

By: Springer

S.B. No. 546

A BILL TO BE ENTITLED

AN ACT

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

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

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

(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 2. Section 46.03(a), 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, the portion of 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:

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.

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

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

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

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

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

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

(2) Subsection (d) is a Class C misdemeanor, unless the license holder has previously been convicted of an offense under that subsection, in which event the offense is a Class B misdemeanor [~~(b)(1) or (b)(3), in which event the offense is a felony of the third degree~~].

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

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

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

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

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

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

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

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

(3) community supervision and corrections department officers appointed or employed under Section 76.004, Government Code, and neither section prohibits an officer from carrying a weapon in this state if the officer is:

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

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

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

~~(5)]~~ an honorably retired peace officer or other

1 qualified retired law enforcement officer, as defined by 18 U.S.C.
 2 Section 926C, who holds a certificate of proficiency issued under
 3 Section 1701.357, Occupations Code, and is carrying a photo
 4 identification that is issued by a federal, state, or local law
 5 enforcement agency, as applicable, and that verifies that the
 6 officer is an honorably retired peace officer or other qualified
 7 retired law enforcement officer;

8 ~~(5) [(6) the attorney general or a United States~~
 9 ~~attorney, district attorney, criminal district attorney, county~~
 10 ~~attorney, or municipal attorney who is licensed to carry a handgun~~
 11 ~~under Subchapter H, Chapter 411, Government Code;~~

12 ~~[(7) an assistant United States attorney, assistant~~
 13 ~~attorney general, assistant district attorney, assistant criminal~~
 14 ~~district attorney, or assistant county attorney who is licensed to~~
 15 ~~carry a handgun under Subchapter H, Chapter 411, Government Code;~~

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

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

20 ~~[(B) engaged in escorting the judicial officer;~~

21 ~~[(9)] a juvenile probation officer who is authorized to~~
 22 ~~carry a firearm under Section 142.006, Human Resources Code; or~~

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

27 ~~[(A) carrying a handgun under the authority of~~

~~Subchapter H, Chapter 411, Government Code, and~~

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

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

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

(2) is traveling;

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

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

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

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

(B) is either:

1 (i) wearing the uniform of a security
2 officer, including any uniform or apparel described by Section
3 1702.323(d), Occupations Code, and carrying the officer's weapon in
4 plain view; or

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

7 (6) ~~[is 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 ~~[(7)]~~ holds an alcoholic beverage permit or license or
14 is an employee of a holder of an alcoholic beverage permit or
15 license if the person is supervising the operation of the permitted
16 or licensed premises; or

17 (7) ~~[(8)]~~ is a student in a law enforcement class
18 engaging in an activity required as part of the class, if the weapon
19 is a type commonly used in the activity and the person is:

20 (A) on the immediate premises where the activity
21 is conducted; or

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

24 SECTION 6. Section 411.179(c), Government Code, is amended
25 to read as follows:

26 (c) In adopting the form of the license under Subsection
27 (a), the department shall establish a procedure for the license of a

1 qualified handgun instructor [~~or of the attorney general or a~~
 2 ~~judge, justice, United States attorney, assistant United States~~
 3 ~~attorney, assistant attorney general, prosecuting attorney, or~~
 4 ~~assistant prosecuting attorney, as described by Section~~
 5 ~~46.15(a)(4), (6), or (7), Penal Code,~~] to indicate on the license
 6 the license holder's status as a qualified handgun instructor [~~or~~
 7 ~~as the attorney general or a judge, justice, United States~~
 8 ~~attorney, assistant United States attorney, assistant attorney~~
 9 ~~general, district attorney, criminal district attorney, or county~~
 10 ~~attorney~~]. In establishing the procedure, the department shall
 11 require sufficient documentary evidence to establish the license
 12 holder's status under this subsection.

13 SECTION 7. Section 411.198(b), Government Code, is amended
 14 to read as follows:

15 (b) It is a defense to prosecution under Section 46.035(a)
 16 [46.035], Penal Code, that the actor, at the time of the commission
 17 of the offense, was the holder of an alias license issued under this
 18 section.

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

21 (a) A [~~Except as provided by Subsection (i), a~~] state agency
 22 or a political subdivision of the state may not take any action,
 23 including an action consisting of the provision of notice by a
 24 communication described by Section 30.06 or 30.07, Penal Code, that
 25 states or implies that a license holder who is carrying a handgun
 26 under the authority of this subchapter is prohibited from entering
 27 or remaining on a premises or other place owned or leased by the

1 governmental entity unless license holders are prohibited from
2 carrying a handgun on the premises or other place by Section 46.03
3 or 46.035, Penal Code, or other law.

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

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

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

14 (e) Except as provided by Subsection (f) or (i), the
15 commission or administrator shall cancel an original or renewal
16 permit if it is found, after notice and hearing, that the permittee
17 knowingly allowed a person to possess a firearm in a building on the
18 licensed premises. This subsection does not apply to a person:

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

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

23 (B) the person is wearing a distinctive uniform;
24 and

25 (C) the weapon is in plain view;

26 (2) who is a peace officer;

27 (3) who is a permittee or an employee of a permittee if

1 the person is supervising the operation of the premises; or

2 (4) who possesses a handgun the person is licensed to
3 carry under Subchapter H, Chapter 411, Government Code[, ~~unless the~~
4 ~~person is on the premises of a business described by Section~~
5 ~~46.035(b)(1), Penal Code~~].

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

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

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

16 (f) Except as provided by Subsection (g) or (j), the
17 commission or administrator shall cancel an original or renewal
18 dealer's on-premises or off-premises license if it is found, after
19 notice and hearing, that the licensee knowingly allowed a person to
20 possess a firearm in a building on the licensed premises. This
21 subsection does not apply to a person:

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

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

26 (B) the person is wearing a distinctive uniform;

27 and

1 (C) the weapon is in plain view;
2 (2) who is a peace officer;
3 (3) who is a licensee or an employee of a licensee if
4 the person is supervising the operation of the premises; or
5 (4) who possesses a handgun the person is licensed to
6 carry under Subchapter H, Chapter 411, Government Code~~[, unless the~~
7 ~~person is on the premises of a business described by Section~~
8 ~~46.035(b)(1), Penal Code]~~.

9 SECTION 13. The following provisions are repealed:

10 (1) Section 104.06(c), Alcoholic Beverage Code;
11 (2) Sections 411.203, 411.204, and 411.209(i),
12 Government Code;
13 (3) Section 552.002, Health and Safety Code;
14 (4) Section 52.062(b), Labor Code;
15 (5) Section 46.03(f), Penal Code;
16 (6) Sections 46.035(b), (c), (f)(1), (i), (k), (l),
17 and (m), Penal Code; and
18 (7) Section 46.035(h-1), Penal Code, as added by
19 Chapters 1214 (H.B. 1889) and 1222 (H.B. 2300), Acts of the 80th
20 Legislature, Regular Session, 2007.

21 SECTION 14. The change in law made by this Act applies only
22 to an offense committed on or after the effective date of this Act.
23 An offense committed before the effective date of this Act is
24 governed by the law in effect when the offense was committed, and
25 the former law is continued in effect for that purpose. For
26 purposes of this section, an offense was committed before the
27 effective date of this Act if any element of the offense occurred

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1 before that date.

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