

By: White

H.B. No. 1911

Substitute the following for H.B. No. 1911:

By: \_\_\_\_\_

C.S.\_\_\_\_.B. No. \_\_\_\_\_

A BILL TO BE ENTITLED

1 AN ACT

2 relating to granting authority to carry a firearm to certain  
3 unlicensed persons and to related regulatory provisions and  
4 criminal offenses.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. The heading to Subchapter H, Chapter 411,  
7 Government Code, is amended to read as follows:

8 SUBCHAPTER H. LICENSE TO CARRY [~~A~~] HANDGUN AND OTHER PROVISIONS  
9 RELATING TO CARRYING OF FIREARMS

10 SECTION 2. Sections 411.1741(a) and (b), Government Code,  
11 are amended to read as follows:

12 (a) When a person applies for an original or renewal license  
13 to carry a [~~concealed~~] handgun under this subchapter, the person  
14 may make a voluntary contribution in any amount to the fund for  
15 veterans' assistance established by Section 434.017.

16 (b) The department shall:

17 (1) include space on the first page of each  
18 application for an original or renewal license to carry a  
19 [~~concealed~~] handgun that allows a person applying for an original  
20 or renewal license to carry a [~~concealed~~] handgun to indicate the  
21 amount that the person is voluntarily contributing to the fund; and

22 (2) provide an opportunity for the person to  
23 contribute to the fund during the application process for an  
24 original or renewal license to carry a [~~concealed~~] handgun on the

1 department's Internet website.

2 SECTION 3. Section 411.204(c), Government Code, is amended  
3 to read as follows:

4 (c) The sign required under Subsections (a) and (b) must  
5 give notice in both English and Spanish that it is unlawful for a  
6 person, including a person licensed under this subchapter or a  
7 person otherwise legally authorized to carry a handgun, to carry a  
8 handgun on the premises. The sign must appear in contrasting colors  
9 with block letters at least one inch in height and must include on  
10 its face the number "51" printed in solid red at least five inches  
11 in height. The sign shall be displayed in a conspicuous manner  
12 clearly visible to the public.

13 SECTION 4. Section 411.205, Government Code, is amended to  
14 read as follows:

15 Sec. 411.205. REQUIREMENT TO DISPLAY IDENTIFICATION AND  
16 HANDGUN LICENSE. If a person [~~license holder~~] is carrying a handgun  
17 [~~on or about the license holder's person~~] when a magistrate or a  
18 peace officer demands that the person [~~license holder~~] display  
19 identification, the person [~~license holder~~] shall display [~~both~~]  
20 the person's [~~license holder's~~] driver's license or identification  
21 certificate issued by the department or other proof of identity. If  
22 the person is a license holder under this subchapter and is carrying  
23 the person's handgun license, the person also shall display [~~and~~]  
24 the person's [~~license holder's~~] handgun license.

25 SECTION 5. Sections 411.207(b) and (c), Government Code,  
26 are amended to read as follows:

27 (b) A peace officer who is acting in the lawful discharge of

1 the officer's official duties may temporarily disarm a person who  
2 is a license holder or otherwise legally authorized to carry a  
3 handgun when the person [~~a license holder~~] enters a nonpublic,  
4 secure portion of a law enforcement facility, if the law  
5 enforcement agency provides a gun locker where the peace officer  
6 can secure the person's [~~license holder's~~] handgun. The peace  
7 officer shall secure the handgun in the locker and shall return the  
8 handgun to the person [~~license holder~~] immediately after the person  
9 [~~license holder~~] leaves the nonpublic, secure portion of the law  
10 enforcement facility.

11 (c) A law enforcement facility shall prominently display at  
12 each entrance to a nonpublic, secure portion of the facility a sign  
13 that gives notice in both English and Spanish that, under this  
14 section, a peace officer may temporarily disarm a person who is a  
15 license holder or otherwise legally authorized to carry a handgun  
16 when the person [~~license holder~~] enters the nonpublic, secure  
17 portion of the facility. The sign must appear in contrasting colors  
18 with block letters at least one inch in height. The sign shall be  
19 displayed in a clearly visible and conspicuous manner.

