

## **BILL ANALYSIS**

Senate Research Center  
84R5599 JSC-D

S.B. 17  
By: Estes  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Texas is one of only six states that do not permit their citizens to openly carry handguns under any circumstances. The other states are California, Florida, Illinois, New York, and South Carolina. Forty-four states allow open carry in some form.

S.B. 17 authorizes open carry of handguns in Texas by anyone with a license, as long as the handguns are carried in shoulder or belt holsters. The new license to carry created by this bill replaces the existing concealed handgun license. Applicants have to meet the same requirements that they currently do to get a concealed handgun license.

- The concealed handgun license would become a license to carry a handgun.
- A licensee could legally carry a handgun either (1) openly in a shoulder or belt holster or (2) concealed in any manner.
- Property owners could still prevent people from carrying on their premises by posting state-sanctioned signs.
- People who already have concealed handgun licenses would not have to re-apply; their licenses would automatically allow open carry after the effective date of the bill.

As proposed, S.B. 17 amends current law relating to the authority of a person who is licensed to carry a handgun to openly carry a holstered handgun, creates a criminal offense, and provides penalties.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the Department of Public Safety of the State of Texas is modified in SECTION 15 (Section 411.0625, Government Code) of this bill.

Rulemaking authority previously granted to the public safety director is modified in SECTION 21 (Section 411.185, Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 11.041(a), Alcoholic Beverage Code, to change a reference to a concealed handgun to a handgun.

SECTION 2. Amends Section 11.61(e), Alcoholic Beverage Code, to make a conforming change.

SECTION 3. Amends Section 61.11(a), Alcoholic Beverage Code, to make a conforming change.

SECTION 4. Amends Section 61.71(f), Alcoholic Beverage Code, to make a conforming change.

SECTION 5. Amends Article 7A.05(c), Code of Criminal Procedure, to change a reference to a concealed handgun to a handgun.

SECTION 6. Amends Article 17.292(l), Code of Criminal Procedure, to make a conforming change.

SECTION 7. Amends Article 17.293, Code of Criminal Procedure, to make a conforming change.

SECTION 8. Amends Sections 37.0811(d) and (f), Education Code, to change references to a concealed handgun to a handgun.

SECTION 9. Amends Section 63.0101, Election Code, to change a reference to a concealed handgun to a handgun.

SECTION 10. Amends Section 2.005(b), Family Code, to change a reference to a concealed handgun to a handgun.

SECTION 11. Amends Section 58.003(m), Family Code, to make a conforming change.

SECTION 12. Amends Section 85.022(d), Family Code, to make a conforming change.

SECTION 13. Amends Section 85.042(e), Family Code, to make a conforming change.

SECTION 14. Amends the heading to Section 411.047, Government Code, to read as follows:

Sec. 411.047. REPORTING RELATED TO CERTAIN HANDGUN INCIDENTS INVOLVING LICENSE HOLDERS.

SECTION 15. Amends Section 411.0625, Government Code, as follows:

Sec. 411.0625. PASS FOR EXPEDITED ACCESS TO CAPITOL. (a) Requires the Department of Public Safety of the State of Texas (DPS) to allow a person to enter the Capitol and the Capitol Extension, including any public space in the Capitol or Capitol Extension, in the same manner as DPS allows entry to a person who presents a license to carry a handgun, rather than a concealed handgun license, under Subchapter H if the person meets certain requirements.

(b) Amends this subsection to change a reference to a concealed handgun to a handgun.

(c) Requires DPS to adopt rules to establish a procedure by which a resident of the state may apply for and be issued a Capitol access pass. Requires that rules adopted under this section include provisions for eligibility, application, approval, issuance, and renewal that:

(1) require DPS to conduct the same background check on an applicant for a Capitol access pass that is conducted on an applicant for a license to carry a handgun, rather than a concealed handgun license, under Subchapter H;

(2) enable DPS to conduct the background check described by Subdivision (1); and

(3) establish application and renewal fees in amounts sufficient to cover the cost of administering this section, not to exceed the amounts of similar fees required under Section 411.174 (Application) for a license to carry a handgun, rather than for a concealed handgun license. Makes a nonsubstantive change.

SECTION 16. Amends the heading to Subchapter H, Chapter 411, Government Code, to read as follows:

SUBCHAPTER H. LICENSE TO CARRY A HANDGUN

SECTION 17. Amends Sections 411.172(a), (b-1), (g), and (h), Government Code, to change references to a concealed handgun to a handgun.

SECTION 18. Amends Section 411.173(b), Government Code, to make a conforming change.

