

By: Stickland

H. B. No. 296

A BILL TO BE ENTITLED

# 1 AN ACT

2 relating to the carrying of a firearm by a person who is not  
3 otherwise prohibited from possessing the firearm and to criminal  
4 offenses otherwise related to the carrying of a firearm; creating  
5 criminal offenses.

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

7 SECTION 1. This Act shall be known as the Texas  
8 Constitutional Carry Act of 2017.

9 SECTION 2. Section 46.02, Penal Code, as effective  
10 September 1, 2017, is amended by amending Subsections (a) and (d)  
11 and adding Subsections (a-5) and (a-6) to read as follows:

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

13 (1) intentionally, knowingly, or recklessly carries  
14 on or about his or her person a [handgun or] club; and

15 (2) is not:

16 (A) on the person's own premises or premises  
17 under the person's control; or

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

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

24 (2) is younger than 21 years of age at the time of the

1 offense; and

2                   (3) is not:

3                   (A) on the person's own premises or premises  
4 under the person's control; or

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

8                   (a-6) It is an exception to the application of Subsection  
9 (a-5) that the actor holds a license issued under Subchapter H,  
10 Chapter 411, Government Code.

11                  (d) An offense under Subsection (a-4) or (a-5) is a Class C  
12 misdemeanor.

13                  SECTION 3. Sections 46.03(e-1) and (e-2), Penal Code, are  
14 amended to read as follows:

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

17                  (1) possessed, at the screening checkpoint for the  
18 secured area, a [concealed] handgun that the actor was not  
19 prohibited from possessing [licensed to carry under Subchapter H,  
20 Chapter 411, Government Code]; and

21                  (2) exited the screening checkpoint for the secured  
22 area immediately on [upon] completion of the required screening  
23 processes and notification that the actor possessed the handgun.

24                  (e-2) A peace officer investigating conduct that may  
25 constitute an offense under Subsection (a)(5) and that consists  
26 only of an actor's possession of a [concealed] handgun that the  
27 actor is not prohibited from possessing [licensed to carry under

1 ~~Subchapter H, Chapter 411, Government Code,~~] may not arrest the  
2 actor for the offense unless:

3 (1) the officer advises the actor of the defense  
4 available under Subsection (e-1) and gives the actor an opportunity  
5 to exit the screening checkpoint for the secured area; and

6 (2) the actor does not immediately exit the checkpoint  
7 on [upon] completion of the required screening processes.

8 SECTION 4. Section 46.03(f), Penal Code, as effective  
9 September 1, 2017, is amended to read as follows:

10 (f) Except as provided by Subsection (e-1), it is not a  
11 defense to prosecution under this section that the actor possessed  
12 a handgun and was:

13 (1) licensed to carry a handgun under Subchapter H,  
14 Chapter 411, Government Code; or

15 (2) not otherwise prohibited from possessing a  
16 firearm.

17 SECTION 5. Chapter 46, Penal Code, is amended by adding  
18 Section 46.032 to read as follows:

19 Sec. 46.032. CARRYING OF HANDGUN. Except as otherwise  
20 provided by this chapter or other law, a person 21 years of age or  
21 older who is not prohibited from possessing a firearm under Section  
22 46.04 or other law is not prohibited from carrying:

23 (1) a concealed handgun; or

24 (2) a partially or wholly visible handgun in a  
25 holster.

26 SECTION 6. The heading to Section 46.035, Penal Code, is  
27 amended to read as follows:

1 Sec. 46.035. UNLAWFUL CARRYING OF HANDGUN [~~BY LICENSE~~  
2 ~~HOLDER~~].

3 SECTION 7. Section **46.035**, Penal Code, is amended by  
4 amending Subsections (a), (c), and (d) and adding Subsection (d-1)  
5 to read as follows:

6 (a) A person [~~license holder~~] commits an offense if the  
7 person [~~license holder~~] carries a handgun [~~on or about the license~~  
8 ~~holder's person under the authority of Subchapter H, Chapter 411,~~  
9 ~~Government Code,~~] and intentionally displays the handgun in plain  
10 view of another person in a public place. It is an exception to the  
11 application of this subsection that the handgun was partially or  
12 wholly visible but was carried in a [~~shoulder or belt~~] holster [~~by~~  
13 ~~the license holder~~].

14 (c) A person [~~license holder~~] commits an offense if the  
15 person [~~license holder~~] intentionally, knowingly, or recklessly  
16 carries a handgun [~~under the authority of Subchapter H, Chapter~~  
17 ~~411, Government Code~~], regardless of whether the handgun is  
18 concealed or carried in a [~~shoulder or belt~~] holster, in the room or  
19 rooms where a meeting of a governmental entity is held and if the  
20 meeting is an open meeting subject to Chapter **551**, Government Code,  
21 and the entity provided notice as required by that chapter.

