

SUBJECT: Allowing hotel guests to carry, store firearms and ammo on hotel property

COMMITTEE: Homeland Security and Public Safety — committee substitute recommended

VOTE: 7 ayes — White, Harless, Hefner, E. Morales, Patterson, Schaefer, Tinderholt

2 nays — Bowers, Goodwin

WITNESSES: For — Richard Briscoe, Open Carry Texas; Tara Mica, National Rifle Association; Dee (Diana) Chambless, Smith County Republican Women; and 11 individuals; (*Registered, but did not testify*: Frederick Frazier, Dallas Police Association and State FOP; Stacy McMahan, East Texans for Liberty; Felisha Bull and Rachel Malone, Gun Owners of America; Brian Hawthorne and AJ Louderback, Sheriffs Association of Texas; Andi Turner, Texas State Rifle Association; and 22 individuals)

Against — Gyl Switzer and Louis Wichers, Texas Gun Sense; Ling Zhu

On — Justin Bragiel, Texas Hotel and Lodging Association; (*Registered, but did not testify*: Thomas Parkinson)

BACKGROUND: Penal Code sec. 30.05 establishes an offense for criminal trespassing if a person enters or remains on someone else's property without consent and the person knew entry was forbidden or failed to leave after being asked to do so. The penalty generally ranges from a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000) to a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000), depending on where it was committed.

Under secs. 30.06 and 30.07, a handgun license holder may not conceal or openly carry a handgun on another's property without consent if the license holder received oral or written notice that entry on the property by a license holder was forbidden. The offenses generally are class C misdemeanors punishable by a fine not to exceed \$200, except that they

are class A misdemeanors if the license holder failed to leave after being asked to do so.

DIGEST:

CSHB 1856 would prohibit a hotel, unless possession of a handgun or other firearm or ammunition on hotel property was prohibited by state or federal law, from adopting a policy prohibiting a hotel guest from:

- carrying or storing a firearm or ammunition in the guest's room or in the guest's vehicle on the hotel property; or
- carrying a firearm or ammunition directly en route to or from the hotel or the guest's room or to or from the guest's vehicle located on the hotel property.

A hotel could adopt a policy requiring a hotel guest carrying a firearm or ammunition in a common area on the property to carry the items in a concealed manner or in a case or bag.

The bill would create defenses to prosecution for the offenses of criminal trespass, trespass by license holder with a concealed handgun, and trespass by license holder with an openly carried handgun under Penal Code secs. 30.05, 30.06, and 30.07, respectively, if the actor or license holder was a guest of a hotel and:

- carried or stored a firearm, ammunition, or a handgun in the hotel room or in the actor's or license holder's vehicle located on the hotel property; or
- carried a firearm, ammunition, or a handgun directly en route to or from the hotel or the hotel room or to or from the actor's or license holder's vehicle located on the hotel property.

The bill would define "hotel" to mean a hotel, motel, inn, or similar business entity that offered more than 10 rooms to the public for temporary lodging for a fee.

The bill would take effect September 1, 2021, and the defenses to prosecution under the bill would apply only to an offense committed on or

after that date.

**SUPPORTERS
SAY:**

CSHB 1856 would protect the rights of Texans to lawfully keep their firearms with them by prohibiting hotels from establishing a policy forbidding such actions. Currently, if a hotel decides to prohibit the concealed or open carrying of handguns on its premises, it may provide such notice.

It can be difficult to determine a hotel's policy, and travelers sometimes arrive at hotels to find the facility prohibits firearms and that they cannot bring in their weapon. This can force license holders complying with the hotel policy to leave their weapon in their vehicle, which can be unadvisable. Law-abiding Texans who are hotel guests should be allowed to keep their weapons safe and secure near them and to carry their weapons from their vehicle to their room.

CSHB 1856 would be a logical extension of current laws, including one covering law-abiding apartment dwellers carrying and keeping their firearms. Hotels have opened themselves up to the public, and guests should know that they will be able to bring their firearms to and from their rooms. Hotels would retain control of their property, as the bill ensures they have the discretion to require that firearms and ammunition be carried in a concealed manner.

**CRITICS
SAY:**

CSHB 1856 would infringe on the right of hotels to exercise control over their property and prohibit the carrying of firearms on their premises. Hotels should be able to choose to have a gun-free establishment, something they might do as part of their business model. Individuals or businesses might prefer a gun-free hotel, and CSHB 1856 would take away options for hotels to provide such a service. Those who want to bring firearms to a hotel easily could contact the hotel before arrival and determine the establishment's policy.