

BILL ANALYSIS

Senate Research Center

H.B. 302
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State Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 302 seeks to protect the rights of owners and tenants of a residential unit (apartment, condominium, and manufactured housing) to lawfully possess firearms and ammunition in those locations, and to transport them directly en route between their residential units and their vehicles.

H.B. 302 amends current law relating to the carrying, storage, or possession of a firearm or firearm ammunition by certain persons on certain residential or commercial property.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 30.05, Penal Code, by adding Subsections (f-1), (f-2), and (f-3), as follows:

(f-1) Provides that it is a defense to prosecution under this section (Criminal Trespass) that:

(1) the basis on which entry on the property was forbidden is that entry with a firearm or firearm ammunition was forbidden;

(2) the actor is:

(A) an owner of an apartment in a condominium regime governed by Chapter 81 (Condominiums Created Before Adoption of Uniform Condominium Act), Property Code;

(B) an owner of a condominium unit governed by Chapter 82 (Uniform Condominium Act), Property Code;

(C) a tenant or guest of an owner described by Paragraph (A) or (B); or

(D) a guest of a tenant of an owner described by Paragraph (A) or (B);

(3) the actor:

(A) carries or stores a firearm or firearm ammunition in the condominium apartment or unit owner's apartment or unit;

(B) carries a firearm or firearm ammunition directly en route to or from the condominium apartment or unit owner's apartment or unit;

(C) carries a firearm or firearm ammunition directly en route to or from the actor's vehicle located in a parking area provided for residents or guests of the condominium property; or

(D) carries or stores a firearm or firearm ammunition in the actor's vehicle located in a parking area provided for residents or guests of the condominium property; and

(4) the actor is not otherwise prohibited by law from possessing a firearm or firearm ammunition.

(f-2) Provides that it is a defense to prosecution under this section that:

(1) the basis on which entry on a leased premises governed by Chapter 92 (Residential Tenancies), Property Code, was forbidden is that entry with a firearm or firearm ammunition was forbidden;

(2) the actor is a tenant of the leased premises or the tenant's guest;

(3) the actor:

(A) carries or stores a firearm or firearm ammunition in the tenant's rental unit;

(B) carries a firearm or firearm ammunition directly en route to or from the tenant's rental unit;

(C) carries a firearm or firearm ammunition directly en route to or from the actor's vehicle located in a parking area provided for tenants or guests by the landlord of the leased premises; or

(D) carries or stores a firearm or firearm ammunition in the actor's vehicle located in a parking area provided for tenants or guests by the landlord of the leased premises; and

(4) the actor is not otherwise prohibited by law from possessing a firearm or firearm ammunition.

(f-3) Provides that it is a defense to prosecution under this section that:

(1) the basis on which entry on a leased premises governed by Chapter 94 (Manufactured Home Tenancies), Property Code, was forbidden is that entry with a firearm or firearm ammunition was forbidden;

(2) the actor is a tenant of a manufactured home lot or the tenant's guest;

(3) the actor:

(A) carries or stores a firearm or firearm ammunition in the tenant's manufactured home;

(B) carries a firearm or firearm ammunition directly en route to or from the tenant's manufactured home;

(C) carries a firearm or firearm ammunition directly en route to or from the actor's vehicle located in a parking area provided for tenants or tenants' guests by the landlord of the leased premises; or

(D) carries or stores a firearm or firearm ammunition in the actor's vehicle located in a parking area provided for tenants or tenants' guests by the landlord of the leased premises; and

(4) the actor is not otherwise prohibited by law from possessing a firearm or firearm ammunition.

SECTION 2. Amends Section 30.06, Penal Code, by adding Subsections (e-1), (e-2), and (e-3), as follows:

(e-1) Provides that it is a defense to prosecution under this section (Trespass by License Holder With a Concealed Handgun) that:

(1) the license holder is:

(A) an owner of an apartment in a condominium regime governed by Chapter 81, Property Code;

(B) an owner of a condominium unit governed by Chapter 82, Property Code;

(C) a tenant or guest of an owner described by Paragraph (A) or (B); or

(D) a guest of a tenant of an owner described by Paragraph (A) or (B); and

(2) the license holder:

(A) carries or stores a handgun in the condominium apartment or unit owner's apartment or unit;

(B) carries a handgun directly en route to or from the condominium apartment or unit owner's apartment or unit;

(C) carries a handgun directly en route to or from the license holder's vehicle located in a parking area provided for residents or guests of the condominium property; or

(D) carries or stores a handgun in the license holder's vehicle located in a parking area provided for residents or guests of the condominium property.

(e-2) Provides that it is a defense to prosecution under this section that:

(1) the license holder is a tenant of a leased premises governed by Chapter 92, Property Code, or the tenant's guest; and

(2) the license holder:

(A) carries or stores a handgun in the tenant's rental unit;

(B) carries a handgun directly en route to or from the tenant's rental unit;

(C) carries a handgun directly en route to or from the license holder's vehicle located in a parking area provided for tenants or guests by the landlord of the leased premises; or

(D) carries or stores a handgun in the license holder's vehicle located in a parking area provided for tenants or guests by the landlord of the leased premises.

(e-3) Provides that it is a defense to prosecution under this section that:

(1) the license holder is a tenant of a manufactured home lot governed by Chapter 94, Property Code, or the tenant's guest; and

(2) the license holder:

(A) carries or stores a handgun in the tenant's manufactured home;

(B) carries a handgun directly en route to or from the tenant's manufactured home;

(C) carries a handgun directly en route to or from the license holder's vehicle located in a parking area provided for tenants or tenants' guests by the landlord of the leased premises; or

(D) carries or stores a handgun in the license holder's vehicle located in a parking area provided for tenants or tenants' guests by the landlord of the leased premises.