22 (d) A person [~~license holder~~] commits an offense if the  
23 person [~~, while intoxicated, the license holder~~] carries a handgun  
24 while the person is intoxicated [~~under the authority of Subchapter~~  
25 ~~H, Chapter 411, Government Code~~], regardless of whether the handgun  
26 is concealed or carried in a [~~shoulder or belt~~] holster.

27 (d-1) A person commits an offense if the person

1 intentionally, knowingly, or recklessly carries a handgun when the  
2 person is:

3                   (1) engaged in criminal activity, other than a Class C  
4 misdemeanor that is a violation of a law or ordinance regulating  
5 traffic or boating; or

6                   (2) prohibited by law from possessing a firearm.

7       SECTION 8. Section 46.035(b), Penal Code, as effective  
8 September 1, 2017, is amended to read as follows:

9                   (b) A person [~~license holder~~] commits an offense if the  
10 person [~~license holder~~] intentionally, knowingly, or recklessly  
11 carries a handgun [~~under the authority of Subchapter H, Chapter~~  
12 ~~411, Government Code~~], regardless of whether the handgun is  
13 concealed or carried in a [~~shoulder or belt~~] holster[, ~~on or about~~  
14 ~~the license holder's person~~]:

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

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

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

26                   (4) on the premises of a hospital licensed under  
27 Chapter 241, Health and Safety Code, or on the premises of a nursing

1 facility licensed under Chapter 242, Health and Safety Code, unless  
2 the person [~~license holder~~] has written authorization of the  
3 hospital or nursing facility administration, as appropriate;  
4 (5) in an amusement park;  
5 (6) on the premises of a church, synagogue, or other  
6 established place of religious worship; or  
7 (7) on the premises of a civil commitment facility.

8 SECTION 9. Section 46.035(f), Penal Code, is amended by  
9 adding Subdivision (1-b) to read as follows:

10 (1-b) "Intoxicated" has the meaning assigned by  
11 Section 49.01.

12 SECTION 10. Section 46.035(h-1), Penal Code, as added by  
13 Chapter 1214 (H.B. 1889), Acts of the 80th Legislature, Regular  
14 Session, 2007, is amended to read as follows:

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

18 (1) an active judicial officer, as defined by Section  
19 411.201, Government Code; [~~or~~]

20 (2) a bailiff designated by the active judicial  
21 officer and engaged in escorting the officer;

22 (3) a judge or justice of a federal court; or

23 (4) the attorney general or a United States attorney,  
24 assistant United States attorney, assistant attorney general,  
25 district attorney, assistant district attorney, criminal district  
26 attorney, assistant criminal district attorney, county attorney,  
27 or assistant county attorney.

1 SECTION 11. Section 46.15(a), Penal Code, as effective  
2 September 1, 2017, is amended to read as follows:

3 (a) Sections 46.02, [and] 46.03, and 46.035(b) and (c) do  
4 not apply to:

5 (1) peace officers or special investigators under  
6 Article 2.122, Code of Criminal Procedure, and none of those  
7 sections prohibit [~~neither section prohibits~~] a peace officer or  
8 special investigator from carrying a weapon in this state,  
9 including in an establishment in this state serving the public,  
10 regardless of whether the peace officer or special investigator is  
11 engaged in the actual discharge of the officer's or investigator's  
12 duties while carrying the weapon;

13 (2) parole officers and none of those sections  
14 prohibit [~~neither section prohibits~~] an officer from carrying a  
15 weapon in this state if the officer is:

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

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

21 (3) community supervision and corrections department  
22 officers appointed or employed under Section 76.004, Government  
23 Code, and none of those sections prohibit [~~neither section~~  
24 ~~prohibits~~] an officer from carrying a weapon in this state if the  
25 officer is:

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

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1 (B) authorized to carry a weapon under Section  
2 76.0051, Government Code;

6 (5) an honorably retired peace officer, qualified  
7 retired law enforcement officer, federal criminal investigator, or  
8 former reserve law enforcement officer who holds a certificate of  
9 proficiency issued under Section [1701.357](#), Occupations Code, and is  
10 carrying a photo identification that is issued by a federal, state,  
11 or local law enforcement agency, as applicable, and that verifies  
12 that the officer is:

13 (A) an honorably retired peace officer;  
14 (B) a qualified retired law enforcement officer;  
15 (C) a federal criminal investigator; or  
16 (D) a former reserve law enforcement officer who  
17 has served in that capacity not less than a total of 15 years with  
18 one or more state or local law enforcement agencies;

19 (6) the attorney general or a United States attorney,  
20 district attorney, criminal district attorney, county attorney, or  
21 municipal attorney who is licensed to carry a handgun under  
22 Subchapter H, Chapter [411](#), Government Code;

23 (7) an assistant United States attorney, assistant  
24 attorney general, assistant district attorney, assistant criminal  
25 district attorney, or assistant county attorney who is licensed to  
26 carry a handgun under Subchapter H, Chapter 411, Government Code;

(8) a bailiff designated by an active judicial officer

1 as defined by Section [411.201](#), Government Code, who is:

2 (A) licensed to carry a handgun under Subchapter  
3 H, Chapter [411](#), Government Code; and

4 (B) engaged in escorting the judicial officer;

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

7 (10) a person who is volunteer emergency services  
8 personnel if the person is:

9 (A) carrying a handgun under the authority of  
10 Subchapter H, Chapter [411](#), Government Code; and

11 (B) engaged in providing emergency services.

12 SECTION 12. Section [46.15](#)(b), Penal Code, is amended to  
13 read as follows:

14 (b) Section [46.02](#) does not apply to a person who:

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

19 (2) is traveling;

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

25 (4) holds a security officer commission issued by the  
26 Texas Private Security Board, if the person is engaged in the  
27 performance of the person's duties as an officer commissioned under

1 Chapter 1702, Occupations Code, or is traveling to or from the  
2 person's place of assignment and is wearing the officer's uniform  
3 and carrying the officer's weapon in plain view;

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

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

11 (B) is either:

12 (i) wearing the uniform of a security  
13 officer, including any uniform or apparel described by Section  
14 1702.323(d), Occupations Code, and carrying the officer's weapon in  
15 plain view; or

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

18 (6) ~~is carrying:~~

19 ~~[(A) a license issued under Subchapter H, Chapter~~  
20 ~~411, Government Code, to carry a handgun; and~~

21 ~~[(B) a handgun:~~

22 ~~[(i) in a concealed manner; or~~

23 ~~[(ii) in a shoulder or belt holster;~~

24 ~~[(7)] holds an alcoholic beverage permit or license or~~  
25 is an employee of a holder of an alcoholic beverage permit or  
26 license if the person is supervising the operation of the permitted  
27 or licensed premises; or

1                   (7) [~~(8)~~] is a student in a law enforcement class  
2 engaging in an activity required as part of the class, if the weapon  
3 is a type commonly used in the activity and the person is:

4                   (A) on the immediate premises where the activity  
5 is conducted; or

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

8                   SECTION 13. Chapter 507, Business & Commerce Code, as  
9 effective September 1, 2017, is amended to read as follows:

10                  CHAPTER 507. LICENSE TO CARRY [CONCEALED] HANDGUN [LICENSES] AS  
11                  VALID FORM [~~FORMS~~] OF PERSONAL IDENTIFICATION

12                  Sec. 507.001. [CONCEALED HANDGUN] LICENSE TO CARRY HANDGUN  
13 AS VALID PROOF OF IDENTIFICATION. (a) A person may not deny the  
14 holder of a [~~concealed~~] handgun license issued under Subchapter H,  
15 Chapter 411, Government Code, access to goods, services, or  
16 facilities, except as provided by Section 521.460, Transportation  
17 Code, or in regard to the operation of a motor vehicle, because the  
18 holder has or presents a [~~concealed~~] handgun license rather than a  
19 driver's license or other acceptable form of personal  
20 identification.

21                  (b) This section does not affect [+]

22                  [+1) the requirement under Section 411.205,  
23 Government Code, that a person subject to that section present a  
24 driver's license or identification certificate in addition to a  
25 concealed handgun license; or

26                  [+2) the types of identification required under  
27 federal law to access airport premises or pass through airport

1 security.

2 SECTION 14. Section 51.220(g), Education Code, is amended  
3 to read as follows:

4 (g) A public junior college employee's status as a school  
5 marshal becomes inactive on:

6 (1) expiration of the employee's school marshal  
7 license under Section 1701.260, Occupations Code;

8 (2) suspension or revocation of the employee's license  
9 to carry a ~~concealed~~ handgun issued under Subchapter H, Chapter  
10 411, Government Code;

11 (3) termination of the employee's employment with the  
12 public junior college; or

13 (4) notice from the governing board of the public  
14 junior college that the employee's services as school marshal are  
15 no longer required.

