A BILL TO BE ENTITLED
AN ACT
relating to the carrying of a firearm by a person 21 years of age or
older and who is not otherwise prohibited from possessing the
firearm and to criminal offenses otherwise related to the carrying
of a firearm; creating criminal offenses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
SECTION 1. This Act Shall be known as the Firearm Carry Act
of 2021.
SECTION 2. Article 14.02, Code of Criminal Procedure, is
amended by adding Subsections (h), (h-1), and (h-2) to read as
follows:

(h) A peace officer who is acting in the lawful discharge of
the officer's official duties may temporarily disarm a person at
any time the officer reasonably believes it is necessary for the
protection of the person, officer, or another individual. The
peace officer shall return the weapon to the person before
discharging the person from the scene if the officer determines
that the person is not a threat to the officer, person, or another
individual and if the person has not committed a violation that
results in the arrest of the person.

(h-1) A peace officer who is acting in the lawful discharge
of the officer's official duties may temporarily disarm a person
when the person enters a nonpublic, secure portion of a law
enforcement facility, if the law enforcement agency provides a gun
locker where the peace officer can secure the weapon. The peace
officer shall secure the weapon in the locker and shall return the
weapon to the person immediately after the person leaves the
nonpublic, secure portion of the law enforcement facility.

(h-2) In this section "law enforcement facility" and
"nonpublic, secure portion of a law enforcement facility" have the
meanings assigned by Section 411.207(d), Government Code.

SECTION 3. Section 37.0815(b), Education Code, is amended
to read as follows:

(b) This section does not authorize a person to possess, transport, or store a handgun, a firearm, or ammunition in
violation of Section 37.125 of this code, Section 46.03 [or
46.035], Penal Code, or other law.

SECTION 4. Section 411.186(a), Government Code, is amended
to read as follows:

(a) The department shall revoke a license under this section
if the license holder:

(1) was not entitled to the license at the time it was
issued;

(2) made a material misrepresentation or failed to
disclose a material fact in an application submitted under this
subchapter;

(3) subsequently becomes ineligible for a license
under Section 411.172, unless the sole basis for the ineligibility
is that the license holder is charged with the commission of a Class
A or Class B misdemeanor or equivalent offense, or of an offense
under Section 42.01, Penal Code, or equivalent offense, or of a
felony under an information or indictment;

(4) [is convicted of an offense under Section 46.035, Penal Code,]

(5) [is determined by the department to have engaged in conduct constituting a reason to suspend a license listed in Section 411.187(a) after the person's license has been previously suspended twice for the same reason; or

(6) [submits an application fee that is dishonored or reversed if the applicant fails to submit a cashier's check or money order made payable to the "Department of Public Safety of the State of Texas" in the amount of the dishonored or reversed fee, plus $25, within 30 days of being notified by the department that the fee was dishonored or reversed.]

SECTION 5. Section 411.2031(a), Government Code, is amended to read as follows:

(a) For purposes of this section:

(1) "Campus" means all land and buildings owned or leased by an institution of higher education or private or independent institution of higher education.

(2) "Institution of higher education" and "private or independent institution of higher education" have the meanings assigned by Section 61.003, Education Code.

(3) "Premises" has the meaning assigned by Section 46.03(c) [46.035], Penal Code.

SECTION 6. Section 411.209, Government Code, is amended by amending Subsections (a) and (j) 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.

(j) In this section, "premises" has the meaning assigned by Section 46.03(c) [46.035], Penal Code.

SECTION 7. Section 552.002(a), Health and Safety Code, is amended to read as follows:

(a) In this section:

(1) "License holder" has the meaning assigned by Section 30.06(c) [46.035(f)], Penal Code.

