

SUBJECT: Requiring certain establishments to allow peace officers to carry weapons

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

VOTE: 9 ayes — P. King, Nevárez, Burns, Hinojosa, Holland, J. Johnson,
Metcalf, Schaefer, Wray

0 nays

WITNESSES: For — Chris Jones, Combined Law Enforcement Associations of Texas (CLEAT); (*Registered, but did not testify*: Bill Kelly, City of Houston Mayor's Office; David Sinclair, Game Warden Peace Officers Association; Justin Bragiel, Texas Hotel and Lodging Association; Mitch Landry, Texas Municipal Police Association (TMPA); James McLaughlin, Texas Police Chiefs Association)

Against — Terry Holcomb, Texas Carry; (*Registered, but did not testify*: John-Michael Gillaspay, Texas Carry; Thomas Parkinson)

BACKGROUND: Penal Code, sec. 46.02 establishes a crime for the unlawful carrying of weapons. Sec. 46.03 establishes a crime for carrying a weapon in a place where weapons are prohibited.

Sec. 46.15 establishes that secs. 46.02 and 46.03 do not apply to peace officers and special investigators, and neither section prohibits them from carrying a weapon in Texas, including in an establishment serving the public, regardless of whether the officer or investigator is on duty.

DIGEST: HB 873 would require an establishment serving the public to not prohibit or otherwise restrict a peace officer or special investigator from carrying on its premises a weapon that the officer or investigator was otherwise authorized to carry, regardless of whether the officer or investigator was on duty.

An establishment serving the public would be defined as:

- a hotel, motel, or other place of lodging;
- a restaurant or other place where food was sold to the public;
- a commercial establishment or office building open to the public;
- a sports venue, including an arena or stadium used for amateur or professional events that charges an admission fee; and
- any other place of public accommodation, amusement, convenience, or resort to which the general public is normally invited.

The bill would take effect September 1, 2017, and would apply only to conduct that occurred on or after that date.

**SUPPORTERS
SAY:**

HB 873 would clarify that police officers and certain federal agents are permitted by law to carry weapons on the premises of establishments serving the public. While current law on carrying weapons does not apply to officers on these premises, questions have been raised about this authority when public venues have attempted to deny entry to off-duty police officers carrying weapons. In application, current law prevents these officers from being charged with a crime, but it is not understood to give them the right to carry on these properties.

Some law enforcement agencies have policies requiring officers to carry a firearm while off duty to comply with the duty of peace officers, which is assumed to apply regardless of whether an officer is on the clock. Various public venues currently prohibit weapons on their premises, and some of them screen people before allowing them to enter. Off-duty officers may be denied entry to these venues by complying with their agency's policy. The right granted to officers by this bill would allow officers to tell establishments that they have statutory authority to carry.

The bill would not expand the places where police officers and certain federal agents may carry weapons. Rather, it would clarify that they had the right to carry a weapon in establishments that serve the public, even while off duty. Further, the bill would not take away a private property owner's right to ask an individual to leave if the individual violated a

trespassing notice.

OPPONENTS
SAY:

By prohibiting an establishment serving the public from forbidding a police officer or special investigator from carrying a weapon on its premises, HB 873 would infringe on the rights of private business owners to determine who can and cannot carry a weapon on their property. Under Penal Code, secs. 30.06 and 30.07, the gun trespass statutes, a private business may prohibit individuals from carrying a firearm on its premises. The bill would create a specific category of individuals allowed to carry on the property even if the owner had chosen to prohibit weapons in the establishment.

OTHER
OPPONENTS
SAY:

HB 873 would not go far enough to address how its provisions would be enforced. It would be clearer to add language that established a defense to prosecution under the gun trespass statutes for peace officers, regardless of whether they were on duty.