

BILL ANALYSIS

Senate Research Center

H.B. 972
By: Fletcher et al. (Birdwell)
Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

To be eligible to obtain a license to carry a concealed handgun in Texas, an applicant must meet certain age, residency, and character requirements and be fully qualified under applicable federal and state law to purchase a handgun. Additionally, the applicant cannot have been convicted of a felony or a Class A or B misdemeanor within a certain time frame and cannot be charged with the commission of certain offenses, be chemically dependent, be delinquent in payments of state or local taxes or child support, or be subject to certain protective or restraining orders.

Current law makes it an offense for a person to possess or go with a certain weapon, including a concealed handgun, on the premises of or the premises associated with a Texas school or institution of higher education. Interested parties note that law-abiding concealed handgun license holders who have satisfied the background check process and successfully completed appropriate education and training courses should be able to protect themselves in the event of a situation that threatens innocent lives on an educational campus.

H.B. 972 amends current law relating to the carrying of concealed handguns on the premises of and certain other locations associated with institutions of higher education.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the president or other chief executive officer of an institution of higher education in this state in SECTION 1 (Section 411.2031, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter H, Chapter 411, Government Code, by adding Section 411.2031, as follows:

Sec. 411.2031. CARRYING OF HANDGUNS BY LICENSE HOLDERS ON CERTAIN PREMISES OWNED OR LEASED BY INSTITUTION OF HIGHER EDUCATION. (a) Defines "institution of higher education," "license holder," and "premises" for purposes of this section.

(b) Authorizes the president or other chief executive officer of an institution of higher education in this state, on behalf of the institution, and after consulting with law enforcement, students, staff, and faculty of the institution, to adopt written rules or regulations prohibiting license holders from carrying handguns on premises owned or leased and operated by the institution, on any grounds or building owned or leased by the institution and on which an activity sponsored by the institution is being conducted, or on a passenger transportation vehicle of the institution. Authorizes a written rule or regulation adopted under this subsection to remain in effect for not more than one year after the date of adoption and to be renewed, reenacted, or reenacted and amended by the institution only after consultation with students, staff, and faculty of the institution.

(c) Requires an institution of higher education that does not adopt a rule or regulation under Subsection (b), or a private or independent institution of higher

education that does not adopt a rule, regulation, or other provision or take any other action described by Section 46.03(j), Penal Code, to adopt written rules or regulations concerning the storage of handguns in dormitories or other residential facilities that are owned or leased and operated by the institution and the carrying of concealed handguns by license holders at collegiate sporting events or other official mass gatherings that take place on grounds or buildings owned or leased and operated by the institution.

(d) Prohibits an institution of higher education or private or independent institution of higher education in this state from adopting or enforcing any rule, regulation, or other provision or take any other action, including posting notice under Section 30.06 (Trespass by Holder of License to Carry Concealed Handgun), Penal Code, prohibiting a student enrolled at that institution who holds a license to carry a concealed handgun under Subchapter H (License to Carry a Concealed Handgun), Chapter 411 (Department of Public Safety of the State of Texas), Government Code, from transporting or storing a handgun of the same category the student is licensed to carry or ammunition for that handgun in a locked, privately owned motor vehicle or a motor vehicle leased by or for the student on a street or driveway located on the campus of the institution or in a parking lot, parking garage, or other parking area located on the campus of the institution.

(e) Provides that this section does not permit a person to possess a concealed handgun, or go with a concealed handgun, on the premises maintained or operated by an institution of higher education that is used for the operation of a national biocontainment laboratory, if the institution gives effective notice under Section 30.06, Penal Code.

SECTION 2. Amends Section 411.208, Government Code, by amending Subsections (a), (b), and (d) and adding Subsection (f), as follows:

(a) Prohibits a court from holding the state, an agency or subdivision of the state, an officer or employee of the state, an institution of higher education or a private or independent institution of higher education, an officer or employee of an institution of higher education, or a private or independent institution of higher education, a peace officer, or a qualified handgun instructor liable for damages caused by certain actions.

(b) Prohibits a cause of action in damages from being brought against the state, an agency or subdivision of the state, an officer or employee of the state, an institution of higher education or a private or independent institution of higher education, an officer or employee of an institution of higher education, or a private or independent institution of higher education, a peace officer, or a qualified handgun instructor for any damage caused by the actions of an applicant or license holder under this subchapter.

