

By: Springer

H.B. No. 308

Substitute the following for H.B. No. 308:

By: Phillips

C.S.H.B. No. 308

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the places where a person may carry a handgun if the
3 person is licensed to carry a concealed handgun; amending
4 provisions subject to a criminal penalty.

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

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

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

14 SECTION 2. Section 46.03, Penal Code, is amended by
15 amending Subsection (a) and adding Subsection (b-1) to read as
16 follows:

17 (a) A person commits an offense if the person intentionally,
18 knowingly, or recklessly possesses or goes with a firearm, illegal
19 knife, club, or prohibited weapon listed in Section 46.05(a):

20 (1) unless pursuant to written regulations or written
21 authorization of a school or educational institution, and
22 regardless of whether the school or educational institution is
23 public or private, on:

24 (A) the physical premises of the [~~a~~] school or

1 educational institution;

2 (B) the portion of[~~7~~] any grounds or building on
3 which an activity sponsored by the [~~a~~] school or educational
4 institution is being conducted; [~~7~~] or

5 (C) a passenger transportation vehicle of the [~~a~~]
6 school or educational institution[~~, whether the school or~~
7 ~~educational institution is public or private, unless pursuant to~~
8 ~~written regulations or written authorization of the institution~~];

9 (2) on the portion of the premises of a polling place
10 where voting or other election-related activities are occurring on
11 the day of an election or while early voting is in progress;

12 (3) on the premises of any government court or offices
13 utilized by the court, unless pursuant to written regulations or
14 written authorization of the court;

15 (4) on the premises of a racetrack;

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

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

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

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

26 (b-1) It is a defense to prosecution under Subsection
27 (a)(1)(B) that at the time of the commission of the offense:

1 (1) the actor was carrying a handgun under the
2 authority of Subchapter H, Chapter 411, Government Code, and no
3 other weapon to which this section applies;

4 (2) the actor was not otherwise prohibited from
5 carrying the handgun under another provision of this code or other
6 law;

7 (3) the activity sponsored by the school or
8 educational institution was a field trip; and

9 (4) the actor was not a student, teacher, school or
10 school district administrator, or chaperone taking the field trip.

11 SECTION 3. Section 46.035, Penal Code, as amended by
12 Chapters 1214 (H.B. 1889) and 1222 (H.B. 2300), Acts of the 80th
13 Legislature, Regular Session, 2007, is amended to read as follows:

14 Sec. 46.035. UNLAWFUL CARRYING OF HANDGUN BY LICENSE
15 HOLDER. (a) A license holder commits an offense if the license
16 holder carries a handgun on or about the license holder's person
17 under the authority of Subchapter H, Chapter 411, Government Code,
18 and intentionally displays the handgun in plain view of another
19 person in a public place.

20 (b) A license holder commits an offense if the license
21 holder intentionally, knowingly, or recklessly carries a handgun
22 under the authority of Subchapter H, Chapter 411, Government Code,
23 regardless of whether the handgun is concealed, on or about the
24 license holder's person:

25 (1) on the premises of a business that has a permit or
26 license issued under Chapter 25, 28, 32, 69, or 74, Alcoholic
27 Beverage Code, if the business derives 51 percent or more of its

1 income from the sale or service of alcoholic beverages for
2 on-premises consumption, as determined by the Texas Alcoholic
3 Beverage Commission under Section 104.06, Alcoholic Beverage Code;

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

8 (3) on the premises of a correctional facility[+]

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

14 ~~[(5) in an amusement park; or~~

15 ~~[(6) on the premises of a church, synagogue, or other
16 established place of religious worship].~~

17 (c) A license holder commits an offense if the license
18 holder intentionally, knowingly, or recklessly carries a handgun
19 under the authority of Subchapter H, Chapter 411, Government Code,
20 regardless of whether the handgun is concealed, at any meeting of a
21 governmental entity.

22 (d) A license holder commits an offense if, while
23 intoxicated, the license holder carries a handgun under the
24 authority of Subchapter H, Chapter 411, Government Code, regardless
25 of whether the handgun is concealed.

26 (e) A license holder who is licensed as a security officer
27 under Chapter 1702, Occupations Code, and employed as a security

1 officer commits an offense if, while in the course and scope of the
2 security officer's employment, the security officer violates a
3 provision of Subchapter H, Chapter 411, Government Code.

