

By: Slawson

H.B. No. 4386

A BILL TO BE ENTITLED

AN ACT

relating to authorizing certain person to carry a handgun

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

SECTION 1. Section 46.15 (k), NONAPPLICABILITY, is amended to read as follows:

(k) Section 46.02 does not apply to a person who carries a handgun if

~~(1) the person carries the handgun while:~~

~~(A) evacuating from an area following the declaration of a state of disaster under Section 418.014, Government Code, or a local state of disaster under Section 418.108, Government Code, with respect to that area; or~~

~~(B) reentering that area following the person's evacuation;~~

~~(2) not more than 168 hours have elapsed since the state of disaster or local state of disaster was declared, or more than 168 hours have elapsed since the time the declaration was made and the governor has extended the period during which a person may carry a handgun under this subsection; and~~

~~(3) the person is not prohibited by state or federal law from possessing purchasing a firearm.~~

SECTION 2. Section 46.02, Penal Code, UNLAWFUL CARRYING WEAPONS, is amended by amending Subsections (a) and (a-1) and adding Subsection (a-2) to read as follows:

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

3 (1) intentionally, knowingly, or recklessly carries  
4 on or about his or her person a handgun; and

5 (2) is not:

6 (A) on the person's own premises or premises  
7 under the person's control; or

8 (B) inside of or directly en route to a motor  
9 vehicle or watercraft that is owned by the person or under the  
10 person's control.

11 (a-1) A person younger than 21 years of age commits an  
12 offense if the person intentionally, knowingly, or recklessly  
13 carries on or about his or her person a handgun in a motor vehicle or  
14 watercraft that is owned by the person or under the person's control  
15 at any time in which:

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

20 (2) the person is:

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

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

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

1        (a-2) A person commits an offense if the person carries a  
2 handgun on or about their person, and intentionally displays the  
3 handgun in plain view of another person in a public place. It is an  
4 exception to the application of this subsection that the handgun  
5 was partially or wholly visible but was carried in a holster on or  
6 about the person.

7        SECTION 3. Section 46.03, Penal Code, PLACES WEAPONS  
8 PROHIBITED, is amended to read as follows:

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

11            (1) possessed, at the screening checkpoint for the  
12 secured area, a concealed handgun ~~that the actor was licensed to~~  
13 ~~carry under Subchapter H, Chapter 411, Government Code,~~ and

14            (2) exited the screening checkpoint for the secured  
15 area immediately upon completion of the required screening  
16 processes and notification that the actor possessed the handgun.

17        SECTION 4. Section 46.035, Penal Code, UNLAWFUL CARRYING OF  
18 HANDGUN BY LICENSE HOLDER, is amended to read as follows:

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

27        (a-1) Notwithstanding Subsection (a), a license holder

1 commits an offense if the license holder carries a partially or  
2 wholly visible handgun, regardless of whether the handgun is  
3 holstered, on or about the license holder's person under the  
4 authority of Subchapter H, Chapter 411, Government Code, and  
5 intentionally displays the handgun in plain view of another person:

6 (1) on the premises of an institution of higher  
7 education or private or independent institution of higher  
8 education; or

9 (2) on any public or private driveway, street,  
10 sidewalk or walkway, parking lot, parking garage, or other parking  
11 area of an institution of higher education or private or  
12 independent institution of higher education.

13 (a-2) Notwithstanding Subsection (a) or Section 46.03(a), a  
14 license holder commits an offense if the license holder carries a  
15 handgun on the campus of a private or independent institution of  
16 higher education in this state that has established rules,  
17 regulations, or other provisions prohibiting license holders from  
18 carrying handguns pursuant to Section 411.2031(e), Government  
19 Code, or on the grounds or building on which an activity sponsored  
20 by such an institution is being conducted, or in a passenger  
21 transportation vehicle of such an institution, regardless of  
22 whether the handgun is concealed, provided the institution gives  
23 effective notice under Section 30.06.

