

SUBJECT: Carrying of handguns on campuses of institutions of higher education

COMMITTEE: Homeland Security and Public Safety — favorable, without amendment

VOTE: 6 ayes — Phillips, Burns, Dale, Metcalf, M. White, Wray

3 nays — Nevárez, Johnson, Moody

SENATE VOTE: On final passage, March 19 — 20-11 (Ellis, Garcia, Hinojosa, Lucio, Menéndez, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini)

WITNESSES: (*On House companion bill, HB 937*)

For — Jeremy Blosser, Tarrant County Republican Party; Cole Bordner, Students for Concealed Carry on Campus; Richard Briscoe, CJ Grisham and Christopher Martin, Open Carry Texas; Amy Clark, Republican Party of Texas; Tov Henderson, Terry Holcomb, Texas Carry; Rachel Malone, Texas Firearms Freedom; Tara Mica, National Rifle Association; Richard Morgan, Texas Young Republican Federation; Alice Tripp, Texas State Rifle Association; and 21 individuals; (*Registered, but did not testify*: Cara Bonin, Katy Liberteia, Katy Tea Party, Katy NORML; Bill Elkin, Houston Police Retired Officers Association; Paul Frueh and Charles (Chuck) Ballweg, NTCL; MerryLynn Gerstenschlager, Texas Eagle Forum; Gina Holcomb, Texas Carry; AJ Louderback, Sheriffs' Association of Texas; Aaron Mitchell, Texas A&M Student Senate; Thatcher Townson, Students Active in the Leadership of Tomorrow; Matthew Walbeck, State Republican Executive Committee; and 12 individuals)

Against — David Albert, ACC, American Federation of Teachers; Ted Melina Raab, American Federation of Teachers; Grace Chimene, League of Women Voters of Texas; Julie Gavran and Kristen Katz, Campaign to Keep Guns Off Campus; Troy Gay, Austin Police Department; Nicole Golden, Stephanie Lundy, Richard Martinez, Angela Turner, Nobie White, Moms Demand Action for Gun Sense in America; Chuck Hempstead, Texas Association of College Teachers; Frances Schenkan, Texas Gun Sense; and 10 individuals; (*Registered, but did not testify*:

Andrea Brauer, Anne Musial, Jonathan Panzer, Kimberly Taylor, Texas Gun Sense; Alexandra Chasse, Jamie Ford, Anna Kehde, Margie Medrano, Rosalie Oliveri, Susan Pintchovski, Donna Schmidt, Kelly Tagle, Bonnie Tompsett, Moms Demand Action for Gun Sense in America; Beaman Floyd, Texas Community College Teachers Association; Steven Johnson, Texas Association of Community Colleges; Merily Keller, Mental Health America of Texas, Texas Suicide Prevention Council; Neftali Partida, Houston Community College Board of Trustees; and 11 individuals)

On — William Adcox, The University of Texas Police at Houston; Justin Delosh, Lone Star Gun Rights; Pablo Frias, “We The People”; and five individuals; (*Registered, but did not testify*: Sherrie Zgabay, Texas Department of Public Safety)

BACKGROUND: Penal Code, sec. 46.03, makes it a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000) for a person to intentionally, knowingly, or recklessly possess or go with a firearm, illegal knife, club, or other prohibited weapon onto:

- the 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 vehicle of a school or educational institution, whether the school or institution is public or private.

Sec. 46.03 provides certain defenses to prosecution and also allows weapons to be carried in the places listed above pursuant to written regulations or written authorization of the institution.

Penal Code, sec. 30.06 creates an offense for a concealed handgun license holder who carries a handgun on someone’s property after receiving verbal or written notice that entry on the property by a concealed handgun license holder is forbidden, or remaining on and failing to depart such a property with a concealed handgun after receiving notice.

