICENSE TO CARRY [~~CONCEALED~~] HANDGUN [~~LICENSES~~] AS VALID FORM [~~FORMS~~] OF PERSONAL IDENTIFICATION

Sec. 507.001.  [~~CONCEALED HANDGUN~~] LICENSE TO CARRY HANDGUN AS VALID PROOF OF IDENTIFICATION. (a) A person may not deny the holder of a [~~concealed~~] handgun license issued under Subchapter H, Chapter 411, Government Code, access to goods, services, or facilities, except as provided by Section 521.460, Transportation Code, or in regard to the operation of a motor vehicle, because the holder has or presents a [~~concealed~~] handgun license rather than a driver's license or other acceptable form of personal identification.

(b)  This section does not affect:

(1)  the requirement under Section 411.205, Government Code, that a person subject to that section present a driver's license or identification certificate or other proof of identity [~~in addition to a concealed handgun license~~]; or

(2)  the types of identification required under federal law to access airport premises or pass through airport security.

SECTION 7.  Section 125.0015(a), Civil Practice and Remedies Code, is amended to read as follows:

(a)  A person who maintains a place to which persons habitually go for the following purposes and who knowingly tolerates the activity and furthermore fails to make reasonable attempts to abate the activity maintains a common nuisance:

(1)  discharge of a firearm in a public place as prohibited by the Penal Code;

(2)  reckless discharge of a firearm as prohibited by the Penal Code;

(3)  engaging in organized criminal activity as a member of a combination as prohibited by the Penal Code;

(4)  delivery, possession, manufacture, or use of a substance or other item in violation of Chapter 481, Health and Safety Code;

(5)  gambling, gambling promotion, or communicating gambling information as prohibited by the Penal Code;

(6)  prostitution, promotion of prostitution, or aggravated promotion of prostitution as prohibited by the Penal Code;

(7)  compelling prostitution as prohibited by the Penal Code;

(8)  commercial manufacture, commercial distribution, or commercial exhibition of obscene material as prohibited by the Penal Code;

(9)  aggravated assault as described by Section 22.02, Penal Code;

(10)  sexual assault as described by Section 22.011, Penal Code;

(11)  aggravated sexual assault as described by Section 22.021, Penal Code;

(12)  robbery as described by Section 29.02, Penal Code;

(13)  aggravated robbery as described by Section 29.03, Penal Code;

(14)  unlawfully carrying a weapon as described by Section 46.02, Penal Code, or unlawfully carrying a firearm as described by Section 46.03 or 46.035, Penal Code;

(15)  murder as described by Section 19.02, Penal Code;

(16)  capital murder as described by Section 19.03, Penal Code;

(17)  continuous sexual abuse of young child or children as described by Section 21.02, Penal Code;

(18)  massage therapy or other massage services in violation of Chapter 455, Occupations Code;

(19)  employing a minor at a sexually oriented business as defined by Section 243.002, Local Government Code;

(20)  trafficking of persons as described by Section 20A.02, Penal Code;

(21)  sexual conduct or performance by a child as described by Section 43.25, Penal Code;

(22)  employment harmful to a child as described by Section 43.251, Penal Code;

(23)  criminal trespass as described by Section 30.05, Penal Code;

(24)  disorderly conduct as described by Section 42.01, Penal Code;

(25)  arson as described by Section 28.02, Penal Code;

(26)  criminal mischief as described by Section 28.03, Penal Code, that causes a pecuniary loss of $500 or more; or

(27)  a graffiti offense in violation of Section 28.08, Penal Code.

SECTION 8.  Section 37.005(c), Education Code, is amended to read as follows:

(c)  A student who is enrolled in a grade level below grade three may not be placed in out-of-school suspension unless while on school property or while attending a school-sponsored or school-related activity on or off of school property, the student engages in:

(1)  conduct that contains the elements of an offense related to weapons under Section 46.02 or 46.05, Penal Code, or to firearms under Section 46.03 or 46.035, Penal Code;

(2)  conduct that contains the elements of a violent offense under Section 22.01, 22.011, 22.02, or 22.021, Penal Code; or

(3)  selling, giving, or delivering to another person or possessing, using, or being under the influence of any amount of:

(A)  marihuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.;

(B)  a dangerous drug, as defined by Chapter 483, Health and Safety Code; or

(C)  an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code.