(2) "State hospital" means the following facilities:

(A) the Austin State Hospital;

(B) the Big Spring State Hospital;

(C) the El Paso Psychiatric Center;

(D) the Kerrville State Hospital;

(E) the North Texas State Hospital;

(F) the Rio Grande State Center;

(G) the Rusk State Hospital;

(H) the San Antonio State Hospital;

(I) the Terrell State Hospital; and

(J) the Waco Center for Youth.
"Written notice" means a sign that is posted on property and that:

(A) includes in both English and Spanish written language identical to the following: "Pursuant to Section 552.002, Health and Safety Code (carrying of handgun by license holder in state hospital), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun";

(B) appears in contrasting colors with block letters at least one inch in height; and

(C) is displayed in a conspicuous manner clearly visible to the public at each entrance to the property.

SECTION 8. Section 773.0145(a), Health and Safety Code, is amended to read as follows:

(a) This section applies to:

(1) an amusement park, as defined by Section 46.03

(2) a child-care facility, as defined by Section 42.002, Human Resources Code;

(3) a day camp or youth camp, as defined by Section 141.002;

(4) a private or independent institution of higher education, as defined by Section 61.003, Education Code;

(5) a restaurant, as defined by Section 17.821, Business & Commerce Code;

(6) a sports venue, as defined by Section 504.151, Local Government Code;
(7) a youth center, as defined by Section 481.134; or
(8) subject to Subsection (b), any other entity that the executive commissioner by rule designates as an entity that would benefit from the possession and administration of epinephrine auto-injectors.

SECTION 9. Section 52.062(b), Labor Code, is amended to read as follows:
(b) Section 52.061 does not prohibit an employer from prohibiting an employee who holds a license to carry a handgun under Subchapter H, Chapter 411, Government Code, or who otherwise lawfully possesses a firearm, from possessing a firearm the employee is otherwise authorized by law to possess on the premises of the employer's business. In this subsection, "premises" has the meaning assigned by Section 46.03(c) [46.035(f)(3)], Penal Code.

SECTION 10. Section 30.05, Penal Code, is amended by amending Subsection (d) and adding Subsection (i-1) to read as follows:
(d) An offense under this section is:
(1) a Class B misdemeanor, except as provided by Subdivisions (2), (3), and (4) [(3)];
(2) a Class C misdemeanor punishable by a fine not to exceed $200, except as provided by Subdivision (4)(D), if the offense is committed under Subsection (i-1);
(3) [(4)] 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
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(B) on residential land and within 100 feet of a protected freshwater area; and

(4) 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; or

(D) if the offense is committed under Subsection (i-1) and it is shown on the trial of the offense that, after entering the property, the person personally received notice by oral communication from the owner of the property, or from someone with apparent authority to act for the owner, and subsequently failed to depart.

(i-1) If the basis on which entry on the property or land or in the building was forbidden is that entry with a firearm or other
weapon was forbidden it is a defense to prosecution under this section that the person personally received notice by oral communication from the owner of the property, or from someone with apparent authority to act for the owner, and promptly departed from the property.

SECTION 11. Section 30.06, Penal Code, is amended by amending Subsection (c) and Subsection (e) to read as follows:

(c) In this section:

(1) "Entry" has the meaning assigned by Section 30.05(b).

(2) "License holder" means a person licensed to carry a handgun under Subchapter H, Chapter 411, Government Code [has the meaning assigned by Section 46.035(f)].

(3) "Written communication" means:

(A) a card or other document on which is written language identical to the following: "Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun"; or

(B) a sign posted on the property that:

(i) includes the language described by Paragraph (A) in both English and Spanish;

(ii) appears in contrasting colors with block letters at least one inch in height; and

(iii) is displayed in a conspicuous manner clearly visible to the public.
(e) It is an exception to the application of this section that the property on which the license holder carries a handgun is owned or leased by a governmental entity and is not a premises or other place on which the license holder is prohibited from carrying the handgun under Section 46.03 [or 46.035].

SECTION 12. Section 30.07, Penal Code, is amended by amending Subsection (c) and Subsection (e), to read as follows:

(c) In this section:

(1) "Entry" has the meaning assigned by Section 30.05(b).

