

By: Spiller

H.B. No. 4358

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the manner of carrying a handgun by a person who holds a  
3 license under Subchapter H, Chapter 411, Government Code.

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

5 SECTION 1. Section 46.035(a), (b), (c), and (d) Penal Code,  
6 is amended to read as follows:

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

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

21 (1) on the premises of a business that has a permit or  
22 license issued under Chapter 25, 28, 32, 69, or 74, Alcoholic  
23 Beverage Code, if the business derives 51 percent or more of its  
24 income from the sale or service of alcoholic beverages for

1 on-premises consumption, as determined by the Texas Alcoholic  
2 Beverage Commission under Section 104.06, Alcoholic Beverage Code;

3 (2) on the premises where a high school, collegiate,  
4 or professional sporting event or interscholastic event is taking  
5 place, unless the license holder is a participant in the event and a  
6 handgun is used in the event;

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

8 (4) on the premises of a hospital licensed under  
9 Chapter 241, Health and Safety Code, or on the premises of a nursing  
10 facility licensed under Chapter 242, Health and Safety Code, unless  
11 the license holder has written authorization of the hospital or  
12 nursing facility administration, as appropriate;

13 (5) in an amusement park; or

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

15 (c) A license holder commits an offense if the license  
16 holder intentionally, knowingly, or recklessly carries a handgun  
17 under the authority of Subchapter H, Chapter 411, Government Code,  
18 regardless of whether the handgun is concealed or carried in a  
19 ~~shoulder or belt~~ holster, in the room or rooms where a meeting of  
20 a governmental entity is held and if the meeting is an open meeting  
21 subject to Chapter 551, Government Code, and the entity provided  
22 notice as required by that chapter.

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

1 SECTION 2. Section 30.05(f), Penal Code, is amended to read  
2 as follows:

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

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

7 (2) the person was carrying:

8 (A) a license issued under Subchapter H, Chapter  
9 411, Government Code, to carry a handgun; and

10 (B) a handgun:

11 (i) in a concealed manner; or

12 (ii) in a ~~shoulder or belt~~ holster.

13 SECTION 3. Section 30.07(f), Penal Code, is amended to read  
14 as follows:

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

17 SECTION 4. Section 46.02(a-1), Penal Code, is amended to  
18 read as follows:

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

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

27 (2) the person is:

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

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

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

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.