SECTION 9.  Section 37.007(a), Education Code, is amended to read as follows:

(a)  Except as provided by Subsection (k), a student shall be expelled from a school if the student, on school property or while attending a school-sponsored or school-related activity on or off of school property:

(1)  engages in conduct that contains the elements of [~~the offense of unlawfully carrying weapons under Section 46.02, Penal Code, or elements of~~] an offense relating to [~~prohibited~~] weapons under Section 46.02 or 46.05, Penal Code, or to firearms under Section 46.03 or 46.035, Penal Code;

(2)  engages in conduct that contains the elements of the offense of:

(A)  aggravated assault under Section 22.02, Penal Code, sexual assault under Section 22.011, Penal Code, or aggravated sexual assault under Section 22.021, Penal Code;

(B)  arson under Section 28.02, Penal Code;

(C)  murder under Section 19.02, Penal Code, capital murder under Section 19.03, Penal Code, or criminal attempt, under Section 15.01, Penal Code, to commit murder or capital murder;

(D)  indecency with a child under Section 21.11, Penal Code;

(E)  aggravated kidnapping under Section 20.04, Penal Code;

(F)  aggravated robbery under Section 29.03, Penal Code;

(G)  manslaughter under Section 19.04, Penal Code;

(H)  criminally negligent homicide under Section 19.05, Penal Code; or

(I)  continuous sexual abuse of young child or children under Section 21.02, Penal Code; or

(3)  engages in conduct specified by Section 37.006(a)(2)(C) or (D), if the conduct is punishable as a felony.

SECTION 10.  Section 51.220(g), Education Code, is amended to read as follows:

(g)  A public junior college employee's status as a school marshal becomes inactive on:

(1)  expiration of the employee's school marshal license under Section 1701.260, Occupations Code;

(2)  suspension or revocation of the employee's license to carry a [~~concealed~~] handgun issued under Subchapter H, Chapter 411, Government Code;

(3)  termination of the employee's employment with the public junior college; or

(4)  notice from the governing board of the public junior college that the employee's services as school marshal are no longer required.

SECTION 11.  Section 231.302(c-1), Family Code, is amended to read as follows:

(c-1)  For purposes of issuing a license to carry a [~~concealed~~] handgun under Subchapter H, Chapter 411, Government Code, the Department of Public Safety is not required to request, and an applicant is not required to provide, the applicant's social security number.

SECTION 12.  The heading to Subchapter H, Chapter 411, Government Code, is amended to read as follows:

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

SECTION 13.  Section 411.179(c), Government Code, is amended to read as follows:

(c)  In adopting the form of the license under Subsection (a), the department shall establish a procedure for the license of a qualified handgun instructor or of the attorney general or a judge, justice, United States attorney, assistant United States attorney, assistant attorney general, prosecuting attorney, or assistant prosecuting attorney, as described by Section 46.15(a)(4), (6), [~~or~~] (7), or (11), Penal Code, to indicate on the license the license holder's status as a qualified handgun instructor or as the attorney general or a judge, justice, United States attorney, assistant United States attorney, assistant attorney general, prosecuting [~~district~~] attorney, or assistant prosecuting [~~criminal district~~] attorney[~~, or county attorney~~]. In establishing the procedure, the department shall require sufficient documentary evidence to establish the license holder's status under this subsection.

SECTION 14.  Section 411.190(c), Government Code, is amended to read as follows:

(c)  In the manner applicable to a person who applies for a license to carry a handgun, the department shall conduct a background check of a person who applies for certification as a qualified handgun instructor or approved online course provider. If the background check indicates that the applicant for certification would not qualify to receive a handgun license, the department may not certify the applicant as a qualified handgun instructor or approved online course provider. If the background check indicates that the applicant for certification would qualify to receive a handgun license, the department shall provide handgun instructor or online course provider training to the applicant. The applicant shall pay a fee of $100 to the department for the training. The applicant must take and successfully complete the training offered by the department and pay the training fee before the department may certify the applicant as a qualified handgun instructor or approved online course provider. The department shall issue a license to carry a handgun under [~~the authority of~~] this subchapter to any person who is certified as a qualified handgun instructor or approved online course provider and who pays to the department a fee of $40 in addition to the training fee. The department by rule may prorate or waive the training fee for an employee of another governmental entity.