Government Code, ch. 411, subch. H establishes the eligibility requirements for concealed handgun licenses. The requirements include:

- being a legal resident of Texas or otherwise eligible for a nonresident license;
- being at least 21 years old unless the person is an honorably discharged member of the military who meets all other requirements;
- generally not having been convicted of or charged with criminal activity;
- being capable of exercising sound judgment for handgun use and storage and passing a mental health check;
- submitting fingerprints, paying a license fee, and passing a criminal history background check; and
- showing evidence of handgun use proficiency.

DIGEST:

SB 11 would allow concealed handgun license holders to carry concealed handguns onto the campuses of public higher education institutions or private or independent higher education institutions, including in passenger vehicles or any grounds or building on which an institution-sponsored activity was being conducted, unless the private or independent institutions opted out.

The bill would prohibit institutions of higher education from adopting any rules prohibiting license holders from carrying handguns on the institution's campus, with a few exceptions. These institutions could establish rules concerning storage of handguns in dormitories or other residential facilities that were owned or leased and operated by the institution and located on the institution campus.

Private institutions opt-out. The bill would allow a private or independent institution to choose not to allow handguns on campus. After consulting with students, staff, and faculty of the institution, these institutions could adopt rules prohibiting license holders from carrying concealed handguns on the institution campus, any grounds or building on which an activity sponsored by the institution was being conducted, or a

passenger transportation vehicle owned by the institution.

Hospitals and pre-K-12 schools on campus. The bill would prohibit anyone from carrying a concealed handgun on the premises of a hospital, preschool, elementary, or secondary school maintained by an institution of higher education if the institution posted appropriate notice in compliance with Penal Code, sec. 30.06.

Immunity. The bill would prevent a court from holding any of the following liable for damages caused by an applicant or a concealed handgun license holder or by an action or failure to perform a duty imposed by applicable concealed handgun license statutes:

- an institution of higher education;
- a private or independent institution of higher education that had not opted out of allowing handguns on campus; or
- an officer or employee of either.

A cause of action also could not be brought against any of the above institutions or individuals due to any damages caused by the actions of an applicant or license holder. These protections would not apply if the act or failure to act was capricious or arbitrary or if the conduct of any of these covered officers or employees with regard to their possession of the handgun on campus was the basis of a claim for personal injury or property damage.

This immunity would apply only to a cause of action that accrued on or after the effective date of this bill.

Penalty for open carry. The bill would create a class A misdemeanor offense (up to one year in jail and/or a maximum fine of \$4,000) for a license holder who intentionally or knowingly openly carried a handgun, regardless of whether the handgun was holstered:

- on the premises of an institution of higher education; or
- on any public or private driveway, street, sidewalk or parking area

of an institution of higher education.

The bill would create a defense to prosecution for a person who openly carried the handgun under circumstances in which the actor would have been justified in the use of force or deadly force. This penalty would not apply to the performance of a historical reenactment in compliance with statute.

The bill also would create an exemption for a license holder who committed an offense by carrying an open or concealed handgun at a high school, college, or professional sporting event if the individual carried a handgun on the premises of a collegiate sporting event and the individual was not given proper notice under Penal Code, sec. 30.06.

Penalty for unlawful campus carry. The bill would create a class A misdemeanor offense (up to one year in jail and/or a maximum fine of \$4,000) if an individual carried a handgun on the campus of a private or independent institution of higher education that had prohibited license holders from carrying handguns, as long as the institution provided notice under Penal Code, sec. 30.06. This would include carrying on the grounds or building on which an activity sponsored by the institution was being conducted or in a passenger transportation vehicle of the institution.

It would be a defense to prosecution under this section if the handgun was carried under circumstances in which the actor would have been justified in the use of force or deadly force. This penalty would not apply to the performance of a historical reenactment in compliance with statute.

This bill would take effect September 1, 2015, and would apply only to an offense committed on or after this date.

SUPPORTERS
SAY:

SB 11 would protect the right of a concealed handgun license holder to carry a handgun on the public property of an institution of higher education funded with taxpayer dollars. Individuals on college campuses should have the right to self-defense against a shooter who comes onto campus or anyone who wishes to commit a crime against them. This bill

would protect students, faculty, staff, or any campus visitor.