16 SECTION 15. Section 231.302(c-1), Family Code, is amended  
17 to read as follows:

18 (c-1) For purposes of issuing a license to carry a  
19 ~~concealed~~ handgun under Subchapter H, Chapter 411, Government  
20 Code, the Department of Public Safety is not required to request,  
21 and an applicant is not required to provide, the applicant's social  
22 security number.

23 SECTION 16. The heading to Subchapter H, Chapter 411,  
24 Government Code, is amended to read as follows:

25 SUBCHAPTER H. LICENSE TO CARRY [A] HANDGUN AND OTHER PROVISIONS  
26 RELATING TO CARRYING OF FIREARMS

27 SECTION 17. Sections 411.1741(a) and (b), Government Code,

1 are amended to read as follows:

2                   (a) When a person applies for an original or renewal license  
3 to carry a [concealed] handgun under this subchapter, the person  
4 may make a voluntary contribution in any amount to the fund for  
5 veterans' assistance established by Section [434.017](#).

6                   (b) The department shall:

7                   (1) include space on the first page of each  
8 application for an original or renewal license to carry a  
9 [concealed] handgun that allows a person applying for an original  
10 or renewal license to carry a [concealed] handgun to indicate the  
11 amount that the person is voluntarily contributing to the fund; and

12                   (2) provide an opportunity for the person to  
13 contribute to the fund during the application process for an  
14 original or renewal license to carry a [concealed] handgun on the  
15 department's Internet website.

16                   SECTION 18. Section [411.190\(c\)](#), Government Code, as  
17 effective September 1, 2017, is amended to read as follows:

18                   (c) In the manner applicable to a person who applies for a  
19 license to carry a handgun, the department shall conduct a  
20 background check of a person who applies for certification as a  
21 qualified handgun instructor or approved online course provider. If  
22 the background check indicates that the applicant for certification  
23 would not qualify to receive a handgun license, the department may  
24 not certify the applicant as a qualified handgun instructor or  
25 approved online course provider. If the background check indicates  
26 that the applicant for certification would qualify to receive a  
27 handgun license, the department shall provide handgun instructor or

1 online course provider training to the applicant. The applicant  
2 shall pay a fee of \$100 to the department for the training. The  
3 applicant must take and successfully complete the training offered  
4 by the department and pay the training fee before the department may  
5 certify the applicant as a qualified handgun instructor or approved  
6 online course provider. The department shall issue a license to  
7 carry a handgun under ~~[the authority of]~~ this subchapter to any  
8 person who is certified as a qualified handgun instructor or  
9 approved online course provider and who pays to the department a fee  
10 of \$40 in addition to the training fee. The department by rule may  
11 prorate or waive the training fee for an employee of another  
12 governmental entity.

13 SECTION 19. Sections [411.201\(c\)](#) and (e), Government Code,  
14 are amended to read as follows:

15 (c) An active judicial officer is eligible for a license to  
16 carry a handgun under ~~[the authority of]~~ this subchapter. A retired  
17 judicial officer is eligible for a license to carry a handgun under  
18 ~~[the authority of]~~ this subchapter if the officer:

19 (1) has not been convicted of a felony;

20 (2) has not, in the five years preceding the date of  
21 application, been convicted of a Class A or Class B misdemeanor or  
22 equivalent offense;

23 (3) is not charged with the commission of a Class A or  
24 Class B misdemeanor or equivalent offense or of a felony under an  
25 information or indictment;

26 (4) is not a chemically dependent person; and

27 (5) is not a person of unsound mind.

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1                   (e) On receipt of all the application materials required by  
2 this section, the department shall:

11 SECTION 20. Section 411.201(h), Government Code, as  
12 effective September 1, 2017, is amended to read as follows:

24 SECTION 21. Section 411.203, Government Code, is amended to  
25 read as follows:

26 Sec. 411.203. RIGHTS OF EMPLOYERS. (a) This subchapter  
27 does not prevent or otherwise limit the right of a public or private

1 employer to prohibit persons who are licensed under this subchapter  
2 or not otherwise prohibited from possessing a firearm from carrying  
3 a handgun or other firearm on the premises of the business.

4 (b) In this section, "premises" has the meaning assigned by  
5 Section 46.035(f) [~~46.035(f)(3)~~], Penal Code.