SECTION 15.  Sections 411.201(c), (e), and (h), Government Code, are amended to read as follows:

(c)  An active judicial officer is eligible for a license to carry a handgun under [~~the authority of~~] this subchapter. A retired judicial officer is eligible for a license to carry a handgun under [~~the authority of~~] this subchapter if the officer:

(1)  has not been convicted of a felony;

(2)  has not, in the five years preceding the date of application, been convicted of a Class A or Class B misdemeanor or equivalent offense;

(3)  is not charged with the commission of a Class A or Class B misdemeanor or equivalent offense or of a felony under an information or indictment;

(4)  is not a chemically dependent person; and

(5)  is not a person of unsound mind.

(e)  On receipt of all the application materials required by this section, the department shall:

(1)  if the applicant is an active judicial officer, issue a license to carry a handgun under [~~the authority of~~] this subchapter; or

(2)  if the applicant is a retired judicial officer, conduct an appropriate background investigation to determine the applicant's eligibility for the license and, if the applicant is eligible, issue a license to carry a handgun under [~~the authority of~~] this subchapter.

(h)  The department shall issue a license to carry a handgun under [~~the authority of~~] this subchapter to a United States attorney or an assistant United States attorney, or to an attorney elected or employed to represent the state in the prosecution of felony cases, who meets the requirements of this section for an active judicial officer. The department shall waive any fee required for the issuance of an original, duplicate, or renewed license under this subchapter for an applicant who is a United States attorney or an assistant United States attorney or who is an attorney elected or employed to represent the state in the prosecution of felony cases.

SECTION 16.  Section 411.203, Government Code, is amended to read as follows:

Sec. 411.203.  RIGHTS OF EMPLOYERS. (a) This subchapter does not prevent or otherwise limit the right of a public or private employer to prohibit any persons, including persons who are licensed under this subchapter, from carrying a handgun or other firearm on the premises of the business.

(b)  In this section, "premises" has the meaning assigned by Section 46.035(f) [~~46.035(f)(3)~~], Penal Code.

SECTION 17.  Section 411.204(c), Government Code, is amended to read as follows:

(c)  The sign required under Subsections (a) and (b) must give notice in both English and Spanish that it is unlawful for a person, regardless of whether the person is licensed under this subchapter, to carry a handgun on the premises. The sign must appear in contrasting colors with block letters at least one inch in height and must include on its face the number "51" printed in solid red at least five inches in height. The sign shall be displayed in a conspicuous manner clearly visible to the public.

SECTION 18.  Section 411.205, Government Code, is amended to read as follows:

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

SECTION 19.  The heading to Section 411.206, Government Code, is amended to read as follows:

Sec. 411.206.  SEIZURE OF HANDGUN AND HANDGUN LICENSE.

SECTION 20.  Sections 411.206(a) and (c), Government Code, are amended to read as follows:

(a)  If a peace officer arrests and takes into custody a person [~~license holder~~] who is carrying a handgun [~~under the authority of this subchapter~~], the officer shall seize the person's [~~license holder's~~] handgun. The peace officer also shall seize the person's handgun [~~and~~] license as evidence if the person holds a handgun license under this subchapter and is carrying the license at the time of the arrest.

(c)  Any judgment of conviction entered by any court for an offense under Section 46.035, Penal Code, must contain the handgun license number of the convicted person, if the person is a handgun license holder. A certified copy of the judgment is conclusive and sufficient evidence to justify revocation of a license under Section 411.186(a)(4).

SECTION 21.  Sections 411.207(a), (b), and (c), Government Code, are amended to read as follows:

(a)  A peace officer who is acting in the lawful discharge of the officer's official duties may disarm a person, including a license holder, who is carrying a handgun at any time the officer reasonably believes it is necessary for the protection of the person [~~license holder~~], officer, or another individual. The peace officer shall return the handgun to the person [~~license holder~~] before discharging the person [~~license holder~~] from the scene if the officer determines that the person:

(1)  [~~license holder~~] is not a threat to the officer, the person [~~license holder~~], or another individual;

(2)  [~~and if the license holder~~] has not violated any provision of this subchapter or committed any other violation that results in the arrest of the person; and

(3)  is not prohibited by law from carrying a handgun [~~license holder~~].

