

- SUBJECT:** Reducing penalty for unlawfully carrying a handgun on certain premises
- COMMITTEE:** Criminal Jurisprudence — favorable, without amendment
- VOTE:** 7 ayes — Collier, K. Bell, Cason, Cook, Crockett, Murr, Vasut
2 nays — Hinojosa, A. Johnson
- WITNESSES:** For — (*Registered, but did not testify:* Dustin Cox, GRAV; Cindi Castilla, Texas Eagle Forum; Terri Hall; Thomas Parkinson)

Against — (*Registered, but did not testify:* Jay Propes, Everytown for Gun Safety; Aimee Mobley Turney, League of Women Voters of Texas; Mary Lynn Rice-Lively, Frances Schenckan, and Louis Wichers, Texas Gun Sense; Aldo Caldo; Deana Johnston; Tony LaMarr)
- BACKGROUND:** Penal Code secs. 30.06 and 30.07 make it 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 with a handgun was forbidden. If after entering the property the license holder was given oral communication and subsequently failed to depart, the offense is a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000).
- Under secs. 46.035(b)(4), (b)(5), and (c) it is a crime for a handgun license holder to intentionally, knowingly, or recklessly carry a handgun, whether it is concealed or openly carried:
- on the premises of a hospital or nursing facility;
 - in an amusement park; or
 - at an open meeting of a governmental entity.
- An offense is a class A misdemeanor. These offenses do not apply if the license holder was not given effective notice under secs. 30.06 or 30.07.

DIGEST: HB 854 would reduce the penalty from a class A misdemeanor to a class C misdemeanor punishable by a fine not to exceed \$200 for the offense committed if a handgun license holder carried a handgun, regardless of whether it was concealed or openly carried, on the premises of a hospital or nursing facility, in an amusement park, or at an open meeting of a governmental entity.

The offense would be a class A misdemeanor if it was shown that after entering the property, the license holder was personally given oral notice that entry on the property was forbidden and subsequently failed to depart.

The bill would take effect September 1, 2021, and would apply only to an offense committed on or after that date.

SUPPORTERS SAY: HB 854 would align the penalty for unlawfully carrying a handgun by a license holder on the premises of a hospital or nursing facility, in an amusement park, or at an open meeting of a governmental entity with the penalties applied when a license holder carried openly or concealed on other premises and it was forbidden. Revising the penalty under the bill would treat these locations the same under the law as other private property with regard to offenses of license holders carrying handguns on premises without effective consent.

Penal Code secs. 30.06 and 30.07 allow property owners to provide notice that carrying a handgun on the property is forbidden. An offense is a class C misdemeanor, except if the license holder received oral notice and failed to depart, in which case it is a class A misdemeanor. Some have noted that the penalty for unlawfully carrying a handgun on the premises under the bill where secs. 30.06 and 30.07 notices must be given, remains a class A misdemeanor in all cases. The bill simply would harmonize penalties for hospitals, nursing homes, amusement parks, and rooms holding open meetings with other premises that may post secs. 30.06 and 30.07 signs.

The bill would align with the spirit of other state firearms laws that protect law-abiding gun owners by providing them a chance to leave a gun-free

zone when notified that the possession of a handgun on the premises was prohibited. In instances where a person forgot he or she was carrying a handgun and entered premises where it was prohibited, a person should not be subject to a harsher penalty for genuinely making a mistake. The bill would provide the gun owner an opportunity to leave, ensuring that actions made without ill intent were not overly criminalized. The bill would retain the enhanced penalty of a class A misdemeanor in the event the person refused to depart, which would punish bad actors effectively.

CRITICS
SAY:

HB 854 would inappropriately lower the penalty for the unauthorized carrying of a handgun in hospitals, nursing facilities, amusement parks, and open meetings of governmental bodies. These locations are frequented by families and contain vulnerable populations. The current penalty of a class A misdemeanor provides more of a deterrent to carrying weapons into such locations. This change could decrease public safety by resulting in more people carrying handguns in these premises.