(2) "License holder" has the meaning assigned by Section 30.06(c) [46.035(f)].

(3) "Written communication" means:

(A) a card or other document on which is written language identical to the following: "Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgunlicensing law), may not enter this property with a handgun that is carried openly"; or

(B) a sign posted on the property that:

(i) includes the language described by Paragraph (A) in both English and Spanish;

(ii) appears in contrasting colors with block letters at least one inch in height; and

(iii) is displayed in a conspicuous manner clearly visible to the public at each entrance to the property.

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

SECTION 13. Section 46.02, Penal Code, is amended by
amending Subsections (a) and (a-1), and adding Subsection (a-5) to
read as follows:

(a) A person younger than 21 years of age commits an offense
if the person:

(1) intentionally, knowingly, or recklessly carries
on or about his or her person a handgun; and
(2) is not:
(A) on the person's own premises or premises
under the person's control; or
(B) inside of or directly en route to a motor
vehicle or watercraft that is owned by the person or under the
person's control.

(a-1) A person younger than 21 years of age 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.

(a-5) A person commits an offense if the person carries a handgun on or about their person, 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 holster on or about the person.

SECTION 14. Section 46.03, Penal Code, is amended to read as follows:

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

(1) 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:

(A) pursuant to written regulations or written authorization of the institution; or
(B) the person possesses or goes with a concealed handgun that the person is licensed to carry under Subchapter H, Chapter 411, Government Code, and no other weapon to which this section applies, on the premises of an institution of higher education or private or independent institution of higher education, on any grounds or building on which an activity sponsored by the institution is being conducted, or in a passenger transportation vehicle of the institution;

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

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

(4) on the premises of a racetrack;

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

(6) within 1,000 feet of premises the location of which is designated by the Texas Department of Criminal Justice as a place of execution under Article 43.19, Code of Criminal Procedure, 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.[-]

(a-1) A person commits an offense if the person intentionally, knowingly, or recklessly possesses or goes with a location-restricted knife.
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(7) 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;

(8) on the premises where a high school, collegiate, or professional sporting event or interscholastic event is taking place, unless the person is a participant in the event and a firearm, location-restricted knife, club, or prohibited weapon listed in Section 46.05(a) is used in the event;

(9) on the premises of a correctional facility;

(10) on the premises of a civil commitment facility;

(11) 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 has written authorization of the hospital or nursing facility administration, as appropriate;

(12) on the premises of a mental hospital, as defined by Section 571.003, Health and Safety Code, unless the person has written authorization of the mental hospital administration; or

(13) in an amusement park;

(a-1) A person commits an offense if the person carries a partially or wholly visible handgun, regardless of whether the
handgun is holstered, on or about their person and intentionally displays the handgun in plain view of another person:

(1) on the premises of 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 an institution of higher education or private or independent institution of higher education.

(a-2) Notwithstanding Subsection (a) or Section 46.02(a-5), 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 handguns pursuant to Section 411.2031(e), Government Code, 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 under Section 30.06.

(a-3) Notwithstanding Subsection (a) or Section 46.02(a-5), 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 established under Section 411.2031(d-1), Government Code, provided
the institution gives effective notice under Section 30.06 with respect to that portion.

(b) It is a defense to prosecution under Subsections (a)(1)-(4) that the actor possessed a firearm while in the actual discharge of his official duties as a member of the armed forces or national guard or a guard employed by a penal institution, or an officer of the court.

(c) In this section:

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

(2) "Institution of higher education" and "private or independent institution of higher education" have the meanings assigned by Section 61.003, Education Code.

(3) "Premises" means a building or a portion of a building. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area. "Amusement park" and "premises" have the meanings assigned by Section 46.035.

(4) "Secured area" means an area of an airport terminal building to which access is controlled by the inspection
of persons and property under federal law.