(d) Provides that the immunities granted under Subsections (a), (b), and (c) (relating to Department of Public Safety of the State of Texas responsibility for injury by an applicant) do not apply to an act or a failure to act by the state, an agency or subdivision of the state, an officer of the state, an institution of higher education or a private or independent institution of higher education, an officer or employee of an institution of higher education or a private or independent institution of higher education, or a peace officer if the act or failure to act was capricious or arbitrary.

(f) Redefines "institution of higher education" and "private or independent institution of higher learning" for purposes of this section.

SECTION 3. Amends Section 46.03, Penal Code, by amending Subsections (a) and (c) and adding Subsections (j), (k), (l), (m), and (n), as follows:

(a) Provides that a person commits an offense if the person intentionally, knowingly, or recklessly possesses or goes with a firearm, illegal knife, club, or prohibited weapon

listed in Section 46.05(a) (relating to a person committing an offense if the person intentionally possesses, manufactures, transports, repairs, or sells certain weapons or weapon-related items):

(1) on the premises of a school or institution of higher education or private or independent institution of higher education, any grounds or building on which an activity sponsored by a school or institution of higher education or private or independent institution of higher education is being conducted, or a passenger transportation vehicle of a school or institution of higher education or private or independent institution of higher education, whether the school or institution is public or private, rather than on the physical premises of a school or educational institution, 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:

(A) pursuant to written rules or regulations or written authorization of the school or institution; or

(B) the person possesses or goes on premises owned or leased and operated by an institution of higher education or private or independent institution of higher education, on any grounds or building owned or leased by the institution and on which an activity sponsored by the institution is being conducted, or on a passenger transportation vehicle of the institution with a concealed handgun that the person is licensed to carry pursuant to a license issued under Subchapter H, Chapter 411, Government Code; or

(2)-(6) Makes no change to these subdivisions.

(c) Defines "institution of higher education" and "private or independent institution of higher education" in this section. Makes nonsubstantive changes.

(j) Provides that Subsection (a)(1)(B) does not preclude a private or independent institution of higher education from adopting a rule, regulation, or other provision or from taking any other action to prohibit license holders from carrying handguns on premises owned or leased and operated by the institution, on any grounds or building owned or leased by the institution and on which an activity sponsored by the institution is being conducted, or on a passenger transportation vehicle of the institution.

(k) Provides that Subsection (a)(1)(B) does not permit a person to possess a concealed handgun, or go with a concealed handgun, on the premises of a hospital maintained or operated by an institution of higher education or private or independent institution of higher education if the hospital gives notice under Section 30.06. Defines "hospital" for this section.

(l) Provides that Subsection (a)(1)(B) does not permit a person to possess a concealed handgun, or go with a concealed handgun, on the premises of a preschool, elementary school, or secondary school that is located on the grounds or premises of an institution of higher education or private or independent institution of higher education if the institution gives notice under Section 30.06.

(m) Provides that it is an exception to the application of Subsection (a)(1) that the actor possessed a firearm or club while traveling to or from the actor's place of assignment or in the actual discharge of the actor's duties as a security officer if the actor holds a security officer commission issued by the Texas Private Security Board; the actor is wearing a distinctive uniform; and the firearm or club is in plain view.

(n) Provides that Subsection (a)(1)(B) does not permit a person to possess a concealed handgun, or go with a concealed handgun, on the premises maintained or operated by an

institution of higher education that is used for the operation of a national biocontainment laboratory, if the institution gives notice under Section 30.06.

SECTION 4. Amends Section 46.035, Penal Code, by adding Subsection (l), to provide that Subsection (b)(2) (relating to weapons on the premises of a high school, collegiate, or professional sporting event) does not apply on premises owned or leased and operated by an institution of higher education or private or independent institution of higher education, as defined by Section 61.003 (Definitions), Education Code, where a collegiate sporting event sponsored by the institution is taking place unless the actor is given notice under Section 30.06.

SECTION 5. Makes application of Section 411.208, Government Code, as amended by this Act, prospective.

SECTION 6. Makes application of Section 46.03, Penal Code, as amended by this Act, and Section 46.035(1), Penal Code, as added by this Act, prospective.

SECTION 7. Effective date: January 1, 2014.