20 SECTION 6. Section 42.042(e-2), Human Resources Code, is  
21 amended to read as follows:

22 (e-2) The department may not prohibit the foster parent of a  
23 child who resides in the foster family's home from transporting the  
24 child in a vehicle where a handgun is present if the handgun is in  
25 the possession and control of the foster parent and the foster  
26 parent is licensed to carry the handgun under Subchapter H, Chapter  
27 411, Government Code, or is otherwise legally authorized to carry a

1 handgun.

2           SECTION 7. Section 229.001(b), Local Government Code, is  
3 amended to read as follows:

4           (b) Subsection (a) does not affect the authority a  
5 municipality has under another law to:

6                   (1) require residents or public employees to be armed  
7 for personal or national defense, law enforcement, or another  
8 lawful purpose;

9                   (2) regulate the discharge of firearms or air guns  
10 within the limits of the municipality, other than at a sport  
11 shooting range;

12                   (3) regulate the use of property, the location of a  
13 business, or uses at a business under the municipality's fire code,  
14 zoning ordinance, or land-use regulations as long as the code,  
15 ordinance, or regulations are not used to circumvent the intent of  
16 Subsection (a) or Subdivision (5) of this subsection;

17                   (4) regulate the use of firearms, air guns, or knives  
18 in the case of an insurrection, riot, or natural disaster if the  
19 municipality finds the regulations necessary to protect public  
20 health and safety;

21                   (5) regulate the storage or transportation of  
22 explosives to protect public health and safety, except that 25  
23 pounds or less of black powder for each private residence and 50  
24 pounds or less of black powder for each retail dealer are not  
25 subject to regulation;

26                   (6) regulate the carrying of a firearm or air gun by a  
27 person other than a person licensed to carry a handgun under

1 Subchapter H, Chapter 411, Government Code, or a person otherwise  
2 legally authorized to carry the handgun, at a:

3 (A) public park;

4 (B) public meeting of a municipality, county, or  
5 other governmental body;

6 (C) political rally, parade, or official  
7 political meeting; or

8 (D) nonfirearms-related school, college, or  
9 professional athletic event;

10 (7) regulate the hours of operation of a sport  
11 shooting range, except that the hours of operation may not be more  
12 limited than the least limited hours of operation of any other  
13 business in the municipality other than a business permitted or  
14 licensed to sell or serve alcoholic beverages for on-premises  
15 consumption; or

16 (8) regulate the carrying of an air gun by a minor on:

17 (A) public property; or

18 (B) private property without consent of the  
19 property owner.

20 SECTION 8. Sections 62.082(d) and (e), Parks and Wildlife  
21 Code, are amended to read as follows:

22 (d) Section 62.081 does not apply to:

23 (1) an employee of the Lower Colorado River Authority;

24 (2) a person authorized to hunt under Subsection (c);

25 (3) a peace officer as defined by Article 2.12, Code of  
26 Criminal Procedure; or

27 (4) a person who:

1 (A) is carrying ~~[possesses]~~ a handgun the person  
2 is legally authorized to carry ~~[and a license issued under~~  
3 ~~Subchapter H, Chapter 411, Government Code, to carry a handgun]~~; or

4 (B) under circumstances in which the person would  
5 be justified in the use of deadly force under Chapter 9, Penal Code,  
6 shoots a handgun the person is legally authorized ~~[licensed]~~ to  
7 carry ~~[under Subchapter H, Chapter 411, Government Code]~~.

8 (e) A state agency, including the department, the  
9 Department of Public Safety, and the Lower Colorado River  
10 Authority, may not adopt a rule that prohibits a person ~~[who~~  
11 ~~possesses a license issued under Subchapter H, Chapter 411,~~  
12 ~~Government Code,~~] from entering or crossing the land of the Lower  
13 Colorado River Authority while:

14 (1) carrying ~~[possessing]~~ a handgun that the person is  
15 legally authorized to carry; or

16 (2) under circumstances in which the person would be  
17 justified in the use of deadly force under Chapter 9, Penal Code,  
18 shooting a handgun.

