

## **BILL ANALYSIS**

C.S.H.B. 1927  
By: Schaefer  
Homeland Security & Public Safety  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The Second Amendment enshrined the right to bear arms in the U.S. Constitution. There are concerns that state law infringes on the free exercise of that right, namely by requiring a license, which takes time and money to obtain, to legally be able to carry a handgun. C.S.H.B. 1927 seeks to reduce barriers to the free exercise of Texans' constitutional right to bear arms and defend their lives and property by making it legal for individuals who are 21 years of age or older and who can legally possess a firearm to carry a handgun without first obtaining a license. The bill retains the handgun license in statute as optional to allow reciprocity with states that have not yet passed similar legislation.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 1927 amends the Penal Code to make it legal for any person who can legally possess a firearm and who is 21 years of age or older to carry a handgun while not on their own premises or a premises under their control and while not inside of or directly en route to a motor vehicle or watercraft that they own or that is under their control. The bill also makes it legal for any such person who is not a member of a criminal street gang to carry a handgun in plain view in a motor vehicle or watercraft that is owned by the person or under the person's control. The bill expands the offense involving a member of a criminal street gang carrying a handgun in a motor vehicle or watercraft that is owned by the person or under the person's control to apply to any motor vehicle or watercraft. The bill revises certain provisions relating to the holstering of a handgun to remove the specification regarding the type of holster.

C.S.H.B. 1927 revises current Penal Code provisions prohibiting a handgun license holder from intentionally, knowingly, or recklessly carrying a handgun on or about their person on any of the following premises to apply those provisions to any person who engages in that conduct and expands the scope of those provisions to also include carrying any firearm, club, or prohibited weapon in such a manner:

- on the premises of a business that has an alcoholic beverage permit or license and that derives 51 percent or more of its income from the sale or service of alcoholic beverages for on-premises consumption, as determined by the Texas Alcoholic Beverage Commission (TABC);

- on the premises where a high school, collegiate, or professional sporting event or interscholastic event is taking place, unless the person is a participant in the event and the firearm, club, or prohibited weapon is used in the event;
- on the premises of a correctional facility;
- on the premises of a civil commitment facility;
- on the premises of a state-licensed hospital or nursing facility, unless the person has written authorization of the hospital or nursing facility administration, as appropriate; or
- in an amusement park.

As part of the revisions of those Penal Code provisions, the bill also:

- repeals existing defenses to prosecution for carrying a handgun on such premises that are based on the actor's occupation and makes the conduct subject instead to the exceptions to the offense of possessing or going with a weapon in a place where weapons are prohibited;
- revises the places where a person may not intentionally, knowingly, or recklessly possess or go with a location-restricted knife to include a civil commitment facility and exclude the premises of a church, synagogue, or other established place of religious worship; and
- includes firearms, clubs, and prohibited weapons among the weapons that are prohibited on the premises of a mental hospital without written authorization of the mental hospital's administration.

C.S.H.B. 1927 makes the offense involving a handgun license holder carrying a handgun on or about their person and intentionally displaying the handgun in plain view of another person in a public place, and the corresponding exception for holstered handguns, applicable to all persons.

The bill repeals the following:

- the defense to prosecution for such conduct, and certain prohibited conduct involving the unlawful carrying of a handgun on the premises of an institution of higher education or certain areas belonging to such an institution, that the actor, at the time of the commission of the offense, displayed the handgun under circumstances in which they would have been justified in the use of force or deadly force; and
- an exemption from provisions making it an offense for a handgun license holder to carry a handgun on certain premises for license holders participating in a historical reenactment performed in compliance with TABC rules.

C.S.H.B. 1927 repeals provisions making it an offense for a handgun license holder to do any of the following:

- intentionally, knowingly, or recklessly carry a handgun in the room or rooms where an open meeting of a governmental entity is held, contingent on the entity having provided notice as required by law that carrying the handgun is prohibited;
- carry a handgun while intoxicated; and
- if the license holder is licensed and employed as a security officer, violate a provision of the Government Code governing handgun licenses while in the course and scope of the security officer's employment.

C.S.H.B. 1927 exempts a person from the application of an offense involving intentionally, knowingly, or recklessly possessing or going with a weapon in a place where weapons are prohibited unless they personally receive notice by oral communication from the property owner, or from another person with apparent authority to act for the owner, that carrying a weapon on the property is prohibited and they subsequently fail to depart.

