

By: Springer

H.B. No. 304

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the places where a person may carry a handgun if the
3 person is licensed to carry a handgun and to certain related
4 criminal offenses.

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

6 SECTION 1. Section 30.06(e), Penal Code, is amended to read
7 as follows:

8 (e) It is an exception to the application of this section
9 that the property on which the license holder carries a handgun is
10 owned or leased by a governmental entity [~~and is not a premises or~~
11 ~~other place on which the license holder is prohibited from carrying~~
12 ~~the handgun under Section 46.03 or 46.035~~].

13 SECTION 2. Section 46.03(a), Penal Code, is amended to read
14 as follows:

15 (a) A person commits an offense if the person intentionally,
16 knowingly, or recklessly possesses or goes with a firearm,
17 location-restricted knife, club, or prohibited weapon listed in
18 Section 46.05(a):

19 (1) on the physical premises of a school or
20 educational institution, the portion of any grounds or building on
21 which an activity sponsored by a school or educational institution
22 is being conducted, or a passenger transportation vehicle of a
23 school or educational institution, whether the school or
24 educational institution is public or private, unless:

1 (A) pursuant to written regulations or written
2 authorization of the institution; or

3 (B) the person possesses or goes with a concealed
4 handgun that the person is licensed to carry under Subchapter H,
5 Chapter 411, Government Code, and no other weapon to which this
6 section applies, on the premises of an institution of higher
7 education or private or independent institution of higher
8 education, on the portion of any grounds or building on which an
9 activity sponsored by the institution is being conducted, or in a
10 passenger transportation vehicle of the institution;

11 (2) on the portion of the premises of a polling place
12 where voting or other election-related activities are occurring on
13 the day of an election or while early voting is in progress;

14 (3) on the premises of any government court or offices
15 utilized by the court, unless pursuant to written regulations or
16 written authorization of the court;

17 (4) on the premises of a racetrack;

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

19 (6) within 1,000 feet of premises the location of
20 which is designated by the Texas Department of Criminal Justice as a
21 place of execution under Article 43.19, Code of Criminal Procedure,
22 on a day that a sentence of death is set to be imposed on the
23 designated premises and the person received notice that:

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

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

1 SECTION 3. Section 46.03(c), Penal Code, is amended by
2 amending Subdivisions (1) and (2) and adding Subdivision (1-a) to
3 read as follows:

4 (1) "Amusement park" means a permanent indoor or
5 outdoor facility or park where amusement rides are available for
6 use by the public that is located in a county with a population of
7 more than one million, encompasses at least 75 acres in surface
8 area, is enclosed with access only through controlled entries, is
9 open for operation more than 120 days in each calendar year, and has
10 security guards on the premises at all times. The term does not
11 include any public or private driveway, street, sidewalk or
12 walkway, parking lot, parking garage, or other parking area.

13 (1-a) "Institution of higher education" and "private or
14 independent institution of higher education" have the meanings
15 assigned by Section 61.003, Education Code.

16 (2) "Premises" has the meaning [~~"Amusement park" and~~
17 ~~"premises" have the meanings~~] assigned by Section 46.035.

18 SECTION 4. Sections 46.035(g), (h), and (j), Penal Code,
19 are amended to read as follows:

20 (g) An offense under this section is a Class A misdemeanor,
21 except that an [~~unless the~~] offense [~~is committed~~] under:

22 (1) Subsection (a) or (e) is a Class C misdemeanor; and

23 (2) Subsection (d) is a Class C misdemeanor, unless

24 the license holder has previously been convicted of an offense

25 under that subsection, in which event the offense is a Class B

26 misdemeanor [~~(b)(1) or (b)(3), in which event the offense is a~~

27 ~~felony of the third degree].~~

1 (h) It is a defense to prosecution under Subsection (a),
2 (a-1), (a-2), or (a-3) that the actor, at the time of the commission
3 of the offense, displayed the handgun under circumstances in which
4 the actor would have been justified in the use of force or threat of
5 ~~deadly~~ force under Chapter 9.

6 (j) Subsections (a), (a-1), (a-2), and (a-3) [~~and (b)(1)~~]
7 do not apply to a historical reenactment performed in compliance
8 with the rules of the Texas Alcoholic Beverage Commission.