19 SECTION 9. Section 284.001(e), Parks and Wildlife Code, is  
20 amended to read as follows:

21 (e) This section does not limit a person's ~~[the]~~ ability to  
22 carry a handgun if the person is legally authorized ~~[of a license~~  
23 ~~holder]~~ to carry a handgun ~~[under the authority of Subchapter H,~~  
24 ~~Chapter 411, Government Code]~~.

25 SECTION 10. Section 30.05, Penal Code, is amended by  
26 amending Subsections (d) and (f) and adding Subsections (d-1) and  
27 (d-2) to read as follows:

1           (d) Subject to Subsections (d-1) and (d-2), an ~~[An]~~ offense  
2 under this section is:

3               (1) a Class B misdemeanor, except as provided by  
4 Subdivisions (2) and (3);

5               (2) a Class C misdemeanor, except as provided by  
6 Subdivision (3), if the offense is committed:

7                   (A) on agricultural land and within 100 feet of  
8 the boundary of the land; or

9                   (B) on residential land and within 100 feet of a  
10 protected freshwater area; and

11               (3) a Class A misdemeanor if:

12                   (A) the offense is committed:

13                       (i) in a habitation or a shelter center;

14                       (ii) on a Superfund site; or

15                       (iii) on or in a critical infrastructure  
16 facility; or

17                   (B) the person carries a deadly weapon during the  
18 commission of the offense.

19           (d-1) An offense under this section is a Class C misdemeanor  
20 punishable by a fine not to exceed \$200 if:

21               (1) the sole basis on which entry on the property or  
22 land or in the building was forbidden is that entry with a firearm  
23 was forbidden; and

24               (2) the person was carrying in a concealed manner or in  
25 a holster a handgun that the person was legally authorized to carry  
26 at the time of the offense.

27           (d-2) An offense under this section is a Class A misdemeanor

1 if:

2           (1) the sole basis on which entry on the property or  
3 land or in the building was forbidden is that entry with a firearm  
4 was forbidden;

5           (2) the person was carrying in a concealed manner or in  
6 a holster a handgun that the person was legally authorized to carry  
7 at the time of the offense; and

8           (3) it is shown on the trial of the offense that, after  
9 entering the property, land, or building, the actor was personally  
10 given notice by oral communication that entry with a firearm was  
11 forbidden and subsequently failed to depart.

12           (f) It is a defense to prosecution under this section that:

13           (1) the sole basis on which entry on the property or  
14 land or in the building was forbidden is that entry with a firearm  
15 [~~handgun~~] was forbidden; and

16           (2) at the time of the offense the person was carrying:

17                   (A) a license issued under Subchapter H, Chapter  
18 411, Government Code, to carry a handgun; and

19                   (B) a handgun:

20                           (i) in a concealed manner; or

21                           (ii) in a [~~shoulder or belt~~] holster.

22           SECTION 11. Section 30.07(f), Penal Code, is amended to  
23 read as follows:

24           (f) It is not a defense to prosecution under this section  
25 that the handgun was carried in a [~~shoulder or belt~~] holster.

26           SECTION 12. Section 46.02(a-1), Penal Code, is amended to  
27 read as follows:



1 (a-1) A person commits an offense if the person  
2 intentionally, knowingly, or recklessly carries on or about his or  
3 her person a handgun in a motor vehicle or watercraft that is owned  
4 by the person or under the person's control at any time in which:

5 (1) the handgun is in plain view, unless the person is  
6 legally authorized [~~licensed~~] to carry a handgun [~~under Subchapter~~  
7 ~~H, Chapter 411, Government Code~~], and the handgun is carried in a  
8 [~~shoulder or belt~~] holster; or

9 (2) the person is:

10 (A) engaged in criminal activity, other than a  
11 Class C misdemeanor that is a violation of a law or ordinance  
12 regulating traffic or boating;

13 (B) prohibited by law from possessing a firearm;  
14 or

15 (C) a member of a criminal street gang, as  
16 defined by Section 71.01.

17 SECTION 13. Sections 46.03(e-1) and (e-2), Penal Code, are  
18 amended to read as follows:

19 (e-1) It is a defense to prosecution under Subsection (a)(5)  
20 that the actor:

21 (1) possessed, at the screening checkpoint for the  
22 secured area, a [~~concealed~~] handgun that the actor was legally  
23 authorized [~~licensed~~] to carry [~~under Subchapter H, Chapter 411,~~  
24 ~~Government Code~~]; and

25 (2) exited the screening checkpoint for the secured  
26 area immediately on [~~upon~~] completion of the required screening  
27 processes and notification that the actor possessed the handgun.