C.S.H.B. 1927 creates a Class C misdemeanor criminal trespass offense punishable by a fine capped at \$200 for a person who enters another's property, land, or building with a firearm or other weapon and the sole basis on which entry on the property or land or in the building was forbidden is that entry with a firearm or other weapon was forbidden. The penalty is enhanced to a Class A misdemeanor if it is shown on the trial of the offense that the actor failed to depart the property, land, or building after personally receiving notice by oral communication from the

property owner, or from another person with apparent authority to act for the owner, that entry with a firearm or other weapon was forbidden. The bill establishes as a defense to prosecution for criminal trespass that the sole basis on which entry on the property or land or in the building was forbidden is that entry with a firearm or other weapon was forbidden and the actor promptly departed after personally receiving notice by oral communication from an applicable person that entry with a firearm or other weapon was forbidden.

C.S.H.B. 1927 repeals a provision increasing the penalty for the unlawful carrying of a weapon from a Class A misdemeanor to a third degree felony if the offense is committed on any premises licensed or issued a permit by the state for the sale of alcoholic beverages.

C.S.H.B. 1927 makes the defense to prosecution for a handgun license holder who possesses a concealed handgun at an airport screening checkpoint but exits the checkpoint immediately upon notification applicable to all handguns, whether concealed or openly carried.

C.S.H.B. 1927 removes the requirement that, to be exempt from certain offenses involving the unlawful carrying of a handgun, a person carrying a handgun on the premises of certain locations operating as an emergency shelter during a declared state of disaster must be authorized to carry the handgun and comply with rules and regulations imposed by the owner, controller, or operator of, or persons with apparent authority over, the following premises:

- an institution of higher education and certain areas belonging to such an institution;
- certain businesses licensed or permitted for on-premises consumption of alcoholic beverages;
- an amusement park; or
- a civil commitment facility.

C.S.H.B. 1927 amends the Code of Criminal Procedure to apply the authority granted under the Government Code to a peace officer who is acting in the lawful discharge of their official duties to disarm a handgun license holder so as to authorize the officer under the Code of Criminal Procedure to disarm any person who is carrying a handgun, with or without a license, under the same circumstances provided in the Government Code.

C.S.H.B. 1927 amends the Government Code to remove a duplicative trigger for the revocation of a handgun license based on a person's conviction for an offense that involves the unlawful display of a handgun in public view in a public place or the unlawful carrying of a handgun in certain prohibited places or on the premises of an institution of higher education or certain areas belonging to such an institution.

C.S.H.B. 1927 amends the Education Code, Health and Safety Code, and Labor Code to make conforming changes. The bill includes certain legislative findings.

C.S.H.B. 1927 repeals the following provisions:

- Section 11.041, Alcoholic Beverage Code;
- Section 11.61(e), Alcoholic Beverage Code;
- Section 61.11, Alcoholic Beverage Code;
- Section 61.71(f), Alcoholic Beverage Code;
- Section 411.198(b), Government Code;
- Section 411.204(d), Government Code;
- Section 411.206(c), Government Code;
- Section 46.02(c), Penal Code;
- Section 46.03(a-1), Penal Code; and
- Section 46.035, Penal Code.

## **EFFECTIVE DATE**

September 1, 2021.

## **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 1927 differs from the original in minor and nonsubstantive ways to conform to certain bill drafting conventions, the following summarizes only the substantial differences between the introduced and committee substitute versions of the bill.

The original limited the applicability of the offense involving a member of a criminal street gang carrying a handgun in a motor vehicle or watercraft that they own or that is under their control to persons younger than 21 years of age, which made it legal for criminal street gang members who are 21 years of age or older to engage in such conduct. The substitute does not include such a limitation and instead moves the relevant offense to a new statute section and makes it applicable to the carrying of a handgun by a member of a criminal street gang in any motor vehicle or watercraft, regardless of whether it is owned by a member of a criminal street gang or under their control.

The original made the offense that, under current law, prohibits a handgun license holder from intentionally displaying a handgun in plain view of another person on the premises of an institution of higher education or certain areas belonging to such an institution applicable to any person. The substitute retains the existing statutory language where that offense is applicable only to a handgun license holder.

The substitute makes the defense to prosecution for a handgun license holder who possesses a concealed handgun at an airport screening checkpoint but exits the checkpoint immediately upon notification applicable to all handguns, whether concealed or openly carried, whereas the original did not include any changes to that defense.

The substitute revises certain provisions relating to the holstering of a handgun to remove the specification regarding the type of holster, whereas the original retained statutory references to a shoulder or belt holster.

The substitute includes certain legislative findings, whereas the original did not.