

By: Eckhardt

S.B. No. 1289

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting the carrying of a firearm on property owned or leased by a governmental entity.

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

SECTION 1. The heading to Section 411.2031, Government Code, is amended to read as follows:

Sec. 411.2031. CARRYING OF HANDGUNS BY LICENSE HOLDERS ON CERTAIN PRIVATE CAMPUSES.

SECTION 2. Sections 411.2031(a)(1) and (2), Government Code, are amended to read as follows:

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

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

SECTION 3. Section 411.2031(d), Government Code, is amended to read as follows:

(d) A [~~An institution of higher education or~~] private or independent institution of higher education in this state may establish rules, regulations, or other provisions prohibiting or regulating [~~concerning~~] the storage of handguns in dormitories or other residential facilities that are owned or leased and operated

1 by the institution and located on the campus of the institution.

2 SECTION 4. Section 229.001(b), Local Government Code, is
3 amended to read as follows:

4 (b) Subsection (a) does not affect the authority a
5 municipality has under another law to:

6 (1) require residents or public employees to be armed
7 for personal or national defense, law enforcement, or another
8 lawful purpose;

9 (2) regulate the discharge of firearms or air guns
10 within the limits of the municipality, other than at a sport
11 shooting range;

12 (3) except as provided by Subsection (b-1), adopt or
13 enforce a generally applicable zoning ordinance, land use
14 regulation, fire code, or business ordinance;

15 (4) regulate the use of firearms, air guns, or knives
16 in the case of an insurrection, riot, or natural disaster if the
17 municipality finds the regulations necessary to protect public
18 health and safety;

19 (5) regulate the storage or transportation of
20 explosives to protect public health and safety, except that 25
21 pounds or less of black powder for each private residence and 50
22 pounds or less of black powder for each retail dealer are not
23 subject to regulation;

24 (6) regulate the carrying of a firearm or air gun by a
25 person other than a person licensed to carry a handgun under
26 Subchapter H, Chapter 411, Government Code, at a:

27 (A) public park;

1 (B) public meeting of a municipality, county, or
2 other governmental body;

3 (C) political rally, parade, or official
4 political meeting; or

5 (D) nonfirearms-related school, college, or
6 professional athletic event;

7 (7) regulate the carrying of a firearm by a person
8 licensed to carry a handgun under Subchapter H, Chapter 411,
9 Government Code[, ~~in accordance with Section 411.209, Government~~
10 ~~Code~~];

11 (8) regulate the hours of operation of a sport
12 shooting range, except that the hours of operation may not be more
13 limited than the least limited hours of operation of any other
14 business in the municipality other than a business permitted or
15 licensed to sell or serve alcoholic beverages for on-premises
16 consumption;

17 (9) regulate the carrying of an air gun by a minor on:

18 (A) public property; or

19 (B) private property without consent of the
20 property owner; or

21 (10) except as provided by Subsection (d-1), regulate
22 or prohibit an employee's carrying or possession of a firearm,
23 firearm accessory, or ammunition in the course of the employee's
24 official duties.

25 SECTION 5. Section 236.002(c), Local Government Code, is
26 amended to read as follows:

27 (c) Subsection (a) does not affect the authority of a county

1 to:

2 (1) require a resident or public employee to be armed
3 for personal or national defense, law enforcement, or other purpose
4 under other law;

5 (2) regulate the discharge of firearms or air guns in
6 accordance with Section 235.022;

7 (3) regulate the carrying of a firearm by a person
8 licensed to carry a handgun under Subchapter H, Chapter 411,
9 Government Code[, ~~in accordance with Section 411.209, Government~~
10 ~~Code~~];

11 (4) except as provided by Subsection (d), adopt or
12 enforce a generally applicable land use regulation, fire code, or
13 business regulation; or

14 (5) except as provided by Subsection (e), regulate or
15 prohibit an employee's carrying or possession of a firearm, firearm
16 accessory, or ammunition in the course of the employee's official
17 duties.

18 SECTION 6. Section 46.03, Penal Code, is amended by
19 amending Subsections (a) and (b) and adding Subsection (a-2) to
20 read as follows:

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

25 (1) on the physical premises of a school or
26 educational institution, any grounds or building on which an
27 activity sponsored by a school or educational institution is being

1 conducted, or a passenger transportation vehicle of a school or
2 educational institution, [~~whether the school or educational~~
3 ~~institution is public or private,~~] unless:

4 (A) the actor possesses or goes with a weapon
5 other than a firearm pursuant to written regulations or written
6 authorization of the school or institution; [~~or~~]

7 (B) the actor possesses or goes with a firearm on
8 the premises of a private school or a private or independent
9 institution of higher education, on any grounds or building on
10 which an activity sponsored by the school or institution is being
11 conducted, or in a passenger transportation vehicle of the school
12 or institution pursuant to the written regulations or written
13 authorization of the school or institution; or