1 (e-2) A peace officer investigating conduct that may  
2 constitute an offense under Subsection (a)(5) and that consists  
3 only of an actor's possession of a ~~[concealed]~~ handgun that the  
4 actor is legally authorized ~~[licensed]~~ to carry ~~[under Subchapter~~  
5 ~~H, Chapter 411, Government Code,~~] may not arrest the actor for the  
6 offense unless:

7 (1) the officer advises the actor of the defense  
8 available under Subsection (e-1) and gives the actor an opportunity  
9 to exit the screening checkpoint for the secured area; and

10 (2) the actor does not immediately exit the checkpoint  
11 on ~~upon~~ completion of the required screening processes.

12 SECTION 14. The heading to Section 46.035, Penal Code, is  
13 amended to read as follows:

14 Sec. 46.035. UNLAWFUL CARRYING OF HANDGUN BY LICENSE HOLDER  
15 OR OTHER PERSON LEGALLY AUTHORIZED TO CARRY HANDGUN.

16 SECTION 15. Sections 46.035(a), (b), (c), (d), (i), and  
17 (l), Penal Code, are amended to read as follows:

18 (a) A person who is a license holder or otherwise legally  
19 authorized to carry a handgun commits an offense if the person  
20 ~~[license holder]~~ carries a handgun ~~[on or about the license~~  
21 ~~holder's person under the authority of Subchapter H, Chapter 411,~~  
22 ~~Government Code,~~] and intentionally displays the handgun in plain  
23 view of another person in a public place. It is an exception to the  
24 application of this subsection that the handgun was partially or  
25 wholly visible but was carried in a ~~[shoulder or belt]~~ holster ~~[by~~  
26 ~~the license holder]~~.

27 (b) A person who is a license holder or otherwise legally

1 authorized to carry a handgun commits an offense if the person  
2 ~~[license holder]~~ intentionally, knowingly, or recklessly carries a  
3 handgun ~~[under the authority of Subchapter H, Chapter 411,~~  
4 ~~Government Code]~~, regardless of whether the handgun is concealed or  
5 carried in a ~~[shoulder or belt]~~ holster~~[, on or about the license~~  
6 ~~holder's person]:~~

7 (1) on the premises of a business that has a permit or  
8 license issued under Chapter 25, 28, 32, 69, or 74, Alcoholic  
9 Beverage Code, if the business derives 51 percent or more of its  
10 income from the sale or service of alcoholic beverages for  
11 on-premises consumption, as determined by the Texas Alcoholic  
12 Beverage Commission under Section 104.06, Alcoholic Beverage Code;

13 (2) on the premises where a high school, collegiate,  
14 or professional sporting event or interscholastic event is taking  
15 place, unless the person ~~[license holder]~~ is a participant in the  
16 event and a handgun is used in the event;

17 (3) on the premises of a correctional facility;

18 (4) on the premises of a hospital licensed under  
19 Chapter 241, Health and Safety Code, or on the premises of a nursing  
20 facility licensed under Chapter 242, Health and Safety Code, unless  
21 the person ~~[license holder]~~ has written authorization of the  
22 hospital or nursing facility administration, as appropriate; or

23 (5) in an amusement park~~[, or~~

24 ~~[(6) on the premises of a church, synagogue, or other~~  
25 ~~established place of religious worship]~~.

26 (c) A person who is a license holder or otherwise legally  
27 authorized to carry a handgun commits an offense if the person

1 ~~[license holder]~~ intentionally, knowingly, or recklessly carries a  
2 handgun ~~[under the authority of Subchapter H, Chapter 411,~~  
3 ~~Government Code]~~, regardless of whether the handgun is concealed or  
4 carried in a ~~[shoulder or belt]~~ holster, in the room or rooms where  
5 a meeting of a governmental entity is held and if the meeting is an  
6 open meeting subject to Chapter 551, Government Code, and the  
7 entity provided notice as required by that chapter.

