

By: Schaefer

H.B. No. 3628

A BILL TO BE ENTITLED

AN ACT

relating to the carrying of holstered handguns by handgun license holders.

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

SECTION 1. Section 30.05(f), Penal Code, is amended to read as follows:

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

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

(2) 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 2. 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 3. 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

1 her person a handgun in a motor vehicle or watercraft that is owned
2 by the person or under the person's control at any time in which:

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

7 (2) the person is:

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

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

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

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

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

25 (b) A license holder commits an offense if the license
26 holder intentionally, knowingly, or recklessly carries a handgun
27 under the authority of Subchapter H, Chapter 411, Government Code,

1 regardless of whether the handgun is concealed or carried in a
2 [~~shoulder or belt~~] holster, on or about the license holder's
3 person:

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

10 (2) on the premises where a high school, collegiate,
11 or professional sporting event or interscholastic event is taking
12 place, unless the license holder is a participant in the event and a
13 handgun is used in the event;

14 (3) on the premises of a correctional facility;

15 (4) on the premises of a hospital licensed under
16 Chapter 241, Health and Safety Code, or on the premises of a nursing
17 facility licensed under Chapter 242, Health and Safety Code, unless
18 the license holder has written authorization of the hospital or
19 nursing facility administration, as appropriate;

20 (5) in an amusement park; or

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

22 (c) A license holder commits an offense if the license
23 holder intentionally, knowingly, or recklessly carries a handgun
24 under the authority of Subchapter H, Chapter 411, Government Code,
25 regardless of whether the handgun is concealed or carried in a
26 [~~shoulder or belt~~] holster, in the room or rooms where a meeting of
27 a governmental entity is held and if the meeting is an open meeting

1 subject to Chapter 551, Government Code, and the entity provided
2 notice as required by that chapter.

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

8 SECTION 5. Section 46.15(b), Penal Code, is amended to read
9 as follows:

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

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

15 (2) is traveling;

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

21 (4) holds a security officer commission issued by the
22 Texas Private Security Board, if the person is engaged in the
23 performance of the person's duties as an officer commissioned under
24 Chapter 1702, Occupations Code, or is traveling to or from the
25 person's place of assignment and is wearing the officer's uniform
26 and carrying the officer's weapon in plain view;

27 (5) acts as a personal protection officer and carries

1 the person's security officer commission and personal protection
2 officer authorization, if the person:

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

7 (B) is either:

8 (i) wearing the uniform of a security
9 officer, including any uniform or apparel described by Section
10 1702.323(d), Occupations Code, and carrying the officer's weapon in
11 plain view; or

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

14 (6) is carrying:

15 (A) a license issued under Subchapter H, Chapter
16 411, Government Code, to carry a handgun; and

17 (B) a handgun:

18 (i) in a concealed manner; or

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

20 (7) holds an alcoholic beverage permit or license or
21 is an employee of a holder of an alcoholic beverage permit or
22 license if the person is supervising the operation of the permitted
23 or licensed premises; or

24 (8) is a student in a law enforcement class engaging in
25 an activity required as part of the class, if the weapon is a type
26 commonly used in the activity and the person is:

27 (A) on the immediate premises where the activity

1 is conducted; or

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

4 SECTION 6. 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 on the date the offense was committed,
8 and 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 7. This Act takes effect September 1, 2021.