6 SECTION 22. Section 411.204(c), Government Code, is amended  
7 to read as follows:

8 (c) The sign required under Subsections (a) and (b) must  
9 give notice in both English and Spanish that it is unlawful for a  
10 person, regardless of whether the person is licensed under this  
11 subchapter, to carry a handgun on the premises. The sign must appear  
12 in contrasting colors with block letters at least one inch in height  
13 and must include on its face the number "51" printed in solid red at  
14 least five inches in height. The sign shall be displayed in a  
15 conspicuous manner clearly visible to the public.

16 SECTION 23. The heading to Section 411.206, Government  
17 Code, is amended to read as follows:

18 Sec. 411.206. SEIZURE OF HANDGUN AND HANDGUN LICENSE.

19 SECTION 24. Sections 411.206(a) and (c), Government Code,  
20 are amended to read as follows:

21 (a) If a peace officer arrests and takes into custody a  
22 person [~~license holder~~] who is carrying a handgun [~~under the~~  
23 ~~authority of this subchapter~~], the officer shall seize the person's  
24 [~~license holder's~~] handgun. The peace officer also shall seize the  
25 person's handgun [and] license as evidence if the person holds a  
26 handgun license under this subchapter and is carrying the license  
27 at the time of the arrest.

7 SECTION 25. Section 411.207, Government Code, is amended by  
8 amending Subsections (a), (b), and (c) and adding Subsection (a-1)  
9 to read as follows:

10 (a) A peace officer who is acting in the lawful discharge of  
11 the officer's official duties may disarm a person, including a  
12 license holder, who is carrying a handgun at any time the officer  
13 reasonably believes it is necessary for the protection of the  
14 person [license holder], officer, or another individual. The peace  
15 officer shall return the handgun to the person [license holder]  
16 before discharging the person [license holder] from the scene if  
17 the officer determines that the person:

25           (a-1) A peace officer may not disarm or detain a person  
26 under Subsection (a) solely because the person is carrying a  
27 handgun.

12 (c) A law enforcement facility shall prominently display at  
13 each entrance to a nonpublic, secure portion of the facility a sign  
14 that gives notice in both English and Spanish that, under this  
15 section, a peace officer may temporarily disarm a person,  
16 regardless of whether the person is a license holder, when the  
17 person [license holder] enters the nonpublic, secure portion of the  
18 facility. The sign must appear in contrasting colors with block  
19 letters at least one inch in height. The sign shall be displayed in  
20 a clearly visible and conspicuous manner.

21 SECTION 26. The heading to Section [411.209](#), Government  
22 Code, as effective September 1, 2017, is amended to read as follows:

23 Sec. 411.209. WRONGFUL EXCLUSION OF PERSON CARRYING HANDGUN  
24 [LICENSE HOLDER].

25 SECTION 27. Section [411.209](#), Government Code, is amended by  
26 amending Subsections (a) and (d), as effective September 1, 2017,  
27 and adding Subsection (d-1) to read as follows:

12 (d) A resident of this state or a person licensed to carry a  
13 handgun under this subchapter may file a complaint with the  
14 attorney general that a state agency or political subdivision is in  
15 violation of Subsection (a) if the resident or license holder  
16 [person] provides the agency or subdivision a written notice that  
17 describes the violation [and specific location of the sign found to  
18 be in violation] and the agency or subdivision does not cure the  
19 violation before the end of the third business day after the date of  
20 receiving the written notice. The written notice provided under  
21 this subsection must include a copy of any document alleged to be in  
22 violation or must describe the specific location of any sign found  
23 to be in violation.

24           (d-1) A complaint filed with the attorney general under  
25 Subsection (d) ~~[this subsection]~~ must include evidence of the  
26 violation and a copy of the written notice provided to the agency or  
27 subdivision.

1 SECTION 28. Section [411.209](#)(f), Government Code, is amended  
2 to read as follows:

3 (f) Before a suit may be brought against a state agency or a  
4 political subdivision of the state for a violation of Subsection  
5 (a), the attorney general must investigate the complaint to  
6 determine whether legal action is warranted. If legal action is  
7 warranted, the attorney general must give the chief administrative  
8 officer of the agency or political subdivision charged with the  
9 violation a written notice that:

10 (1) describes the violation and includes the  
11 information described by Subsection (d) [specific location of the  
12 ~~sign found to be in violation]~~;

13 (2) states the amount of the proposed penalty for the  
14 violation; and

15 (3) gives the agency or political subdivision 15 days  
16 from receipt of the notice to ~~remove the sign and~~ cure the  
17 violation to avoid the penalty, unless the agency or political  
18 subdivision was found liable by a court for previously violating  
19 Subsection (a).