8 (d) A person who is a license holder or otherwise legally  
9 authorized to carry a handgun commits an offense if the person~~[,~~  
10 ~~while intoxicated, the license holder]~~ carries a handgun while the  
11 person is intoxicated ~~[under the authority of Subchapter H, Chapter~~  
12 ~~411, Government Code]~~, regardless of whether the handgun is  
13 concealed or carried in a ~~[shoulder or belt]~~ holster.

14 (i) Subsections (b)(4), (b)(5), ~~[(b)(6),]~~ and (c) do not  
15 apply to a license holder who ~~[if the actor]~~ was not given effective  
16 notice under Section 30.06 or 30.07.

17 (l) Subsection (b)(2) does not apply to a license holder on  
18 the premises where a collegiate sporting event is taking place if  
19 the license holder ~~[actor]~~ was not given effective notice under  
20 Section 30.06.

21 SECTION 16. Section 46.035(h-1), Penal Code, as added by  
22 Chapter 1222 (H.B. 2300), Acts of the 80th Legislature, Regular  
23 Session, 2007, is amended to read as follows:

24 (h-1) It is a defense to prosecution under Subsections  
25 (b)(1), (2), (4), and (5) ~~[(4)-(6),]~~ and (c) that at the time of the  
26 commission of the offense, the actor was:

27 (1) a judge or justice of a federal court;

1           (2) an active judicial officer, as defined by Section  
2 411.201, Government Code; or

3           (3) a district attorney, assistant district attorney,  
4 criminal district attorney, assistant criminal district attorney,  
5 county attorney, or assistant county attorney.

6           SECTION 17. Sections 46.15(a) and (b), Penal Code, are  
7 amended to read as follows:

8           (a) Sections 46.02, ~~[and]~~ 46.03, and 46.035 do not apply to:

9           (1) peace officers or special investigators under  
10 Article 2.122, Code of Criminal Procedure, and neither section  
11 prohibits a peace officer or special investigator from carrying a  
12 weapon in this state, including in an establishment in this state  
13 serving the public, regardless of whether the peace officer or  
14 special investigator is engaged in the actual discharge of the  
15 officer's or investigator's duties while carrying the weapon;

16           (2) parole officers and neither section prohibits an  
17 officer from carrying a weapon in this state if the officer is:

18           (A) engaged in the actual discharge of the  
19 officer's duties while carrying the weapon; and

20           (B) in compliance with policies and procedures  
21 adopted by the Texas Department of Criminal Justice regarding the  
22 possession of a weapon by an officer while on duty;

23           (3) community supervision and corrections department  
24 officers appointed or employed under Section 76.004, Government  
25 Code, and neither section prohibits an officer from carrying a  
26 weapon in this state if the officer is:

27           (A) engaged in the actual discharge of the

1 officer's duties while carrying the weapon; and

2 (B) authorized to carry a weapon under Section  
3 76.0051, Government Code;

4 (4) an active judicial officer as defined by Section  
5 411.201, Government Code, who is licensed to carry a handgun under  
6 Subchapter H, Chapter 411, Government Code;

7 (5) an honorably retired peace officer, qualified  
8 retired law enforcement officer, federal criminal investigator, or  
9 former reserve law enforcement officer who holds a certificate of  
10 proficiency issued under Section 1701.357, Occupations Code, and is  
11 carrying a photo identification that is issued by a federal, state,  
12 or local law enforcement agency, as applicable, and that verifies  
13 that the officer is:

14 (A) an honorably retired peace officer;

15 (B) a qualified retired law enforcement officer;

16 (C) a federal criminal investigator; or

17 (D) a former reserve law enforcement officer who  
18 has served in that capacity not less than a total of 15 years with  
19 one or more state or local law enforcement agencies;

20 (6) a district attorney, criminal district attorney,  
21 county attorney, or municipal attorney who is licensed to carry a  
22 handgun under Subchapter H, Chapter 411, Government Code;

23 (7) an assistant district attorney, assistant  
24 criminal district attorney, or assistant county attorney who is  
25 licensed to carry a handgun under Subchapter H, Chapter 411,  
26 Government Code;

27 (8) a bailiff designated by an active judicial officer

1 as defined by Section 411.201, Government Code, who is:

2 (A) licensed to carry a handgun under Subchapter  
3 H, Chapter 411, Government Code; and

4 (B) engaged in escorting the judicial officer; or

5 (9) a juvenile probation officer who is authorized to  
6 carry a firearm under Section 142.006, Human Resources Code.