9 SECTION 5. Sections 46.15(a) and (b), Penal Code, are
10 amended to read as follows:

11 (a) Sections 46.02 and 46.03 do not apply to:

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

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

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

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

26 (3) community supervision and corrections department
27 officers appointed or employed under Section 76.004, Government

1 Code, and neither section prohibits an officer from carrying a
2 weapon in this state if the officer is:

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

5 (B) authorized to carry a weapon under Section
6 76.0051, Government Code;

7 ~~(4) [an active judicial officer as defined by Section
8 411.201, Government Code, who is licensed to carry a handgun under
9 Subchapter H, Chapter 411, Government Code;~~

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

18 ~~(5) [(6) the attorney general or a United States
19 attorney, district attorney, criminal district attorney, county
20 attorney, or municipal attorney who is licensed to carry a handgun
21 under Subchapter H, Chapter 411, Government Code;~~

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

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

1 ~~[(A) licensed to carry a handgun under Subchapter~~
2 ~~H, Chapter 411, Government Code, and~~

3 ~~[(B) engaged in escorting the judicial officer,~~
4 ~~[(9)] a juvenile probation officer who is authorized to~~
5 carry a firearm under Section 142.006, Human Resources Code; or

6 (6) a person who is carrying a handgun and a license
7 issued under Subchapter H, Chapter 411, Government Code, to carry
8 the handgun ~~[(10) a person who is volunteer emergency services~~
9 ~~personnel if the person is:~~

10 ~~[(A) carrying a handgun under the authority of~~
11 ~~Subchapter H, Chapter 411, Government Code, and~~

12 ~~[(B) engaged in providing emergency services].~~

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

14 (1) is in the actual discharge of official duties as a
15 member of the armed forces or state military forces as defined by
16 Section 437.001, Government Code, or as a guard employed by a penal
17 institution;

18 (2) is traveling;

19 (3) is engaging in lawful hunting, fishing, or other
20 sporting activity on the immediate premises where the activity is
21 conducted, or is en route between the premises and the actor's
22 residence, motor vehicle, or watercraft, if the weapon is a type
23 commonly used in the activity;

24 (4) holds a security officer commission issued by the
25 Texas Private Security Board, if the person is engaged in the
26 performance of the person's duties as an officer commissioned under
27 Chapter 1702, Occupations Code, or is traveling to or from the

1 person's place of assignment and is wearing the officer's uniform
2 and carrying the officer's weapon in plain view;

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

6 (A) is engaged in the performance of the person's
7 duties as a personal protection officer under Chapter 1702,
8 Occupations Code, or is traveling to or from the person's place of
9 assignment; and

10 (B) is either:

11 (i) wearing the uniform of a security
12 officer, including any uniform or apparel described by Section
13 1702.323(d), Occupations Code, and carrying the officer's weapon in
14 plain view; or

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

17 (6) ~~is carrying:~~

18 ~~[(A) a license issued under Subchapter H, Chapter~~
19 ~~411, Government Code, to carry a handgun; and~~

20 ~~[(B) a handgun:~~

21 ~~[(i) in a concealed manner; or~~

22 ~~[(ii) in a shoulder or belt holster;~~

23 ~~(7)~~ holds an alcoholic beverage permit or license or
24 is an employee of a holder of an alcoholic beverage permit or
25 license if the person is supervising the operation of the permitted
26 or licensed premises; or

27 (7) ~~(8)~~ is a student in a law enforcement class

1 engaging in an activity required as part of the class, if the weapon
2 is a type commonly used in the activity and the person is:

3 (A) on the immediate premises where the activity
4 is conducted; or

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

7 SECTION 6. Section [411.179\(c\)](#), Government Code, is amended
8 to read as follows:

9 (c) In adopting the form of the license under Subsection
10 (a), the department shall establish a procedure for the license of a
11 qualified handgun instructor [~~or of the attorney general or a~~
12 ~~judge, justice, United States attorney, assistant United States~~
13 ~~attorney, assistant attorney general, prosecuting attorney, or~~
14 ~~assistant prosecuting attorney, as described by Section~~
15 ~~[46.15](#)(a)(4), (6), or (7), Penal Code,~~] to indicate on the license
16 the license holder's status as a qualified handgun instructor [~~or~~
17 ~~as the attorney general or a judge, justice, United States~~
18 ~~attorney, assistant United States attorney, assistant attorney~~
19 ~~general, district attorney, criminal district attorney, or county~~
20 ~~attorney~~]. In establishing the procedure, the department shall
21 require sufficient documentary evidence to establish the license
22 holder's status under this subsection.

23 SECTION 7. Section [411.198\(b\)](#), Government Code, is amended
24 to read as follows:

25 (b) It is a defense to prosecution under Section [46.035\(a\)](#)
26 [~~[46.035](#)~~], Penal Code, that the actor, at the time of the commission
27 of the offense, was the holder of an alias license issued under this

1 section.