20 SECTION 29. Section [12.092](#)(b), Health and Safety Code, is  
21 amended to read as follows:

22 (b) The medical advisory board shall assist the Department  
23 of Public Safety of the State of Texas in determining whether:

24 (1) an applicant for a driver's license or a license  
25 holder is capable of safely operating a motor vehicle; or

26 (2) an applicant for or holder of a license to carry a  
27 handgun under ~~[the authority of]~~ Subchapter H, Chapter [411](#),

1 Government Code, or an applicant for or holder of a commission as a  
2 security officer under Chapter 1702, Occupations Code, is capable  
3 of exercising sound judgment with respect to the proper use and  
4 storage of a handgun.

5 SECTION 30. Section 42.042(e-2), Human Resources Code, is  
6 amended to read as follows:

7 (e-2) The department may not prohibit the foster parent of a  
8 child who resides in the foster family's home from transporting the  
9 child in a vehicle where a handgun is present if the handgun is in  
10 the possession and control of the foster parent and the foster  
11 parent is not prohibited from possessing a firearm [licensed to  
12 ~~carry the handgun under Subchapter H, Chapter 411, Government~~  
13 ~~Code~~].

14 SECTION 31. Section 52.062(a), Labor Code, is amended to  
15 read as follows:

16 (a) Section 52.061 does not:

17 (1) authorize a person who is not prohibited from  
18 possessing [~~holds a license to carry a handgun under Subchapter H,~~  
19 ~~Chapter 411, Government Code, who otherwise lawfully possesses~~] a  
20 firearm[~~r~~] or [~~who lawfully possesses~~] ammunition to possess a  
21 firearm or ammunition on any property where the possession of a  
22 firearm or ammunition is prohibited by state or federal law; or

23 (2) apply to:

24 (A) a vehicle owned or leased by a public or  
25 private employer and used by an employee in the course and scope of  
26 the employee's employment, unless the employee is required to  
27 transport or store a firearm in the official discharge of the

1 employee's duties;

2 (B) a school district;

3 (C) an open-enrollment charter school, as

4 defined by Section 5.001, Education Code;

5 (D) a private school, as defined by Section

6 22.081, Education Code;

7 (E) property owned or controlled by a person,

8 other than the employer, that is subject to a valid, unexpired oil,

9 gas, or other mineral lease that contains a provision prohibiting

10 the possession of firearms on the property; or

11 (F) property owned or leased by a chemical

12 manufacturer or oil and gas refiner with an air authorization under

13 Chapter 382, Health and Safety Code, and on which the primary

14 business conducted is the manufacture, use, storage, or

15 transportation of hazardous, combustible, or explosive materials,

16 except in regard to an employee who is not prohibited from

17 possessing a firearm or ammunition [~~holds a license to carry a~~

18 ~~handgun under Subchapter H, Chapter 411, Government Code,~~] and

19 [~~who~~] stores the [~~a~~] firearm or ammunition [~~the employee is~~

20 ~~authorized by law to possess~~] in a locked, privately owned motor

21 vehicle in a parking lot, parking garage, or other parking area the

22 employer provides for employees that is outside of a secured and

23 restricted area:

24 (i) that contains the physical plant;

25 (ii) that is not open to the public; and

26 (iii) the ingress into which is constantly

27 monitored by security personnel.

1 SECTION 32. Section [191.010\(a\)](#), Local Government Code, is  
2 amended to read as follows:

3 (a) In this section, "photo identification" means one of the  
4 following forms of photo identification:

5 (1) a driver's license, election identification  
6 certificate, or personal identification card issued to the person  
7 by any state or territory of the United States that has not expired  
8 or that expired no earlier than 60 days before the date of  
9 presentation;

10 (2) a United States military identification card that  
11 contains the person's photograph that has not expired or that  
12 expired no earlier than 60 days before the date of presentation;

13 (3) a United States citizenship certificate issued to  
14 the person that contains the person's photograph;

15 (4) a United States Permanent Resident Card that has  
16 not expired or that expired no earlier than 60 days before the date  
17 of presentation;

18 (5) an identification card issued by a municipality  
19 intended to serve as a general identification card for the holder  
20 that has not expired or that expired no earlier than 60 days before  
21 the date of presentation;

22 (6) a federally recognized tribal enrollment card or  
23 other form of tribal identification that has not expired or that  
24 expired no earlier than 60 days before the date of presentation;

25 (7) a United States passport or a passport issued by a  
26 foreign government recognized by the United States issued to the  
27 person that has not expired or that expired no earlier than 60 days

1 before the date of presentation; or

2 (8) a license to carry a [concealed] handgun issued to  
3 the person by the Department of Public Safety that has not expired  
4 or that expired no earlier than 60 days before the date of  
5 presentation.