The bill would give universities flexibility to create their own rules for concealed handgun license holders on their campuses. Institutions could regulate the storage of handguns on campus, in dorms, and in university housing, to include completely prohibiting the storage of handguns in any campus residence if universities so chose. Many younger undergraduate students would not be allowed to carry or store guns in their dorms in any case, because an individual must be 21 years or older in order to obtain a concealed handgun license. Further, the bill would treat private colleges and universities the same as private businesses in allowing those institutions to opt out of allowing handguns on campus.

Prohibiting guns on college and university campuses creates weapon-free zones that are targets for criminals and campus shooters. Those wishing to commit a crime know that they could enter a campus without facing the prospect of civilians who could effectively fight back. This creates a dangerous environment in which students, faculty, and visitors might not be able to protect themselves.

Law enforcement officers responding to a shooting would not have any more issues differentiating between a criminal and licensed handgun holders defending themselves than they would face off-campus, where concealed carrying of handguns is allowed. Concealed handgun license holders learn in licensing courses that they cannot draw their weapons until and unless they encounter an imminent threat, and are trained to move away from danger.

Allowing licensed individuals to carry handguns on college and university campuses would not pose a danger to the community. The background check and licensing process to obtain a handgun license is extremely thorough and prevents people who have committed serious crimes from acquiring licenses. Moreover, concealed handgun license holders are much less likely than civilians who do not hold the license to commit a crime. If a handgun license holder who was carrying a concealed weapon on a campus did commit a crime, existing laws would be enforced against

that individual.

This bill would not affect places where license holders are not otherwise allowed to carry handguns, such as hospitals and pre-K-12 schools, even if those prohibited places were on a college campus where carrying of a handgun would generally be allowed under the bill.

OPPONENTS
SAY:

SB 11 could contribute to a more dangerous environment and a culture of fear at Texas' colleges and universities by allowing the concealed carry of handguns on campus.

The bill would mandate policy for all universities, but each university is unique and the decision whether or not to allow the carrying of handguns on a campus should be left to each campus. Boards of regents, chancellors, and presidents of Texas universities should be trusted to make decisions on handgun policy and the costs of campus carry for their own institutions. The bill should include an opt-in policy for institutions to grant local control.

An increase of lethal weapons on campus would detract from an environment intended to foster learning and academic debate. More guns on campus could reinforce a siege mentality and a generalized feeling that people are under assault. College students and professors should have the freedom to discuss ideas without the potential intimidation factor of handguns in the classroom.

Officers responding to a shooting could have difficulty differentiating between shooters if one or more people with concealed handgun licenses were trying to stop an aggressor. Even with the required training and education that comes with a license, shooting calmly and with precision is extremely difficult. This lack of ability and experience can contribute to casualties from crossfire.

The bill could increase the risk of handguns not being secured properly in a campus residence or on a person, which could lead to weapons falling into the wrong hands. With an environment of young students who may

be drinking on or off campus, securing weapons is especially important, but also very challenging. Colleges and university mental health officials also worry about the correlation between guns and suicide. Suicide is a leading cause of death of university students, and increasing access to an effective means of impulsively taking one's own life could increase its incidence.

The bill could make Texas universities less competitive for recruiting and retaining top faculty. Published reports of campus surveys suggest that a large majority of faculty oppose the presence of concealed handguns. Faculty members might be more inclined to accept an offer of employment in a state where campuses did not permit the concealed carry of handguns rather than at a Texas higher education institution. The bill also would increase costs for universities incurred for gun lockers, training for staff and campus security, and additional administrative personnel, which would require either increases in state appropriations or tuition collected or a reduction or discontinuation of other student services or activities.

OTHER
OPPONENTS
SAY:

SB 11 inappropriately would protect private property rights over constitutional rights. Private universities should not be allowed to opt out of the bill just because they are private property. All concealed handgun license holders should be able to carry their handguns lawfully on any university campus. The right to self-defense for students of private universities should not be infringed by university regulations.