14 (C) the actor [~~person~~] possesses or goes with a
15 concealed handgun that the person is licensed to carry under
16 Subchapter H, Chapter 411, Government Code, and no other weapon to
17 which this section applies, on the premises of a a [~~an institution of~~
18 ~~higher education or~~] private or independent institution of higher
19 education, on any grounds or building on which an activity
20 sponsored by the institution is being conducted, or in a passenger
21 transportation vehicle of the institution;

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

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

27 (4) on the premises of a racetrack;

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

2 (6) within 1,000 feet of premises the location of
3 which is designated by the Texas Department of Criminal Justice as a
4 place of execution under Article 43.19, Code of Criminal Procedure,
5 on a day that a sentence of death is set to be imposed on the
6 designated premises and the person received notice that:

7 (A) going within 1,000 feet of the premises with
8 a weapon listed under this subsection was prohibited; or

9 (B) possessing a weapon listed under this
10 subsection within 1,000 feet of the premises was prohibited.

11 (a-2) A person commits an offense if the person
12 intentionally, knowingly, or recklessly possesses or goes with a
13 firearm on premises owned or leased by a governmental entity.

14 (b) It is a defense to prosecution under Subsections
15 (a)(1)-(4) and (a-2) that the actor possessed a firearm while in the
16 actual discharge of the actor's ~~[his]~~ official duties as a member of
17 the armed forces or national guard or a guard employed by a penal
18 institution, or an officer of the court.

19 SECTION 7. Section 46.03(c)(1), Penal Code, is amended to
20 read as follows:

21 (1) "Private [~~"Institution of higher education" and~~
22 ~~"private]~~ or independent institution of higher education" has
23 ~~[have]~~ the meaning ~~[meanings]~~ assigned by Section 61.003, Education
24 Code.

25 SECTION 8. Section 46.035(a-1), Penal Code, as added by
26 Chapter 438 (S.B. 11), Acts of the 84th Legislature, Regular
27 Session, 2015, is amended to read as follows:

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

8 (1) on the premises of a [~~an institution of higher~~
9 ~~education or~~] private or independent institution of higher
10 education; or

11 (2) on any public or private driveway, street,
12 sidewalk or walkway, parking lot, parking garage, or other parking
13 area of a [~~an institution of higher education or~~] private or
14 independent institution of higher education.

15 SECTION 9. Section 46.035(f)(1-a), Penal Code, is amended
16 to read as follows:

17 (1-a) "Private [~~"Institution of higher education" and~~
18 ~~"private~~] or independent institution of higher education" has
19 [~~have~~] the meaning [~~meanings~~] assigned by Section 61.003, Education
20 Code.

21 SECTION 10. Sections 46.035(h) and (j), Penal Code, are
22 amended to read as follows:

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

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

4 SECTION 11. Section 46.15(1), Penal Code, is amended to
5 read as follows:

6 (1) Sections 46.02, 46.03(a)(1), (a)(2), (a)(3), [~~and~~
7 (a)(4), and (a-2)], and 46.035(a), (a-1), (a-2), [~~(a-3)~~] (b)(1),
8 (b)(5), and (b)(6) do not apply to a person who carries a handgun
9 if:

10 (1) the person carries the handgun on the premises, as
11 defined by the statute providing the applicable offense, of a
12 location operating as an emergency shelter during a state of
13 disaster declared under Section 418.014, Government Code, or a
14 local state of disaster declared under Section 418.108, Government
15 Code;

16 (2) the owner, controller, or operator of the premises
17 or a person acting with the apparent authority of the owner,
18 controller, or operator, authorized the carrying of the handgun;

19 (3) the person carrying the handgun complies with any
20 rules and regulations of the owner, controller, or operator of the
21 premises that govern the carrying of a handgun on the premises; and

22 (4) the person is not prohibited by state or federal
23 law from possessing a firearm.

24 SECTION 12. The following provisions are repealed:

25 (1) Sections 411.2031(b), (c), (d-1), (d-2), (d-3),
26 and (d-4), Government Code;

27 (2) Section 411.209, Government Code;

- 1 (3) Section 552.002, Health and Safety Code;
- 2 (4) Section 30.06(e), Penal Code;
- 3 (5) Section 30.07(e), Penal Code;
- 4 (6) Section 46.035(a-1), Penal Code, as added by
- 5 Chapter 437 (H.B. 910), Acts of the 84th Legislature, Regular
- 6 Session, 2015; and
- 7 (7) Section 46.035(a-3), Penal Code.

8 SECTION 13. The changes in law made by this Act to Sections

9 30.06, 30.07, 46.03, 46.035, and 46.15, Penal Code, apply only to an

10 offense committed on or after the effective date of this Act. An

11 offense committed before the effective date of this Act is governed

12 by the law in effect when the offense was committed, and the former

13 law is continued in effect for that purpose. For purposes of this

14 section, an offense was committed before the effective date of this

15 Act if any element of the offense occurred before that date.

16 SECTION 14. This Act takes effect September 1, 2021.