(b)  A peace officer who is acting in the lawful discharge of the officer's official duties may [~~temporarily~~] disarm a person only temporarily, regardless of whether the person is a license holder, when the person [~~a license holder~~] enters a nonpublic, secure portion of a law enforcement facility. The[~~, if the~~] law enforcement agency shall provide [~~provides~~] a gun locker where the peace officer can secure the person's [~~license holder's~~] handgun. The peace officer shall secure the handgun in the locker and shall return the handgun to the person [~~license holder~~] immediately after the person [~~license holder~~] leaves the nonpublic, secure portion of the law enforcement facility.

(c)  A law enforcement facility shall prominently display at each entrance to a nonpublic, secure portion of the facility a sign that gives notice in both English and Spanish that, under this section, a peace officer may temporarily disarm a person, regardless of whether the person is a license holder, when the person [~~license holder~~] enters the nonpublic, secure portion of the facility. The sign must appear in contrasting colors with block letters at least one inch in height. The sign shall be displayed in a clearly visible and conspicuous manner.

SECTION 22.  Section 411.209(a), Government Code, is amended to read as follows:

(a)  Except as provided by Subsection (i), a state agency or a political subdivision of the state may not take any action, including an action consisting of the provision of notice by a communication described by Section 30.06 or 30.07, Penal Code, that states or implies that a license holder who is carrying a handgun under [~~the authority of~~] this subchapter is prohibited from entering or remaining on a premises or other place owned or leased by the governmental entity unless license holders are prohibited from carrying a handgun on the premises or other place by Section 46.03 or 46.035, Penal Code, or other law.

SECTION 23.  Section 12.092(b), Health and Safety Code, is amended to read as follows:

(b)  The medical advisory board shall assist the Department of Public Safety of the State of Texas in determining whether:

(1)  an applicant for a driver's license or a license holder is capable of safely operating a motor vehicle; or

(2)  an applicant for or holder of a license to carry a handgun under [~~the authority of~~] Subchapter H, Chapter 411, Government Code, or an applicant for or holder of a commission as a security officer under Chapter 1702, Occupations Code, is capable of exercising sound judgment with respect to the proper use and storage of a handgun.

SECTION 24.  Section 42.042(e-2), Human Resources Code, is amended to read as follows:

(e-2)  The department may not prohibit the foster parent of a child who resides in the foster family's home from transporting the child in a vehicle where a handgun is present if the handgun is in the possession and control of the foster parent and the foster parent is not prohibited by state or federal law from carrying the handgun [~~licensed to carry the handgun under Subchapter H, Chapter 411, Government Code~~].

SECTION 25.  Section 52.061, Labor Code, is amended to read as follows:

Sec. 52.061.  RESTRICTION ON PROHIBITING EMPLOYEE ACCESS TO OR STORAGE OF FIREARM OR AMMUNITION. A public or private employer may not prohibit an employee who is not otherwise prohibited by state or federal law from possessing [~~holds a license to carry a handgun under Subchapter H, Chapter 411, Government Code, who otherwise lawfully possesses~~] a firearm[~~,~~] or [~~who lawfully possesses~~] ammunition from transporting or storing a firearm or ammunition [~~the employee is authorized by law to possess~~] in a locked, privately owned motor vehicle in a parking lot, parking garage, or other parking area the employer provides for employees.

SECTION 26.  Section 52.062(a), Labor Code, is amended to read as follows:

(a)  Section 52.061 does not:

(1)  authorize a person who is not otherwise prohibited by state or federal law from possessing [~~holds a license to carry a handgun under Subchapter H, Chapter 411, Government Code, who otherwise lawfully possesses~~] a firearm[~~,~~] or [~~who lawfully possesses~~] ammunition to possess a firearm or ammunition on any property where the possession of a firearm or ammunition is prohibited by state or federal law; or

(2)  apply to:

(A)  a vehicle owned or leased by a public or private employer and used by an employee in the course and scope of the employee's employment, unless the employee is required to transport or store a firearm in the official discharge of the employee's duties;

