

BILL ANALYSIS

Senate Research Center
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S.B. 905
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Criminal Justice
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Section 46.035 (Unlawful Carrying of Handgun by License Holder), Penal Code, lists several locations where concealed handguns are not permitted. Those locations include sporting events, churches, hospitals, and drinking establishments. Under current law, certain office holders are exempted from that provision. Those currently exempted are judges and justices of a federal court, active judicial officers, district attorneys, assistant district attorneys, and county and assistant county attorneys.

S.B. 905 will add current statewide elected officials, members of the legislature, and certain noncommissioned Department of Public Safety of the State of Texas (DPS) employees as designated by the DPS director to the list of exempted persons. The bill also allows former members of the legislature to be exempt until the renewal of a concealed handgun license.

As proposed, S.B. 905 amends current law relating to the application of certain concealed handgun license laws to statewide elected officials, certain current and former members of the legislature, and certain state employees.

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 46.035(h-1), Penal Code, as added by Chapter 1222 (H.B. 2300), Acts of the 80th Legislature, Regular Session, 2007, as follows:

(h-1) Provides that it is a defense to prosecution under Subsections (b)(1) (relating to percentage of income derived for on-premises consumption), (2) (relating to handgun use at sporting events), (4) (relating to handgun use at nursing homes), (5) (relating to handgun use in amusement parks), (6) (relating to handgun use at places of worship), and (c) (relating to offenses against Subchapter H, Chapter 411, Government Code) that at the time of the commission of the offense, the actor was:

- (1) a judge or justice of a federal court;
- (2) an active judicial officer, as defined by Section 411.201 (Active and Retired Judicial Officers), Government Code;
- (3) a district attorney, assistant district attorney, criminal district attorney, assistant criminal district attorney, county attorney, or assistant county attorney;
- (4) a statewide elected official;
- (5) a member of the legislature; or
- (6) a noncommissioned employee of the Department of Public Safety of the State of Texas (DPS), designated by the director of the department.

SECTION 2. Amends Section 46.035, Penal Code, by adding Subsection (h-2), as follows:

(h-2) Provides that it is a defense to prosecution under Subsections (b)(1), (2), and (4)-(6), and (c) that at the time of the commission of the offense, the actor was a person who, on September 1, 2011, was serving as a member of the legislature and possessed a concealed handgun license under Subchapter H (License to Carry a Concealed Weapon), Chapter 411 (Department of Public Safety of the State of Texas), Government Code, if the person is not longer a member at the time of the offense and if the license has not yet been subject to renewal since the person ceased to be a member. Provides that this subsection expires on September 1, 2020.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2011.