24 (a-3) Notwithstanding Subsection (a) or Section 46.03(a), a  
25 license holder commits an offense if the license holder  
26 intentionally carries a concealed handgun on a portion of a  
27 premises located on the campus of an institution of higher

1 education in this state on which the carrying of a concealed handgun  
2 is prohibited by rules, regulations, or other provisions  
3 established under Section 411.2031(d-1), Government Code, provided  
4 the institution gives effective notice under Section 30.06 with  
5 respect to that portion.

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

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

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

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

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

1 (5) in an amusement park; or

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

3 (c) A ~~license holder~~ person commits an offense if the  
4 ~~license holder~~ person intentionally, knowingly, or recklessly  
5 carries a handgun ~~under the authority of Subchapter H, Chapter 411,~~  
6 ~~Government Code~~, regardless of whether the handgun is concealed or  
7 carried in a shoulder or belt holster, in the room or rooms where a  
8 meeting of a governmental entity is held and if the meeting is an  
9 open meeting subject to Chapter 551, Government Code, and the  
10 entity provided notice as required by that chapter.

11 (d) A ~~license holder~~ person commits an offense if, while  
12 intoxicated, the ~~license holder~~ person carries a handgun under the  
13 authority of Subchapter H, Chapter 411, Government Code, or  
14 pursuant to the exception provided in Section 46.15(k), regardless  
15 of whether the handgun is concealed or carried in a shoulder or belt  
16 holster.

17 (e) A license holder who is licensed as a security officer  
18 under Chapter 1702, Occupations Code, and employed as a security  
19 officer commits an offense if, while in the course and scope of the  
20 security officer's employment, the security officer violates a  
21 provision of Subchapter H, Chapter 411, Government Code.

22 (f) In this section:

23 (1) "Amusement park" means a permanent indoor or  
24 outdoor facility or park where amusement rides are available for  
25 use by the public that is located in a county with a population of  
26 more than one million, encompasses at least 75 acres in surface  
27 area, is enclosed with access only through controlled entries, is

1 open for operation more than 120 days in each calendar year, and has  
2 security guards on the premises at all times. The term does not  
3 include any public or private driveway, street, sidewalk or  
4 walkway, parking lot, parking garage, or other parking area.

5 (1-a) "Institution of higher education" and "private  
6 or independent institution of higher education" have the meanings  
7 assigned by Section 61.003, Education Code.

8 (2) "License holder" means a person licensed to carry  
9 a handgun under Subchapter H, Chapter 411, Government Code.

10 (3) "Premises" means a building or a portion of a  
11 building. The term does not include any public or private driveway,  
12 street, sidewalk or walkway, parking lot, parking garage, or other  
13 parking area.

14 (g) An offense under this section is a Class A misdemeanor,  
15 unless the offense is committed under Subsection (b)(1) or (b)(3),  
16 in which event the offense is a felony of the third degree.

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

22 SECTION 5. Section 30.05, Penal Code, is amended by adding  
23 Subsection (i-1) to read as follows:

24 (i-1) If the basis on which entry on the property or land or  
25 in the building was forbidden is that entry with a firearm or other  
26 weapon was forbidden it is a defense to prosecution under this  
27 section that the person was personally given notice by oral

1 communication and promptly departed from the property.

2 SECTION 6. Chapter 30, Penal Code, is amended by adding  
3 Section 30.08, TRESPASS BY UNLICENSED HOLDER WITH A HANDGUN, to  
4 read as follows:

5 (a) A person commits an offense if the person:

6 (1) carries a handgun unlicensed, on property of  
7 another without effective consent; and

8 (2) received notice that entry on the property by a  
9 unlicensed holder with a handgun was forbidden.

10 (b) For purposes of this section, a person receives notice  
11 if the owner of the property or someone with apparent authority to  
12 act for the owner provides notice to the person by oral or written  
13 communication.

14 (c) In this section:

15 (1) "Entry" has the meaning assigned by Section  
16 30.05(b).