(d) It is a defense to prosecution under Subsection (a)(5) that the actor possessed a firearm or club while traveling to or from the actor's place of assignment or in the actual discharge of duties as:

(1) a member of the armed forces or national guard;
(2) a guard employed by a penal institution; or
(3) a security officer commissioned by the Texas Private Security Board if:

(A) the actor is wearing a distinctive uniform;
and
(B) the firearm or club is in plain view; or
(4) a security officer who holds a personal protection authorization under Chapter 1702, Occupations Code, provided that the officer is either:

(A) wearing the uniform of a security officer, including any uniform or apparel described by Section 1702.323(d), Occupations Code, and carrying the officer's firearm in plain view;

or

(B) not wearing the uniform of a security officer and carrying the officer's firearm in a concealed manner.

(e) It is a defense to prosecution under Subsection (a)(5) that the actor checked all firearms as baggage in accordance with federal or state law or regulations before entering a secured area.

(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 that the actor was licensed to
carry under Subchapter H, Chapter 411, Government Code; and

(2) exited the screening checkpoint for the secured
area immediately 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, 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
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 licensed to carry a handgun under Subchapter H,
Chapter 411, Government Code.

(g) Except as provided by Subsection (g-1) and (g-2), an
offense under this section is a felony of the third degree.

(g-1) If the weapon that is the subject of the offense is a
location-restricted knife, an offense under this section is a Class
C misdemeanor, except that the offense is a felony of the third
degree if the offense is committed under Subsection (a)(1).

(g-2) An offense committed under Subsections (a)(8),
(a)(10), (a)(11), (a)(13), (a-1), (a-2), or (a-3) is a Class A
(h) It is a defense to prosecution under Subsection (a)(4) that the actor possessed a firearm or club while traveling to or from the actor's place of assignment or in the actual discharge of duties as a security officer commissioned by the Texas Board of Private Investigators and Private Security Agencies, if:

(1) the actor is wearing a distinctive uniform; and

(2) the firearm or club is in plain view.

(i) It is an exception to the application of Subsection (a)(6) that the actor possessed a firearm or club:

(1) while in a vehicle being driven on a public road; or

(2) at the actor's residence or place of employment.

SECTION 15. Section 46.15, Penal Code, is amended by adding Subsection (b-1) and amending Subsection (l) to read as follows:

(b-1) Section 46.03 does not apply to a person unless the person personally received notice by oral communication from the owner of the property or from someone with apparent authority to act for the owner and subsequently failed to depart.

(l) Sections 46.02, 46.03(a)(1), (a)(2), (a)(3), and (a)(4), and 46.035 (a), (a-1), (a-2), (a-3), (b)(1), (b)(5), and (b)(6) 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
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1 Code;
2   (2) the owner, controller, or operator of the premises
3 or a person acting with the apparent authority of the owner,
4 controller, or operator, authorized the carrying of the handgun;
5   (3) the person carrying the handgun complies with any
6 rules and regulations of the owner, controller, or operator of the
7 premises that govern the carrying of a handgun on the premises; and
8   (4) the person is not prohibited by state or federal
9 law from possessing a firearm.

SECTION 16. The following provisions are repealed:

   (1) Section 11.041, 11.61(e), 61.11 and 61.71(f),
12 Alcoholic Beverage Code;
13   (2) Sections 411.198(b), 411.204(d), and 411.206(c),
14 Government Code; and
15   (3) Sections 46.02(c) and 46.035, Penal Code.

SECTION 17. The change in law made by this Act applies only
17 to an offense committed on or after the effective date of this Act. 
18 An offense committed before the effective date of this Act is
19 governed by the law in effect on the date the offense was committed,
20 and the former law is continued in effect for that purpose. For
21 purposes of this section, an offense was committed before the
22 effective date of this Act if any element of the offense occurred
23 before that date.

SECTION 18. This Act takes effect September 1, 2021.