SECTION 19. Amends Section 411.174(a), Government Code, to make a conforming change.

SECTION 20. Amends Section 411.177(a), Government Code, to make a conforming change.

SECTION 21. Amends Section 411.185(c), Government Code, as follows:

(c) Requires the public safety director of the Department of Public Safety of the State of Texas (director) by rule to adopt an informational form that describes state law regarding the use of deadly force and the places where it is unlawful for the holder of a license issued under this subchapter to carry a handgun, rather than a concealed handgun. Requires an applicant for a renewed license to sign and return the informational form to the DPS by mail or acknowledge the form electronically on the Internet according to the procedure adopted under Subsection (f) (relating to the renewal of a license to carry a handgun).

SECTION 22. Amends Section 411.188(g), Government Code, to make a conforming change.

SECTION 23. Amend Sections 411.190(c) and (f), Government Code, to make conforming changes.

SECTION 24. Amends Section 411.1901(c), Government Code, to make a conforming change.

SECTION 25. Amends Section 411.198(a), Government Code, to make a conforming change.

SECTION 26. Amends Sections 411.201(c), (d), (e), and (h), Government Code, to make conforming changes.

SECTION 27. Amends Section 411.203, Government Code, to make a conforming change.

SECTION 28. Amends Section 411.2032(b), Government Code, as follows:

(b) Prohibits an institution of higher education or private or independent institution of higher education in this state from adopting or enforcing any rule, regulation, or other provision or taking any other action, including posting notice under Section 30.06 or 30.07 (Trespass by License Holder With an Openly Carried Handgun), Penal Code, prohibiting or placing restrictions on the storage or transportation of a firearm or ammunition in a locked and privately owned or leased motor vehicle by a person, including a student enrolled at that institution, who holds a license to carry a handgun, rather than a concealed handgun, under this subchapter and lawfully possesses the firearm or ammunition in certain locations.

SECTION 29. Amends Section 12.092(b), Health and Safety Code, to change a reference to a concealed handgun to a handgun.

SECTION 30. Amends Sections 52.061 and 52.062, Labor Code, to change references to a concealed handgun to a handgun.

SECTION 31. (a) Amends Section 118.011(b), Local Government Code, as effective until September 1, 2019, to change a reference to a concealed weapon to a handgun.

(b) Effective date of this section: September 1, 2015.

SECTION 32. (a) Amends Section 118.011(b), Local Government Code, as effective September 1, 2019, to change a reference to a concealed weapon to a handgun.

(b) Effective date of this section: September 1, 2019.

SECTION 33. Amends Section 118.0217(a), Local Government Code, to change a reference to a concealed weapon to a handgun and to change a reference to a concealed handgun to a handgun.

SECTION 34. Amends Section 229.001(b), Local Government Code, to make a conforming change.

SECTION 35. Amends the heading to Section 1701.260, Occupations Code, to read as follows:

**Sec. 1701.260. TRAINING FOR HOLDERS OF LICENSE TO CARRY A HANDGUN;  
CERTIFICATION OF ELIGIBILITY FOR APPOINTMENT AS SCHOOL MARSHAL.**

SECTION 36. Amends Sections 1701.260(a) and (i), Occupations Code, to change references to a concealed handgun to handgun.

SECTION 37. Amends Section 1702.206(b), Occupations Code, to require an individual who is acting as a personal protection officer and is not wearing the uniform of a security officer to conceal the firearm, regardless of whether the individual is authorized to openly carry the firearm under any other law.

SECTION 38. Amends Sections 62.082(d) and (e), Parks and Wildlife Code, to change references to a concealed handgun to a handgun.

SECTION 39. Amends Section 284.001(e), Parks and Wildlife Code, to make a conforming change.

SECTION 40. Amends Section 30.05(f), Penal Code, as follows:

(f) Provides that it is a defense to prosecution under this section that the person was carrying a license issued under Subchapter H, Chapter 411, Government Code, to carry a handgun and was carrying a handgun in a concealed manner or in a shoulder or belt holster, rather than carrying a concealed handgun and a license issued under Subchapter H, Chapter 411, Government Code, to carry a concealed handgun.

SECTION 41. Amends the heading to Section 30.06, Penal Code, to read as follows:

**Sec. 30.06. TRESPASS BY LICENSE HOLDER WITH A CONCEALED HANDGUN.**

SECTION 42. Amends Section 30.06(a), Penal Code, to provide that a license holder commits an offense if the license holder carries a concealed handgun under the authority of Subchapter H, Chapter 411, Government Code, on property of another without effective consent, and received notice that entry on the property by a license holder with a concealed handgun was forbidden, or remaining on the property with a concealed handgun was forbidden and failed to depart.