6 SECTION 33. Section 229.001(b), Local Government Code, is  
7 amended to read as follows:

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

10 (1) require residents or public employees to be armed  
11 for personal or national defense, law enforcement, or another  
12 lawful purpose;

13 (2) regulate the discharge of firearms or air guns  
14 within the limits of the municipality, other than at a sport  
15 shooting range;

16 (3) regulate the use of property, the location of a  
17 business, or uses at a business under the municipality's fire code,  
18 zoning ordinance, or land-use regulations as long as the code,  
19 ordinance, or regulations are not used to circumvent the intent of  
20 Subsection (a) or Subdivision (5) of this subsection;

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

25 (5) regulate the storage or transportation of  
26 explosives to protect public health and safety, except that 25  
27 pounds or less of black powder for each private residence and 50

1 pounds or less of black powder for each retail dealer are not  
2 subject to regulation;

3 (6) regulate the carrying of a firearm or air gun, [by  
4 ~~a person~~] other than a ~~person licensed to carry a~~ handgun carried  
5 by a person not prohibited from possessing a firearm ~~[under~~  
6 ~~Subchapter H, Chapter 411, Government Code]~~, at a:

7 (A) ~~public park;~~

8 ~~(B)~~ public meeting of a municipality, county,  
9 or other governmental body;

10 ~~(C) political rally, parade, or official~~  
11 ~~political meeting,~~] or

12 (B) ~~(D)~~ nonfirearms-related school, college,  
13 or professional athletic event;

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

20 (8) regulate the carrying of an air gun by a minor on:

21 (A) public property; or

22 (B) private property without consent of the  
23 property owner.

24 SECTION 34. Sections 62.082(d) and (e), Parks and Wildlife  
25 Code, are amended to read as follows:

26 (d) Section 62.081 does not apply to:

27 (1) an employee of the Lower Colorado River Authority;

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5 (A) is carrying [possesses] a handgun [and a  
6 ~~license issued under Subchapter H, Chapter 411, Government Code, to~~  
7 ~~carry a handgun~~]: or

8 (B) under circumstances in which the person would  
9 be justified in the use of deadly force under Chapter 9, Penal Code,  
10 shoots a handgun [the person is licensed to carry under Subchapter  
11 H, Chapter 111, Government Code].

18 (1) carrying [possessing] a handgun; or

19 (2) under circumstances in which the person would be  
20 justified in the use of deadly force under Chapter 9, Penal Code,  
21 shooting a handgun.

22 SECTION 35. Section 284.001(e), Parks and Wildlife Code, is  
23 amended to read as follows:

24 (e) This section does not limit a person's [~~the~~] ability [~~of~~  
25 ~~a license holder~~] to carry a handgun [~~under the authority of~~  
26 ~~Subchapter H, Chapter 411, Government Code~~].

27 SECTION 36. Section 30.05(f), Penal Code, is amended to

1 read as follows:

2 (f) It is a defense to prosecution under this section that:

3 (1) the basis on which entry on the property or land or  
4 in the building was forbidden is that entry with a firearm [handgun]  
5 was forbidden; and

6 (2) the person was carrying [+

7 [ (A) a license issued under Subchapter H, Chapter  
8 411, Government Code, to carry a handgun; and

9 [ (B) a handgun:

10 (A) [ (i) ] in a concealed manner; or

11 (B) [ (ii) ] in a [shoulder or belt] holster.

12 SECTION 37. The heading to Section 30.06, Penal Code, is  
13 amended to read as follows:

14 Sec. 30.06. TRESPASS BY PERSON [~~LICENSE HOLDER~~] WITH [A]  
15 CONCEALED HANDGUN.

16 SECTION 38. Sections 30.06(a), (c), (d), and (e), Penal  
17 Code, are amended to read as follows:

18 (a) A person [~~license holder~~] commits an offense if the  
19 person [~~license holder~~]:

20 (1) carries a concealed handgun [~~under the authority~~  
21 ~~of Subchapter H, Chapter 411, Government Code~~] on property of  
22 another without effective consent; and

23 (2) received notice that entry on the property by a  
24 person [~~license holder~~] with a concealed handgun was forbidden.

25 (c) In this section:

26 (1) "Entry" has the meaning assigned by Section  
27 30.05(b).

1 (2) "License holder" has the meaning assigned by  
2 Section 16.035(f).