(B)  a school district;

(C)  an open-enrollment charter school, as defined by Section 5.001, Education Code;

(D)  a private school, as defined by Section 22.081, Education Code;

(E)  property owned or controlled by a person, other than the employer, that is subject to a valid, unexpired oil, gas, or other mineral lease that contains a provision prohibiting the possession of firearms on the property; or

(F)  property owned or leased by a chemical manufacturer or oil and gas refiner with an air authorization under Chapter 382, Health and Safety Code, and on which the primary business conducted is the manufacture, use, storage, or transportation of hazardous, combustible, or explosive materials, except in regard to an employee who is not otherwise prohibited by state or federal law from possessing a firearm or ammunition [~~holds a license to carry a handgun under Subchapter H, Chapter 411, Government Code,~~] and [~~who~~] stores the [~~a~~] firearm or ammunition [~~the employee is authorized by law to possess~~] in a locked, privately owned motor vehicle in a parking lot, parking garage, or other parking area the employer provides for employees that is outside of a secured and restricted area:

(i)  that contains the physical plant;

(ii)  that is not open to the public; and

(iii)  the ingress into which is constantly monitored by security personnel.

SECTION 27.  Section 191.010(a), Local Government Code, is amended to read as follows:

(a)  In this section, "photo identification" means one of the following forms of photo identification:

(1)  a driver's license, election identification certificate, or personal identification card issued to the person by any state or territory of the United States that has not expired or that expired no earlier than 60 days before the date of presentation;

(2)  a United States military identification card that contains the person's photograph that has not expired or that expired no earlier than 60 days before the date of presentation;

(3)  a United States citizenship certificate issued to the person that contains the person's photograph;

(4)  a United States Permanent Resident Card that has not expired or that expired no earlier than 60 days before the date of presentation;

(5)  an identification card issued by a municipality intended to serve as a general identification card for the holder that has not expired or that expired no earlier than 60 days before the date of presentation;

(6)  a federally recognized tribal enrollment card or other form of tribal identification that has not expired or that expired no earlier than 60 days before the date of presentation;

(7)  a United States passport or a passport issued by a foreign government recognized by the United States issued to the person that has not expired or that expired no earlier than 60 days before the date of presentation; or

(8)  a license to carry a [~~concealed~~] handgun issued to the person by the Department of Public Safety that has not expired or that expired no earlier than 60 days before the date of presentation.

SECTION 28.  Section 229.001(b), Local Government Code, is amended to read as follows:

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

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

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

(3)  except as provided by Subsection (b-1), adopt or enforce a generally applicable zoning ordinance, land use regulation, fire code, or business ordinance;

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

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

(6)  regulate the carrying of an air gun or [~~a~~] firearm, [~~or air gun by a person~~] other than a [~~person licensed to carry a~~] handgun carried by a person not prohibited by state or federal law from carrying the handgun [~~under Subchapter H, Chapter 411, Government Code~~], at a:

(A)  public park;

(B)  public meeting of a municipality, county, or other governmental body;

(C)  political rally, parade, or official political meeting; or

(D)  nonfirearms-related school, college, or professional athletic event;

(7)  regulate the carrying of a firearm by a person licensed to carry a handgun under Subchapter H, Chapter 411, Government Code, in accordance with Section 411.209, Government Code;

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

(9)  regulate the carrying of an air gun by a minor on:

(A)  public property; or

(B)  private property without consent of the property owner; or

(10)  except as provided by Subsection (d-1), regulate or prohibit an employee's carrying or possession of a firearm, firearm accessory, or ammunition in the course of the employee's official duties.

SECTION 29.  Sections 62.082(d) and (e), Parks and Wildlife Code, are amended to read as follows:

(d)  Section 62.081 does not apply to:

(1)  an employee of the Lower Colorado River Authority;

(2)  a person authorized to hunt under Subsection (c);

(3)  a peace officer as defined by Article 2.12, Code of Criminal Procedure; or

(4)  a person who:

(A)  is lawfully carrying [~~possesses~~] a handgun [~~and a license issued under Subchapter H, Chapter 411, Government Code, to carry a handgun~~]; or