17 (2) Unlicensed has the meaning of anyone not a  
18 "License holder" has defined by Section 46.035(f).

19 (3) "Written communication" means:

20 (A) a card or other document on which is written  
21 language identical to the following: "Pursuant to Section 30.08,  
22 Penal Code (TRESPASS BY UNLICENSED HOLDER WITH A HANDGUN), may not  
23 enter this property with a handgun"; or

24 (B) a sign posted on the property that:

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

27 (ii) appears in contrasting colors with



1 block letters at least one inch in height; and

2 (iii) is displayed in a conspicuous manner  
3 clearly visible to the public.

4 (d) An offense under this section is a Class C misdemeanor  
5 punishable by a fine not to exceed \$200, except that the offense is  
6 a Class A misdemeanor if it is shown on the trial of the offense  
7 that, after entering the property, the unlicensed holder was  
8 personally given the notice by oral communication described by  
9 Subsection (b) and subsequently failed to depart.

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

15 (e-1) It is a defense to prosecution under this section  
16 that:

17 (1) the unlicensed holder is:

18 (A) an owner of an apartment in a condominium  
19 regime governed by Chapter 81, Property Code;

20 (B) an owner of a condominium unit governed by  
21 Chapter 82, Property Code;

22 (C) a tenant or guest of an owner described by  
23 Paragraph (A) or (B); or

24 (D) a guest of a tenant of an owner described by  
25 Paragraph (A) or (B); and

26 (2) the unlicensed holder:

27 (A) carries or stores a handgun in the

1 condominium apartment or unit owner's apartment or unit;

2 (B) carries a handgun directly en route to or  
3 from the condominium apartment or unit owner's apartment or unit;

4 (C) carries a handgun directly en route to or  
5 from the unlicensed holder's vehicle located in a parking area  
6 provided for residents or guests of the condominium property; or

7 (D) carries or stores a handgun in the unlicensed  
8 holder's vehicle located in a parking area provided for residents  
9 or guests of the condominium property.

10 (e-2) It is a defense to prosecution under this section  
11 that:

12 (1) the unlicensed holder is a tenant of a leased  
13 premises governed by Chapter 92, Property Code, or the tenant's  
14 guest; and

15 (2) the unlicensed holder:

16 (A) carries or stores a handgun in the tenant's  
17 rental unit;

18 (B) carries a handgun directly en route to or  
19 from the tenant's rental unit;

20 (C) carries a handgun directly en route to or  
21 from the unlicensed holder's vehicle located in a parking area  
22 provided for tenants or guests by the landlord of the leased  
23 premises; or

24 (D) carries or stores a handgun in the unlicensed  
25 holder's vehicle located in a parking area provided for tenants or  
26 guests by the landlord of the leased premises.

27 (e-3) It is a defense to prosecution under this section

1 that:

2 (1) the unlicensed holder is a tenant of a  
3 manufactured home lot governed by Chapter 94, Property Code, or the  
4 tenant's guest; and

5 (2) the unlicensed holder:

6 (A) carries or stores a handgun in the tenant's  
7 manufactured home;

8 (B) carries a handgun directly en route to or  
9 from the tenant's manufactured home;

10 (C) carries a handgun directly en route to or  
11 from the unlicensed holder's vehicle located in a parking area  
12 provided for tenants or tenants' guests by the landlord of the  
13 leased premises; or

14 (D) carries or stores a handgun in the unlicensed  
15 holder's vehicle located in a parking area provided for tenants or  
16 tenants' guests by the landlord of the leased premises.

17 (f) It is a defense to prosecution under this section that  
18 the unlicensed holder is volunteer emergency services personnel, as  
19 defined by Section 46.01.

20 (g) It is a defense to prosecution under this section that  
21 the unlicensed holder was personally given notice by oral  
22 communication described by Subsection (b) and promptly departed  
23 from the property.

24 SECTION 7. This Act takes effect September 1, 2021.