7 (b) Section 46.02 does not apply to a person who:

8 (1) is in the actual discharge of official duties as a  
9 member of the armed forces or state military forces as defined by  
10 Section 437.001, Government Code, or as a guard employed by a penal  
11 institution;

12 (2) is traveling;

13 (3) is engaging in lawful hunting, fishing, or other  
14 sporting activity on the immediate premises where the activity is  
15 conducted, or is en route between the premises and the actor's  
16 residence, motor vehicle, or watercraft, if the weapon is a type  
17 commonly used in the activity;

18 (4) holds a security officer commission issued by the  
19 Texas Private Security Board, if the person is engaged in the  
20 performance of the person's duties as an officer commissioned under  
21 Chapter 1702, Occupations Code, or is traveling to or from the  
22 person's place of assignment and is wearing the officer's uniform  
23 and carrying the officer's weapon in plain view;

24 (5) acts as a personal protection officer and carries  
25 the person's security officer commission and personal protection  
26 officer authorization, if the person:

27 (A) is engaged in the performance of the person's

1 duties as a personal protection officer under Chapter 1702,  
2 Occupations Code, or is traveling to or from the person's place of  
3 assignment; and

4 (B) is either:

5 (i) wearing the uniform of a security  
6 officer, including any uniform or apparel described by Section  
7 1702.323(d), Occupations Code, and carrying the officer's weapon in  
8 plain view; or

9 (ii) not wearing the uniform of a security  
10 officer and carrying the officer's weapon in a concealed manner;

11 (6) is ~~carrying~~

12 ~~[(A)]~~ a license holder ~~[issued]~~ under Subchapter  
13 H, Chapter 411, Government Code, ~~[to carry a handgun]~~ and is  
14 carrying

15 ~~[(B)]~~ a handgun:

16 (A) [(i)] in a concealed manner; or

17 (B) [(ii)] in a ~~[shoulder or belt]~~ holster;

18 (7) is at least 21 years of age and:

19 (A) has not been convicted of a felony;

20 (B) is fully qualified under applicable federal  
21 law to purchase and possess a handgun;

22 (C) meets the requirements under Sections  
23 411.172(a)(1)-(13), Government Code;

24 (D) is not a member of a criminal street gang, as  
25 defined by Section 71.01; and

26 (E) is carrying a handgun:

27 (i) in a concealed manner; or



1                    (ii) in a holster;

2            (8) holds an alcoholic beverage permit or license or  
3 is an employee of a holder of an alcoholic beverage permit or  
4 license if the person is supervising the operation of the permitted  
5 or licensed premises; or

6            (9) [~~(8)~~] is a student in a law enforcement class  
7 engaging in an activity required as part of the class, if the weapon  
8 is a type commonly used in the activity and the person is:

9                    (A) on the immediate premises where the activity  
10 is conducted; or

11                    (B) en route between those premises and the  
12 person's residence and is carrying the weapon unloaded.

13            SECTION 18. The following provisions are repealed:

14                    (1) Sections 11.041, 11.61(e), 61.11, and 61.71(f),  
15 Alcoholic Beverage Code; and

16                    (2) Section 411.204(d), Government Code.

17            SECTION 19. The changes in law made by this Act relating to  
18 the authority of a person to carry a handgun apply to the carrying  
19 of a handgun on or after the effective date of this Act by any person  
20 who may legally carry a handgun under this Act.

21            SECTION 20. The changes in law made by this Act apply only  
22 to an offense committed on or after the effective date of this Act.  
23 An offense committed before the effective date of this Act is  
24 governed by the law in effect when the offense was committed, and  
25 the former law is continued in effect for that purpose. For  
26 purposes of this section, an offense was committed before the  
27 effective date of this Act if any element of the offense occurred

1 before that date.

2 SECTION 21. This Act takes effect September 1, 2017.