3 [ (3) ] "Written communication" means:

4 (A) a card or other document on which is written  
5 language identical to the following: "Pursuant to Section 30.06,  
6 Penal Code (trespass by person [~~license holder~~] with [~~a~~] concealed  
7 handgun), a person [~~licensed under Subchapter H, Chapter 411,~~  
8 ~~Government Code (handgun licensing law)~~], may not enter this  
9 property with a concealed handgun"; or

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

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

13 (ii) appears in contrasting colors with  
14 block letters at least one inch in height; and

15 (iii) is displayed in a conspicuous manner  
16 clearly visible to the public at each entrance to the property.

17 (d) An offense under this section is a Class C misdemeanor  
18 punishable by a fine not to exceed \$200, except that the offense is  
19 a Class A misdemeanor if it is shown on the trial of the offense  
20 that, after entering the property, the person [license holder] was  
21 personally given the notice by oral communication described by  
22 Subsection (b) and subsequently failed to depart

23 (e) It is an exception to the application of this section  
24 that the property on which the person [~~license holder~~] carries a  
25 handgun is owned or leased by a governmental entity and is not a  
26 premises or other place on which the person [~~license holder~~] is  
27 prohibited from carrying the handgun under Section 46.03 or 46.035

1 or other law.

2 SECTION 39. The heading to Section **30.07**, Penal Code, is  
3 amended to read as follows:

4 Sec. 30.07. TRESPASS BY PERSON [~~LICENSE HOLDER~~] WITH [~~AN~~]  
5 OPENLY CARRIED HANDGUN.

6 SECTION 40. Sections **30.07**(a), (c), (d), (e), and (f),  
7 Penal Code, are amended to read as follows:

8 (a) A person [~~license holder~~] commits an offense if the  
9 person [~~license holder~~]:

10 (1) openly carries a handgun [~~under the authority of~~  
11 ~~Subchapter H, Chapter 411, Government Code,~~] on property of another  
12 without effective consent; and

13 (2) received notice that entry on the property by a  
14 person [~~license holder~~] openly carrying a handgun was forbidden.

15 (c) In this section:

16 (1) "Entry" has the meaning assigned by Section  
17 **30.05**(b).

18 (2) [~~"License holder"~~ has the meaning assigned by  
19 ~~Section 46.035(f)~~.

20 [~~(3)~~] "Written communication" means:

21 (A) a card or other document on which is written  
22 language identical to the following: "Pursuant to Section **30.07**,  
23 Penal Code (trespass by person [~~license holder~~] with [~~an~~] openly  
24 carried handgun), a person [~~licensed under Subchapter H, Chapter~~  
25 ~~411, Government Code (handgun licensing law)~~,] may not enter this  
26 property with a handgun that is carried openly"; or

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

1 (i) includes the language described by  
2 Paragraph (A) in both English and Spanish:

3 (ii) appears in contrasting colors with  
4 block letters at least one inch in height; and

5 (iii) is displayed in a conspicuous manner  
6 clearly visible to the public at each entrance to the property.

13                   (e) It is an exception to the application of this section  
14 that the property on which the person [~~license holder~~] openly  
15 carries a [~~the~~] handgun is owned or leased by a governmental entity  
16 and is not a premises or other place on which the person [~~license~~  
17 ~~holder~~] is prohibited from carrying the handgun under Section 46.03  
18 or 46.035 or other law.

19 (f) It is not a defense to prosecution under this section  
20 that the handgun was carried in a [shoulder or belt] holster.

21 SECTION 41. The following provisions are repealed:

22 (1) Sections 11.041, 11.61(e), 61.11, and 61.71(f),

## 23 Alcoholic Beverage Code;

24 (2) Sections 411.204(d) and 411.205, Government Code;

25 (3) Sections 46.02(a-1) and 46.15(j), Penal Code; and

26 (4) Section 46.035(h-1), Penal Code, as added by

27 Chapter 1222 (H.B. 2300), Acts of the 80th Legislature, Regular

1 Session, 2007.

2 SECTION 42. The change in law made by this Act relating to  
3 the carrying of a handgun applies to the carrying of a handgun on or  
4 after the effective date of this Act by any person not prohibited  
5 from possessing a firearm.

6 SECTION 43. The changes in law made by this Act apply only  
7 to an offense committed on or after the effective date of this Act.  
8 An offense committed before the effective date of this Act is  
9 governed by the law in effect when the offense was committed, and  
10 the former law is continued in effect for that purpose. For  
11 purposes of this section, an offense was committed before the  
12 effective date of this Act if any element of the offense occurred  
13 before that date.

14 SECTION 44. This Act takes effect December 1, 2017.