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

(e)  A state agency, including the department, the Department of Public Safety, and the Lower Colorado River Authority, may not adopt a rule that prohibits a person who is not prohibited by state or federal law from carrying a handgun [~~possesses a license issued under Subchapter H, Chapter 411, Government Code,~~] from entering or crossing the land of the Lower Colorado River Authority while:

(1)  carrying [~~possessing~~] a handgun; or

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

SECTION 30.  Section 284.001(e), Parks and Wildlife Code, is amended to read as follows:

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

SECTION 31.  Section 287.001(e), Parks and Wildlife Code, is amended to read as follows:

(e)  This section does not limit a person's [~~the~~] ability [~~of a license holder~~] to carry a [~~concealed~~] handgun [~~under the authority of Subchapter H, Chapter 411, Government Code~~].

SECTION 32.  Section 9.31(b), Penal Code, is amended to read as follows:

(b)  The use of force against another is not justified:

(1)  in response to verbal provocation alone;

(2)  to resist an arrest or search that the actor knows is being made by a peace officer, or by a person acting in a peace officer's presence and at his direction, even though the arrest or search is unlawful, unless the resistance is justified under Subsection (c);

(3)  if the actor consented to the exact force used or attempted by the other;

(4)  if the actor provoked the other's use or attempted use of unlawful force, unless:

(A)  the actor abandons the encounter, or clearly communicates to the other his intent to do so reasonably believing he cannot safely abandon the encounter; and

(B)  the other nevertheless continues or attempts to use unlawful force against the actor; or

(5)  if the actor sought an explanation from or discussion with the other person concerning the actor's differences with the other person while the actor was:

(A)  carrying a weapon in violation of Section 46.02 or a firearm in violation of Section 46.03 or 46.035; or

(B)  possessing or transporting a weapon in violation of Section 46.05.

SECTION 33.  Section 30.05, Penal Code, is amended by amending Subsections (d) and (f) and adding Subsections (d-3) and (d-4) to read as follows:

(d)  Subject to Subsections (d-3) and (d-4), an [~~An~~] offense under this section is:

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

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

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

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

(3)  a Class A misdemeanor if:

(A)  the offense is committed:

(i)  in a habitation or a shelter center;

(ii)  on a Superfund site; or

(iii)  on or in a critical infrastructure facility;

(B)  the offense is committed on or in property of an institution of higher education and it is shown on the trial of the offense that the person has previously been convicted of:

(i)  an offense under this section relating to entering or remaining on or in property of an institution of higher education; or

(ii)  an offense under Section 51.204(b)(1), Education Code, relating to trespassing on the grounds of an institution of higher education; or

(C)  the person carries a deadly weapon during the commission of the offense.

(d-3)  An offense under this section is a Class C misdemeanor punishable by a fine not to exceed $200 if:

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

(2)  the person was carrying in a concealed manner or in a holster a handgun that the person was not prohibited by state or federal law from carrying at the time of the offense.

(d-4)  An offense under this section is a Class A misdemeanor if:

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

(2)  the person was carrying in a concealed manner or in a holster a handgun that the person was not prohibited by state or federal law from carrying at the time of the offense; and

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

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

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

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

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

(B)  a handgun:

(i)  in a concealed manner; or

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

SECTION 34.  Section 30.07(f), Penal Code, is amended to read as follows:

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

SECTION 35.  The following provisions are repealed:

(1)  Section 11.041, Alcoholic Beverage Code;

(2)  Section 11.61(e), Alcoholic Beverage Code;

(3)  Section 61.11, Alcoholic Beverage Code;

(4)  Section 61.71(f), Alcoholic Beverage Code;

(5)  Section 411.204(d), Government Code;

(6)  Section 46.035(h-1), Penal Code, as added by Chapter 1222 (H.B. 2300), Acts of the 80th Legislature, Regular Session, 2007; and

(7)  Section 46.035(h-1), Penal Code, as added by Chapter 1214 (H.B. 1889), Acts of the 80th Legislature, Regular Session, 2007.

SECTION 36.  The change in law made by this Act relating to the carrying of a handgun applies to the carrying of a handgun on or after the effective date of this Act by a person described by Section 46.15(m), Penal Code, as added by this Act.

SECTION 37.  The changes in law made by this Act apply 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 when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 38.  This Act takes effect September 1, 2021.