2 SECTION 8. Section 411.209(a), Government Code, is amended
3 to read as follows:

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

14 SECTION 9. Section 11.041(a), Alcoholic Beverage Code, is
15 amended to read as follows:

16 (a) Each holder of a permit [~~who is not otherwise required~~
17 ~~to display a sign under Section 411.204, Government Code,~~] shall
18 display in a prominent place on the permit holder's premises a sign
19 giving notice that it is unlawful for a person to carry a weapon on
20 the premises unless the weapon is a handgun the person is licensed
21 to carry under Subchapter H, Chapter 411, Government Code.

22 SECTION 10. Section 11.61(e), Alcoholic Beverage Code, is
23 amended to read as follows:

24 (e) Except as provided by Subsection (f) or (i), the
25 commission or administrator shall cancel an original or renewal
26 permit if it is found, after notice and hearing, that the permittee
27 knowingly allowed a person to possess a firearm in a building on the

1 licensed premises. This subsection does not apply to a person:

2 (1) who holds a security officer commission issued
3 under Chapter 1702, Occupations Code, if:

4 (A) the person is engaged in the performance of
5 the person's duties as a security officer;

6 (B) the person is wearing a distinctive uniform;
7 and

8 (C) the weapon is in plain view;

9 (2) who is a peace officer;

10 (3) who is a permittee or an employee of a permittee if
11 the person is supervising the operation of the premises; or

12 (4) who possesses a handgun the person is licensed to
13 carry under Subchapter H, Chapter 411, Government Code [~~unless the~~
14 ~~person is on the premises of a business described by Section~~
15 ~~46.035(b)(1), Penal Code~~].

16 SECTION 11. Section 61.11(a), Alcoholic Beverage Code, is
17 amended to read as follows:

18 (a) Each holder of a license [~~who is not otherwise required~~
19 ~~to display a sign under Section 411.204, Government Code,~~] shall
20 display in a prominent place on the license holder's premises a sign
21 giving notice that it is unlawful for a person to carry a weapon on
22 the premises unless the weapon is a handgun the person is licensed
23 to carry under Subchapter H, Chapter 411, Government Code.

24 SECTION 12. Section 61.71(f), Alcoholic Beverage Code, is
25 amended to read as follows:

26 (f) Except as provided by Subsection (g) or (j), the
27 commission or administrator shall cancel an original or renewal

1 dealer's on-premises or off-premises license if it is found, after
2 notice and hearing, that the licensee knowingly allowed a person to
3 possess a firearm in a building on the licensed premises. This
4 subsection does not apply to a person:

5 (1) who holds a security officer commission issued
6 under Chapter 1702, Occupations Code, if:

7 (A) the person is engaged in the performance of
8 the person's duties as a security officer;

9 (B) the person is wearing a distinctive uniform;
10 and

11 (C) the weapon is in plain view;

12 (2) who is a peace officer;

13 (3) who is a licensee or an employee of a licensee if
14 the person is supervising the operation of the premises; or

15 (4) who possesses a handgun the person is licensed to
16 carry under Subchapter H, Chapter 411, Government Code [~~unless the~~
17 ~~person is on the premises of a business described by Section~~
18 ~~46.035(b)(1), Penal Code~~].

19 SECTION 13. The following provisions are repealed:

20 (1) Section 104.06(c), Alcoholic Beverage Code;

21 (2) Sections 411.203, 411.204, and 411.209(i),
22 Government Code;

23 (3) Section 552.002, Health and Safety Code;

24 (4) Section 52.062(b), Labor Code;

25 (5) Section 46.03(f), Penal Code;

26 (6) Sections 46.035(b), (c), (f)(1), (i), (k), (l),
27 and (m), Penal Code; and

1 (7) Section 46.035(h-1), Penal Code, as added by
2 Chapters 1214 (H.B. 1889) and 1222 (H.B. 2300), Acts of the 80th
3 Legislature, Regular Session, 2007.

4 SECTION 14. The change in law made by this Act applies only
5 to an offense committed on or after the effective date of this Act.
6 An offense committed before the effective date of this Act is
7 governed by the law in effect when the offense was committed, and
8 the former law is continued in effect for that purpose. For
9 purposes of this section, an offense was committed before the
10 effective date of this Act if any element of the offense occurred
11 before that date.

12 SECTION 15. This Act takes effect September 1, 2021.