SECTION 3. Amends Section 30.07, Penal Code, by adding Subsections (e-1), (e-2), and (e-3), as follows:

(e-1) Provides that it is a defense to prosecution under this section (Trespass by License Holder With an Openly Carried Handgun) that:

(1) the license holder is:

(A) an owner of an apartment in a condominium regime governed by Chapter 81, Property Code;

(B) an owner of a condominium unit governed by Chapter 82, Property Code;

(C) a tenant or guest of an owner described by Paragraph (A) or (B); or

(D) a guest of a tenant of an owner described by Paragraph (A) or (B); and

(2) the license holder:

(A) carries or stores a handgun in the condominium apartment or unit owner's apartment or unit;

(B) carries a handgun directly en route to or from the condominium apartment or unit owner's apartment or unit;

(C) carries a handgun directly en route to or from the license holder's vehicle located in a parking area provided for residents or guests of the condominium property; or

(D) carries or stores a handgun in the license holder's vehicle located in a parking area provided for residents or guests of the condominium property.

(e-2) Provides that it is a defense to prosecution under this section that:

(1) the license holder is a tenant of a leased premises governed by Chapter 92, Property Code, or the tenant's guest; and

(2) the license holder:

- (A) carries or stores a handgun in the tenant's rental unit;
- (B) carries a handgun directly en route to or from the tenant's rental unit;
- (C) carries a handgun directly en route to or from the license holder's vehicle located in a parking area provided for tenants or guests by the landlord of the leased premises; or
- (D) carries or stores a handgun in the license holder's vehicle located in a parking area provided for tenants or guests by the landlord of the leased premises.

(e-3) Provides that it is a defense to prosecution under this section that:

(1) the license holder is a tenant of a manufactured home lot governed by Chapter 94, Property Code, or the tenant's guest; and

(2) the license holder:

- (A) carries or stores a handgun in the tenant's manufactured home;
- (B) carries a handgun directly en route to or from the tenant's manufactured home;
- (C) carries a handgun directly en route to or from the license holder's vehicle located in a parking area provided for tenants or tenants' guests by the landlord of the leased premises; or
- (D) carries or stores a handgun in the license holder's vehicle located in a parking area provided for tenants or tenants' guests by the landlord of the leased premises.

SECTION 4. Amends Section 82.002, Property Code, by adding Subsection (c-1) to provide that Section 82.121 applies to a condominium for which the declaration was recorded before January 1, 1994.

SECTION 5. Amends Subchapter C, Chapter 82, Property Code, by adding Section 82.121, as follows:

Sec. 82.121. POSSESSION OF FIREARM OR FIREARM AMMUNITION ON CONDOMINIUM PROPERTY. (a) Prohibits a condominium unit owner, or a tenant or guest of a condominium unit owner, or a guest of a tenant of a condominium unit owner, unless possession of a firearm or firearm ammunition on condominium property is prohibited by state or federal law, from being prohibited from lawfully possessing, carrying, transporting, or storing a firearm, any part of a firearm, or firearm ammunition:

- (1) in the condominium unit owner's unit;
- (2) in a vehicle located in a parking area provided for the residents or guests of the condominium property; or
- (3) in other common element locations as necessary to:
 - (A) enter or exit the condominium property;
 - (B) enter or exit the condominium unit owner's unit; or

(C) enter or exit a vehicle on the condominium property or located in a parking area provided for residents or guests of the condominium property.

(b) Provides that this section applies notwithstanding any provision of a dedicatory instrument to the contrary and regardless of the date of the provision's adoption.

SECTION 6. Amends Subchapter A, Chapter 92, Property Code, by adding Section 92.026, as follows:

Sec. 92.026. POSSESSION OF FIREARMS OR FIREARM AMMUNITION ON LEASED PREMISES. Prohibits a landlord, unless possession of a firearm or firearm ammunition on a landlord's property is prohibited by state or federal law, from prohibiting a tenant or a tenant's guest from lawfully possessing, carrying, transporting, or storing a firearm, any part of a firearm, or firearm ammunition:

- (1) in the tenant's rental unit;
- (2) in a vehicle located in a parking area provided for tenants or guests by the landlord of the leased premises; or
- (3) in other locations controlled by the landlord as necessary to:
 - (A) enter or exit the tenant's rental unit;
 - (B) enter or exit the leased premises; or
 - (C) enter or exit a vehicle on the leased premises or located in a parking area provided by the landlord for tenants or guests.

SECTION 7. Amends Subchapter F, Chapter 94, Property Code, by adding Section 94.257, as follows:

Sec. 94.257. POSSESSION OF FIREARM OR FIREARM AMMUNITION ON LEASED PREMISES. Prohibits a landlord, unless possession of a firearm or firearm ammunition on a landlord's property is prohibited by state or federal law, from prohibiting a tenant or a tenant's guest from lawfully possessing, carrying, transporting, or storing a firearm, any part of a firearm, or firearm ammunition:

- (1) in the tenant's manufactured home;
- (2) in a vehicle located in a parking area provided for tenants or tenants' guests by the landlord of the leased premises; or
- (3) in other locations controlled by the landlord as necessary to:
 - (A) enter or exit the tenant's manufactured home;
 - (B) enter or exit the leased premises; or
 - (C) enter or exit a vehicle on the leased premises or located in a parking area provided by the landlord for tenants or tenants' guests.

SECTION 8. Makes application of Sections 30.05, 30.06, and 30.07, Penal Code, as amended by this Act, prospective. Provides that, for purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 9. Provides that Sections 92.026 and 94.257, Property Code, as added by this Act, do not affect the enforceability of a provision in a lease agreement entered into or renewed before the effective date of this Act.

SECTION 10. Effective date: September 1, 2019.