

SUBJECT: Prohibiting employers from banning concealed handguns in parking areas

COMMITTEE: Law Enforcement — committee substitute recommended

VOTE: 5 ayes — Driver, Latham, Frost, Vo, West

0 nays

2 absent — Allen, Ortiz

SENATE VOTE: On final passage, March 29 — 30-0

WITNESSES: *(On House companion bill, HB 992 by Rose:)*

For — Alice Tripp, Texas State Rifle Association; Ken Dixon; James Gideon; Howard Nemerov; Carl Wood; *(Registered, but did not testify: James Jones, Houston Police Department; Tara Mica, National Rifle Association)*

Against — Ted Almay, United Services Automobile Association; Jeffrey Clark; American Electronics Association; Christopher H. Hahn, Texas Employment Law Council; Noe E. Perez; *(Registered, but did not testify: Bill Hammond, Texas Association of Business; Ron Olson, Union Pacific Railroad; Chris Shields, San Antonio Chamber of Commerce)*

On — William Diggs, Jr., Texas Department of Public Safety

BACKGROUND: Under Government Code, sec. 411.203 employers have the right to prohibit persons who are licensed to carry a handgun from carrying a concealed weapon on the premises of their businesses.

DIGEST: CSSB 534 would prohibit employers from firing, disciplining, or penalizing employees who

- applied for or held concealed handgun licenses; or
- had licenses and transported or stored handguns in their vehicles in a work parking lot, garage, or other parking area if certain conditions were met.

The gun would have to be hidden from plain view in the glove compartment or console or in a locked gun case or other locked container. Also, employees would have to file with their supervisors a copy of their concealed handgun license and a written, signed statement that they were licensed to carry a handgun, intended to store it in their vehicle in the parking area, and could not remove it from their vehicle except for self-defense in the immediate parking area.

CSSB 534 would not apply to school districts, open-enrollment charter schools, or private schools. It would not apply to property owned or leased by employers falling under certain requirements in the federal Clean Air Act whose primary business related to hazardous, combustible, or explosive materials regulated under state or federal law.

Employers could prohibit employees from transporting or storing a handgun in their locked vehicles if:

- the parking was completely surrounded by a fence and was not open to the public;
- entering and leaving the parking lot was constantly monitored by security personnel; and
- the employer gave the employee an alternative parking area next to the main parking area where the employee could park and store the gun.

The restrictions on employers disciplining employees would not apply to employers whose employees transported or stored a gun in a vehicle that the employee was actively using for the employment.

Employers still could prohibit an employee from carrying a licensed, concealed handgun on the employer's premises, as authorized by current law. The bill would not authorize a licensee to carry a concealed handgun on any property where it was prohibited by state or federal law.

Employees who were discharged in violation of CSSB 534 would be entitled to be reinstated to their jobs. Employees who were discharged, disciplined, or penalized could bring a civil action against employers to enforce their rights under CSSB 534. Employees who won these suits could recover lost wages and other compensation, reinstatement to their jobs, and reasonable attorney's fees.

It would be a defense to an action by an employee that employers gave the employee an alternative place on their property to store the employee's gun and the employee did use it.

Employers would not be liable in a civil suit for personal liability, death, or damage from the use of a handgun authorized to be in a parking area. The presence of a handgun in a parking area would not constitute a failure to provide a safe workplace.

CSSB 534 would not prohibit employers from discharging, disciplining, or penalizing employees who stored their handguns in their vehicles without meeting these requirements.

The bill would take effect September 1, 2007, and would apply only to causes of action that accrue on or after that date.

**SUPPORTERS  
SAY:**

CSSB 534 is necessary to ensure the rights of concealed handgun licensees to protect themselves when they travel to and from work. This right has been threatened by employers who have banned concealed handgun licensees from bringing their handguns to parking areas and who have disciplined or threatened to discipline employees who violated this ban. These actions are a violation of the rights of concealed handgun licensees who should be able to keep their guns in their cars when they commute.

Travel safety is a real issue that cannot be ignored and should not be sacrificed due to employers' wanting to control their parking areas. Employers' parking policies should not be allowed to trump employees right to store a lawfully possessed handgun in their own vehicles.

CSSB 534 would allow guns in the cars of only those who were licensed to carry a handgun and who met the bill's requirement of notifying their employers. Concealed handgun licensees are trained, educated, and have had their backgrounds checked. These law-abiding citizens most likely are the only ones harmed by current policies banning handguns in parking areas because those who had weapons without licenses might be unlikely to follow an employer's dictate on the subject.

CSSB 534 would balance the needs of employers and employees by giving employers who wanted to ban concealed handguns that option as long as they gave their employees an option to bring their concealed

handgun and park in a nearby area. Employers could ban concealed handguns from a fenced, monitored parking lot, which could address some employees' safety concerns, if the employer also gave employees who wanted to travel to work with their concealed handguns the option of a nearby place to park. A uniform, statewide policy is necessary to protect employees from discrimination.

The bill would recognize a heightened responsibility concerning guns and children by not prohibiting schools from banning concealed handguns in parking areas. Because the explosive materials in refineries also could present a unique danger, the bill would allow these employers the flexibility to prohibit concealed handguns in parking areas.

CSSB 534 would not affect the current rights of business owners to ban concealed handguns from their premises or the current prohibitions on concealed handguns in bars, schools, and other places. The bill would establish a fair system of exceptions and liabilities. By allowing employees to sue if they had been harmed and giving employers some immunity and defenses to actions, the bill would establish a process fair to both employers and employees for handling incidents that violate the bill.

**OPPONENTS  
SAY:**

CSSB 534 would infringe on the basic rights of employers to control their property. It should always be the prerogative of the property owner and a business owner to make decisions about their property, such as prohibiting weapons.

Employers have the right to set the terms of employment, and this should include whether employees may bring concealed handguns onto property. This is a logical extension of the employers' rights to ban concealed handguns from their premises. Employers are charged with providing a safe workplace, and employees having easy access to weapons in their cars could compromise this.

Workplaces are safest when businesses decide on safety measures. Businesses operate under unique circumstances, and employers who believe that a workplace is safer without concealed handguns in the parking area should be able to ban them. For example, a pawnshop owner might have different concerns about weapons than a coffee shop owner. Businesses are given the right to decide their terms of service, such as requiring shoes, and concealed handguns should fall under this authority.

NOTES:

Among the changes made to the Senate-passed version by the House committee substitute was to add the provisions exempting schools and businesses with hazardous materials.

The companion bill, HB 992 by Rose, was reported favorably as substituted by the Law Enforcement Committee on March 19.