SECTION 43. Amends Section 30.06(c)(3), Penal Code, to redefine "written communication" to incorporate conforming changes.

SECTION 44. Amends Chapter 30, Penal Code, by adding Section 30.07, as follows:

**Sec. 30.07. TRESPASS BY LICENSE HOLDER WITH AN OPENLY CARRIED  
HANDGUN.** (a) Provides that a license holder commits an offense if the license holder:

(1) openly carries a handgun under the authority of Subchapter H, Chapter 411, Government Code, on property of another without effective consent; and

(2) received notice that:

(A) entry on the property by a license holder openly carrying a handgun was forbidden; or

(B) remaining on the property while openly carrying a handgun was forbidden and failed to depart.

(b) Provides that, for purposes of this section, a person receives notice if the owner of the property or someone with apparent authority to act for the owner provides notice to the person by oral or written communication.

(c) Defines in this section, "entry," "license holder," and "written communication."

(d) Provides that an offense under this section is a Class A misdemeanor.

(e) Provides that it is an exception to the application of this section that the property on which the license holder openly carries the handgun is owned or leased by a governmental entity and is not a premises or other place on which the license holder is prohibited from carrying the handgun under Section 46.03 or 46.035.

(f) Provides that it is not a defense to prosecution under this section that the handgun was carried in a shoulder or belt holster.

SECTION 45. Amends Section 46.02(a-1), Penal Code, as follows:

(a-1) Provides that a person commits an offense if the person intentionally, knowingly, or recklessly carries on or about his or her person a handgun in a motor vehicle or watercraft that is owned by the person or under the person's control at any time in which the handgun is in plain view, unless the person is licensed to carry a handgun under Subchapter H, Chapter 411, Government Code, and the handgun is carried in a shoulder or belt holster.

SECTION 46. Amends Section 46.03(f), Penal Code, to make a conforming change.

SECTION 47. Amends Sections 46.035(a), (b), (c), (d), and (i), Penal Code, as follows:

(a) Provides that a license holder commits an offense if the license holder carries a handgun on or about the license holder's person under the authority of Subchapter H, Chapter 411, Government Code, and intentionally displays the handgun in plain view of another person in a public place. Provides that it is an exception to the application of this subsection that the handgun was partially or wholly visible but was carried in a shoulder or belt holster by the license holder.

(b) Provides that a license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun under the authority of Subchapter H, Chapter 411, Government Code, regardless of whether the handgun is concealed or carried in a shoulder or belt holster, on or about the license holder's person on certain enumerated premises.

(c) Provides that a license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun under the authority of Subchapter H, Chapter

411, Government Code, regardless of whether the handgun is concealed or carried in a shoulder or belt holster, at any meeting of a governmental entity.

(d) Provides that a license holder commits an offense if, while intoxicated, the license holder carries a handgun under the authority of Subchapter H, Chapter 411, Government Code, regardless of whether the handgun is concealed or carried in a shoulder or belt holster.

(i) Provides that Subsections (b)(4), (b)(5), (b)(6), and (c) do not apply if the actor was not given effective notice under Section 30.06 or 30.07.

SECTION 48. Amends Sections 46.15(a) and (b), Penal Code, as follows:

(a) Makes conforming and nonsubstantive changes.

(b)(6) Provides that Section 46.02 does not apply to a person who is carrying a license, rather than a concealed handgun and a valid license, issued under Subchapter H, Chapter 411, Government Code, to carry a handgun, rather than a concealed handgun, and a handgun in a concealed manner, or in a shoulder or belt holster.

SECTION 49. Repealer: Section 411.171(3) (defining "concealed handgun"), Government Code.

SECTION 50. Provides that the change in law made by this Act relating to the authority of a license holder to openly carry a holstered handgun applies to the carrying of a handgun on or after the effective date of this Act by any person who holds a license issued under Subchapter H, Chapter 411, Government Code, regardless of whether the person's license was issued before, on, or after the effective date of this Act, or who applies for the issuance of a license under that subchapter, regardless of whether the person applied for the license before, on, or after the effective date of this Act.

SECTION 51. Makes application of Sections 62.082 and 284.001, Parks and Wildlife Code, and to Sections 30.05, 30.06, 46.02, 46.03, 46.035, and 46.15, Penal Code, as amended by this Act, prospective.

SECTION 52. Effective date, except as otherwise provided by this Act: September 1, 2015.