By: Birdwell, et al. S.B. No. 11

A BILL TO BE ENTITLED

AN ACT

relating to the carrying of handguns on the campuses of and certain other locations associated with institutions of higher education; providing a criminal penalty.

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

SECTION 1. Subchapter H, Chapter 411, Government Code, is amended by adding Section 411.2031 to read as follows:

Sec. 411.2031. CARRYING OF HANDGUNS BY LICENSE HOLDERS ON CERTAIN CAMPUSES. (a) For purposes of this section:

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

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

(3) "Premises" has the meaning assigned by Section 46.035, Penal Code.

(b) A license holder may carry a concealed handgun on or about the license holder's person while the license holder is on the campus of an institution of higher education or private or independent institution of higher education in this state.

(c) Except as provided by Subsection (d) or (e), an institution of higher education or private or independent institution of higher education in this state may not adopt any
rule, regulation, or other provision prohibiting license holders
from carrying handguns on the campus of the institution.

(d) An institution of higher education or private or
independent institution of higher education in this state may
establish rules, regulations, or other provisions concerning the
storage of handguns in dormitories or other residential facilities
that are owned or leased and operated by the institution and located
on the campus of the institution.

(e) A private or independent institution of higher
education in this state, after consulting with students, staff, and
faculty of the institution, may establish rules, regulations, or
other provisions prohibiting license holders from carrying
handguns on the campus of the institution, any grounds or building
on which an activity sponsored by the institution is being
conducted, or a passenger transportation vehicle owned by the
institution.

(f) This section 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 effective notice under Section 30.06, Penal
Code. In this subsection, "hospital" has the meaning assigned by

(g) This section 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 campus of an institution of higher education or
private or independent institution of higher education if the
institution gives effective notice under Section 30.06, Penal Code.

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

(a) A court may not hold the state, an agency or subdivision
of the state, an officer or employee of the state, an institution of
higher education, an officer or employee of an institution of
higher education, a private or independent institution of higher
education that has not adopted rules under Section 411.2031(e), an
officer or employee of a private or independent institution of
higher education that has not adopted rules under Section
411.2031(e), a peace officer, or a qualified handgun instructor
liable for damages caused by:

(1) an action authorized under this subchapter or a
failure to perform a duty imposed by this subchapter; or

(2) the actions of an applicant or license holder that
occur after the applicant has received a license or been denied a
license under this subchapter.

(b) A cause of action in damages may not be brought against
the state, an agency or subdivision of the state, an officer or
employee of the state, an institution of higher education, an
officer or employee of an institution of higher education, a
private or independent institution of higher education that has not
adopted rules under Section 411.2031(e), an officer or employee of
a private or independent institution of higher education that has
not adopted rules under Section 411.2031(e), 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) The immunities granted under Subsections (a), (b), and (c) do not apply to:

   (1) 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, an officer or employee of an institution of higher education, a private or independent institution of higher education that has not adopted rules under Section 411.2031(e), an officer or employee of a private or independent institution of higher education that has not adopted rules under Section 411.2031(e), or a peace officer if the act or failure to act was capricious or arbitrary; or

   (2) any officer or employee of an institution of higher education or private or independent institution of higher education described by Subdivision (1) who possesses a handgun on the campus of that institution and whose conduct with regard to the handgun is made the basis of a claim for personal injury or property damage.

(f) For purposes of this section:

   (1) "Campus" has the meaning assigned by Section 411.2031.

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

SECTION 3. Section 46.03, Penal Code, is amended by amending Subsections (a) and (c) and adding Subsections (j) and (k)
to read as follows:

(a) 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):

(1) 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 regulations or written authorization of the institution; or

(B) the person possesses or goes with a concealed handgun that the person is licensed to carry under Subchapter H, Chapter 411, Government Code, and no other weapon to which this section applies, on the premises of an institution of higher education or private or independent institution of higher education, on any grounds or building on which an activity sponsored by the institution is being conducted, or in a passenger transportation vehicle of the institution;

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

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

(4) on the premises of a racetrack;

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

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

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

(c) In this section:

(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 assigned by Section 46.035.

(3) “Secured area” means an area of an airport terminal building to which access is controlled by the inspection of persons and property under federal law.

(j) 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 effective notice under Section 30.06. In this subsection, “hospital” has the meaning assigned by Section 241.003, Health and Safety Code.

(k) 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 premises of an institution of higher education or
private or independent institution of higher education if the
 institution gives effective notice under Section 30.06.

SECTION 4. Section 46.035, Penal Code, is amended by
amending Subsections (g), (h), and (j) and adding Subsections (a-1)
and (l) to read as follows:

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

(1) on the premises of an institution of higher
education or private or independent institution of higher
education; or

(2) on any public or private driveway, street,
sidewalk or walkway, parking lot, parking garage, or other parking
area of an institution of higher education or private or
independent institution of higher education.

(g) An offense under Subsection (a), (a-1), (b), (c), (d),
or (e) is a Class A misdemeanor, unless the offense is committed
under Subsection (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) or
(a-1) 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 deadly force under
Chapter 9.

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

(l) Subsection (b)(2) does not apply on the premises where a
collegiate sporting event is taking place if the actor was not given
effective notice under Section 30.06.

SECTION 5. Section 46.035(f), Penal Code, is amended by
adding Subdivision (1-a) to read as follows:

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

SECTION 6. Section 46.035, Penal Code, is amended by
amending Subsections (g), (h), and (j) and adding Subsection (a-2)
to read as follows:

(a-2) Notwithstanding Subsection (a) or Section 46.03(a), a
license holder commits an offense if the license holder carries a
handgun on the campus of a private or independent institution of
higher education in this state that has established rules,
regulations, or other provisions prohibiting license holders from
carrying handguns pursuant to Section 411.2031(e), Government
Code, or on the grounds or building on which an activity sponsored
by such an institution is being conducted, or in a passenger
transportation vehicle of such an institution, regardless of
whether the handgun is concealed, provided the institution gives
effective notice under Section 30.06.

(g) An offense under Subsection (a), (a-2), (b), (c), (d), or (e) is a Class A misdemeanor, unless the offense is committed under Subsection (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) or (a-2) 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 deadly force under Chapter 9.

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

SECTION 7. Section 411.208, Government Code, as amended by this Act, applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrues before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 8. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.
1 SECTION 9. This Act takes effect September 1, 2015.