

## **BILL ANALYSIS**

C.S.H.B. 1445  
By: Rosenthal  
Criminal Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

It has been noted that the offense of unlawful carrying of a handgun while intoxicated only applies to a handgun license holder who engages in such conduct. In order to deter irresponsible firearm carrying practices and keep the public safe, C.S.H.B. 1445 seeks to extend the application of this offense to any person who carries a firearm in a public place while intoxicated.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 1445 repeals a Penal Code provision establishing a Class A misdemeanor for a handgun license holder who carries a handgun while intoxicated and amends the Penal Code to create instead the Class C misdemeanor offense of unlawful carrying of firearm while intoxicated for a person who, while intoxicated, carries a firearm, including a handgun or long gun, on or about his or her person in a public place. The bill establishes that, for purposes of the offense, a "public place" does not include the interior of a motor vehicle not used for mass transit or the actor's private residence, including the residence curtilage. The bill exempts the following types of persons from the application of the offense:

- a peace officer or certain federal special investigators, regardless of whether the officer or investigator is engaged in the actual discharge of the officer's or investigator's duties while carrying the firearm; and
- a person who carries a firearm that is unloaded and encased in a container.

C.S.H.B. 1445 establishes that it is not a defense to prosecution for the offense that the actor carried a handgun under the authority of state handgun licensing law.

C.S.H.B. 1445 amends the Government Code to require the Department of Public Safety to revoke the handgun license of a license holder who is convicted of such an offense. The bill establishes as a defense to prosecution for the offense that the actor was the holder of a law enforcement officer alias handgun license at the time of the commission of the offense. The bill requires any judgment of conviction entered by any court for such an offense committed by a handgun license holder to contain the license holder's handgun license number.

C.S.H.B. 1445 repeals Section 46.035(d), Penal Code.

**EFFECTIVE DATE**

September 1, 2019.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 1445 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute lowers from a Class A misdemeanor to a Class C misdemeanor the penalty for the offense created by the bill of unlawful carrying of a firearm while intoxicated and specifies that the carrying of such a firearm be on or about the person. The substitute includes a provision clarifying the meaning of "public place" for purposes of the offense.

The substitute includes a provision exempting a person who carries a firearm that is unloaded and encased in a container from the application of the offense.