4 (f) In this section:

5 (1) [~~"Amusement park" means a permanent indoor or~~
6 ~~outdoor facility or park where amusement rides are available for~~
7 ~~use by the public that is located in a county with a population of~~
8 ~~more than one million, encompasses at least 75 acres in surface~~
9 ~~area, is enclosed with access only through controlled entries, is~~
10 ~~open for operation more than 120 days in each calendar year, and has~~
11 ~~security guards on the premises at all times. The term does not~~
12 ~~include any public or private driveway, street, sidewalk or~~
13 ~~walkway, parking lot, parking garage, or other parking area.~~

14 [~~(2)~~] "License holder" means a person licensed to
15 carry a handgun under Subchapter H, Chapter 411, Government Code.

16 (2) [~~(3)~~] "Premises" means a building or a portion of
17 a building. The term does not include any public or private
18 driveway, street, sidewalk or walkway, parking lot, parking garage,
19 or other parking area.

20 (g) An offense under this section [~~Subsection (a), (b), (c),~~
21 ~~(d), or (e)] is a Class C [~~A~~] misdemeanor, unless the offense is
22 committed under Subsection (d) or the license holder has previously
23 been convicted of an offense under this section [~~(b)(1) or (b)(3)],~~
24 in which event the offense is a Class A misdemeanor [~~felony of the~~
25 ~~third degree~~].~~

26 (h) It is a defense to prosecution under Subsection (a) that
27 the actor, at the time of the commission of the offense, displayed

1 the handgun under circumstances in which the actor would have been
2 justified in the use of force or deadly force under Chapter 9.

3 (h-1) It is a defense to prosecution under Subsections (b)
4 and (c) that the actor, at the time of the commission of the
5 offense, was:

6 (1) an active judicial officer, as defined by Section
7 [411.201](#), Government Code; or

8 (2) a bailiff designated by the active judicial
9 officer and engaged in escorting the officer.

10 ~~[(h-1) It is a defense to prosecution under Subsections~~
11 ~~(b)(1), (2), and (4)-(6), and (c) that at the time of the commission~~
12 ~~of the offense, the actor was:~~

13 ~~[(1) a judge or justice of a federal court;~~

14 ~~[(2) an active judicial officer, as defined by Section~~
15 ~~[411.201](#), Government Code; or~~

16 ~~[(3) a district attorney, assistant district~~
17 ~~attorney, criminal district attorney, assistant criminal district~~
18 ~~attorney, county attorney, or assistant county attorney.]~~

19 (i) Subsection ~~[Subsections (b)(4), (b)(5), (b)(6), and]~~
20 (c) does ~~[do]~~ not apply if the actor was not given effective notice
21 under Section [30.06](#).

22 (j) Subsections (a) and (b)(1) do not apply to a historical
23 reenactment performed in compliance with the rules of the Texas
24 Alcoholic Beverage Commission.

25 (k) It is a defense to prosecution under Subsection (b)(1)
26 that the actor was not given effective notice under Section
27 [411.204](#), Government Code.

1 SECTION 4. Section 411.201(a)(2), Government Code, is
2 amended to read as follows:

3 (2) "Retired judicial officer" means:

4 (A) a special judge appointed under Section
5 26.023 or 26.024; ~~or~~

6 (B) a senior judge designated under Section
7 75.001 or a judicial officer as designated or defined by Section
8 75.001, 831.001, or 836.001; or

9 (C) a retired federal judge who is a resident of
10 this state.

11 SECTION 5. Section 411.204(c), Government Code, is amended
12 to read as follows:

13 (c) The sign required under Subsection ~~[Subsections]~~ (a)
14 ~~[and (b)]~~ must give notice in both English and Spanish that it is
15 unlawful for a person licensed under this subchapter to carry a
16 handgun on the premises. The sign must appear in contrasting colors
17 with block letters at least one inch in height and must include on
18 its face the number "51" printed in solid red at least five inches
19 in height. The sign shall be displayed in a conspicuous manner
20 clearly visible to the public.

21 SECTION 6. Section 411.204(b), Government Code, is
22 repealed.

23 SECTION 7. The change in law made by this Act applies only
24 to an offense committed on or after the effective date of this Act.
25 An offense committed before the effective date of this Act is
26 governed by the law in effect when the offense was committed, and
27 the former law is continued in effect for that purpose. For

1 purposes of this section, an offense was committed before the
2 effective date of this Act if any element of the offense occurred
3 before that date.

4 SECTION 8. This Act takes effect January 1, 2016.