

SUBJECT: Defense to trespass prosecution for handgun license holders given notice

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Collier, K. Bell, Hunter, P. King, Murr, Pacheco

2 nays — J. González, Moody

1 absent — Zedler

WITNESSES: For —Michael Cargill, Central Texas Gun Works; Rachel Malone, Gun Owners of America; Larry Bloomquist, Texas Law Shield; Michael Openshaw; (*Registered, but did not testify*: Matthew Williamson, Dallas Police Department; Tara Mica, National Rifle Association; AJ Louderback and Micah Harmon, Sheriffs Association of Texas; Alice Tripp, Texas State Rifle Association)

Against — Melanie Greene, Moms Demand Action for Gun Sense in America; Gyl Switzer, Texas Gun Sense; (*Registered, but did not testify*: Frederick Frazier, Dallas Police Association State Fraternal Order of Police; Shelby Mason, League of Women Voters of Texas; Karen Harris Odama, Susan Kelly, and Susan Pintchovski, Moms Demand Action; Jennifer Price and Hilary Whitfield, Moms Demand Action for Gun Sense in America; and seven individuals)

BACKGROUND: Penal Code secs. 30.06 and 30.07 establish a class C misdemeanor punishable by fine of up to \$200 for a handgun license holder to either conceal or openly carry a handgun on another's property without effective consent if the license holder received oral or written notice that entry on the property by a license holder was forbidden.

DIGEST: HB 121 would create a defense to prosecution for the offenses in Penal Code sec. 30.06 and 30.07 if the license holder was personally given verbal notice and promptly departed from the property.

The bill would take effect September 1, 2019, and would apply only to an

offense committed on or after that date.

**SUPPORTERS
SAY:**

HB 121 would ensure that law-abiding handgun license holders were not penalized for an innocent mistake in not identifying where they cannot carry their guns. Currently, a license holder could enter a business and inadvertently walk by or simply not see a sign stating that entry with a handgun was prohibited. Signs could be posted on a door that was propped open, or someone could be standing in front of the sign. Despite intending to abide by the property owner's choice, a license holder could be violating the law.

HB 121 would recognize that in these situations license holders who were not intending to break the law should not be convicted of a class C misdemeanor. The defense to prosecution in HB 121 would be narrow and would not allow gun owners to ignore the law because they would have to promptly leave property after receiving notice. The bill would not make it more difficult for property owners to manage their property as it would require only a verbal reminder to license holders who must then leave.

The bill would not weaken gun laws but instead would strengthen them by allowing law enforcement resources to be focused on those who willfully violate the law.

**OPPONENTS
SAY:**

HB 121 would make it more difficult for business owners to keep guns off of their property. The bill could allow license holders to ignore signs prohibiting guns on the property and bring their weapons onto property until they are told otherwise. License holders should be held responsible for noticing and following posted signs, and property owners who post the required signs should not have to take the extra steps of tracking down patrons and giving verbal notifications to keep guns off their property.