

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 354  
By: Wentworth et al.  
Criminal Justice  
4/4/2011  
Committee Report (Substituted)

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

To obtain a license to carry a concealed handgun in Texas, a person must be a legal resident of Texas, at least 21 years of age (or honorably discharged or active duty military, regardless of age), fully qualified under applicable federal and state law to purchase a handgun, and of sound mind. The person may not be a convicted felon, a fugitive from justice for a Class A or B misdemeanor or felony, chemically dependent, delinquent in state or local taxes, delinquent in child support payments collected by the attorney general, or restricted under a protective order or subject to a restraining order affecting the spousal relationship.

Under current law, concealed handguns are prohibited in Texas college and university buildings. C.S.S.B. 354 is an effort to aid students, faculty, and visitors on college campuses in protecting themselves not only from mass shootings like those that occurred on Virginia Tech University and Northern Illinois University campuses, but from other life-threatening situations, such as the recent firearm discharge at The University of Texas. Specifically, C.S.S.B. 354 allows persons who are licensed to carry a concealed weapon to do so in a college building. Institutions of higher education would be authorized to establish rules, regulations, or other provisions concerning the storage of handguns in dormitories that are owned by the institution and located on campus. Under certain circumstances, private colleges and universities would have the option to adopt policies or rules regulating or prohibiting the carrying of handguns in campus buildings.

C.S.S.B. 354 amends current law relating to the carrying of concealed handguns on the campuses of certain other locations associated with institutions of higher education.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to an institution of higher education in SECTION 1 (Section 411.2031, Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter H, Chapter 411, Government Code, by adding Section 411.2031, as follows:

Sec. 411.2031. CARRYING OF HANDGUNS BY LICENSE HOLDERS ON CERTAIN CAMPUSES. (a) Defines "campus," "institution of higher education," "private or independent institution of higher education," and "premises" for purposes of this section.

(b) Authorizes a license holder to carry a concealed handgun on or about the license holder's person while the license holder is on the campus of an institution of higher education or private or independent institution of higher education in this state.

(c) Prohibits an institution of higher education or private or independent institution of higher education, except as provided by Subsection (e), from adopting any rule, regulation, or other provision prohibiting license holders from carrying handguns on the campus of the institution.

(d) Authorizes an institution of higher education or private or independent institution of higher education in this state to establish rules, regulations, or other provisions concerning the storage of handguns in dormitories that are owned or operated by the institution and located on the campus of the institution.

(e) Authorizes a private or independent institution of higher education in this state, after consulting with students, staff, and faculty of the institution, to establish rules, regulations, or other provisions prohibiting license holders from carrying handguns on premises that are owned or operated by the institution and located on the campus of the institution.

(f) Provides that this section does not permit a license holder to carry a concealed handgun on or about the premises of a hospital maintained or operated by an institution of higher education. Defines "hospital" in this subsection.

SECTION 2. Amends Section 411.208, Government Code, by amending Subsections (a), (b), and (d) and adding Subsection (f), as follows:

(a) Prohibits a court from holding the state, an agency or subdivision of the state, an officer or employee of the state, an institution of higher education, an officer or employee of an institution of higher education, a private or independent institution of higher education that has not adopted rules under Section 411.2031(e), an officer or employee of a private or independent institution of higher education that has not adopted rules under Section 411.2031(e), a peace officer, or a qualified handgun instructor liable for damages caused by certain actions.

(b) Prohibits a cause of action in damages from being brought against the state, an agency or subdivision of the state, an officer or employee of the state, an institution of higher education, an officer or employee of an institution of higher education, a private or independent institution of higher education that has not adopted rules under Section 411.2031(e), an officer or employee of a private or independent institution of higher education that has not adopted rules under Section 411.2031(e), a peace officer, or a qualified handgun instructor for any damages caused by the actions of an applicant or license holder under this subchapter.

(d) Provides that the immunities granted under Subsections (a), (b), and (c) (relating to the Texas Department of Public Safety's release from responsibility) do not apply to an act or a failure to act by the state, an agency or subdivision of the state, an officer of the state, an institution of higher education, an officer or employee of an institution of higher education, a private or independent institution of higher education that has not adopted rules under Section 411.2031(e), an officer or employee of a private or independent institution of higher education that has not adopted rules under Section 411.2031(e), or a peace officer if the act or failure to act was capricious or arbitrary.

(f) Defines "institution of higher education" and "private or independent institution of higher education" for purposes of this section.

SECTION 3. Amends Sections 46.03, Penal Code, by amending Subsections (a) and (c) and adding Subsection (j), as follows:

(a) Provides that a person commits an offense if the person intentionally, knowingly, or recklessly possesses or goes with a firearm, illegal knife, club, or prohibited weapon listed in Section 46.05(a) (relating to a list of prohibited weapons) in certain areas, including on the physical premises of a school or educational institution, any grounds or building on which an activity sponsored by a school or educational institution is being conducted, or a passenger transportation vehicle of a school or education institution, whether the school or educational institution is public or private, unless pursuant to written regulations or written authorization of the institution, or the person possesses or goes with a concealed handgun that the person is licensed to carry under Subchapter H (License to Carry a Concealed Handgun), Chapter 411, Government Code, on the

physical premises of an institution of higher education or private or independent institution of higher education, on any grounds or building on which an activity sponsored by the institution is being conducted, or in a passenger transportation vehicle of the institution.

(c) Defines "institution of higher education" and "private or independent institution of higher education" in this section. Makes nonsubstantive changes.

(j) Provides that Subsection (a)(1)(B) (relating to a person possessing or going with a concealed handgun that the person is licensed to carry on the physical premises of certain areas relating to an institution of higher education) does not permit a person to possess a concealed handgun, or go with a concealed handgun, on the premises of a hospital maintained or operated by an institution of higher education. Defines "hospital" in this subsection.

SECTION 4. Amends Section 46.035, Penal Code, by adding Subsection (l), to provide that Subsection (b)(2) (relating to carrying a handgun on the premises where a high school, collegiate, or professional sporting event or interscholastic event is taking place) does not apply on the premises where a collegiate sporting event is taking place if the actor was not given effective notice under Section 30.06 (Trespass by Holder of License to Carry Concealed Handgun).

SECTION 5. Amends Section 46.11(c)(1) to delete the existing definition of "institution of higher education."

SECTION 6. Makes application of Section 411.208, Government Code, as amended by this Act, prospective to September 1, 2012.

SECTION 7. Makes application of Sections 46.03(a) and (c), Penal Code, as amended by this Act, and Section 46.035(l), Penal Code, as added by this Act, prospective to September 1, 2012.

SECTION 8. Effective date: September 1, 2011.