

wear your license in a plastic convention badge holder? Nah. Maybe? How about openly armed gangster types?

Police aren't sure about this, and they're not unified about it. It's complicated. Look it up on line. I'm waiting to see what happens. Don't be the test case. But I repeat myself.

See how Texas gun laws have changed for over 15 years at GunLaws.com, under "Updates." If your copy of [The Texas Gun Owner's Guide](#) is old, it's time for a new one. Be safe.

SB11 • CAMPUS CARRY Aug. 1, 2016

Government Code 411.2031 is added to regulate discreet sidearm carry by "CHLs" on college campuses, which are now LTCs (License To Carry) under the new Open Carry law. The Campus Carry law took effect on Sep. 1, 2015—but the rules schools had to make first didn't kick in until August 1, 2016, and other conditions apply. The word "college" is used here to mean "institution of higher education" and "private or independent institution of higher education" as defined by law. "Campus" has the meaning assigned by law.

NOTE: What statute says and what actually happens once schools issue required rules may not meet everyone's expectations, so a degree of caution is advised. Some schools, unpleased with the situation, plan to resist it, and expect lawsuits, more legislation, budget wrangling and court action. There is little value in becoming a test case.

By law, an LTC may carry a concealed handgun on a college campus in Texas. Colleges may not adopt any rules banning LTCs from carrying. Colleges may establish rules concerning storing handguns in college dormitories or other college residences on campus. After thoroughly consulting with people concerned at the college, the president or CEO must establish rules concerning carrying on campus and on premises on campus, but these may not ban or have the effect of banning carry. Some school's rules appear to do this. Another section seems in conflict, allowing complete bans, expect confusion.

The rules may be amended as needed, take effect as determined by college leaders or as amended. Effective notice must be provided for any portion of a premises on which LTCs may not carry. The law doesn't say it in so many words, but when the parts are read together, colleges can't ban carry on campus, but can ban storage or carry in dorms. Live-in students would need off-site storage to carry on campus.

No later than 90 days after rules are set (it's not clear if that includes the amendment process), the governing board of the college must review the rules, and may by two-thirds vote amend them, which then become the new rules. The rules must be widely circulated, including on the school's website. By Sep. 1 of each even-numbered year colleges must send reports to the legislature describing its rules and reasons for adopting them.

Exclusion Zones: A private or independent institution of higher education may, after consulting with people involved at the institution, establish rules to ban LTC carry on campus, or grounds or buildings where they are sponsoring an activity, or on a passenger transport vehicle they own. Students must get the lists and obey posted signs that will appear on campuses everywhere.

Government Code §411.208. Colleges (described above, plus people working with and for them) are added to the limited liability clauses of state law, so they are almost immune to lawsuit. *Penal Code §46.03* is amended to omit LTC handgun campus carry as a criminal offense.

Penal Code 46.035 is amended to ban an LTC from intentionally or knowingly displaying a handgun to another person on the premises of a college or facilities around a college (driveways, streets, sidewalks, parking lots, garages, etc.). It's an offense to carry on campus, during a sponsored event, in a student transport vehicle, if the college has established rules banning carry at a sponsored event, if proper §30.06 warning notice is given. It's an offense to carry on the portion of a premises (exclusion zones) where rules ban it, if proper notice is given. The law has punishment for the various violations.

Historical re-enactments are allowed with proper permission, and it is a defense to prosecution if an offense is committed if you would be justified under the use-of-force self-defense laws. The sporting-event ban does not apply if you are not given effective §30.06 notice.

College presidents or CEOs must adopt rules by Aug. 1, 2016, except Junior colleges, which have until Aug. 1, 2017. Add the 90 days for review by the governing board, this all kicks in Nov. 1, 2016 for colleges, or 11/1/17 for Junior colleges. Affected schools have drafted complex, detailed rules, policies, lists and signs for controlling where Campus Carry is tolerated and where it is banned, almost a throwback to the civil-rights denials of "No drinking at this water fountain" days. Students must stay alert to the restrictions on a school-by-school basis, even if the rules seem to violate the letter or spirit of state law.

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TEXAS GUN OWNER'S Guide

2016 LAW UPDATE

Update to TGOG Edition 8

**Open & Campus Carry
Come to TEXAS**

Before CHL became LTC (see below) these good things came about in Texas gun law in 2015:

SB473 Machine Guns and other special weapons—*Penal Code §46.05 Prohibited Weapons* was amended to make it clear that Type II NFA weapons (full-autos, short-barrelled long guns, silencers and explosive weapons), are legal as long as they're properly registered with BATFE. The bad idea of "affirmative defense," where you might have to defend innocent legal possession of these in court was repealed. Parts of the law were renumbered.

SB273 Ban on Excluding Lawful CHL Holders—*Government Code §411.209* makes it illegal for any state agency or political subdivision to use any form of §30.06 no-guns signs to keep CHLs (now LTCs) out, if they aren't really banned from entering (as some biased bureaucrats have been doing). Violations make them liable for penalties that can exceed \$10,000 per day, under rules spelled out in the law (violators must get written notice, with evidence, time to cure the violation, the attorney general must investigate, and act, more). Any citizen can file charges, and all costs are recoverable. Basically it means officials will have to stop the vile practice of posting false signs to illegally deny your civil rights.

This is **comitatus law, law with teeth**, it forces controls. Instead of the typical "government shall (or shall not) do X" format, which they violate with impunity, *comitatus* law says, "If you do X this is the punishment." *Comitatus* penalties can include jail, fines, dismissal (e.g., the *posse comitatus* law). Many laws should be *comitatus* style. We have the Texas State Rifle Assn., and legislators they work with to thank for accomplishing this important victory.

Penal Code §46.035(c) Unlawful Carry has been amended to limit its effect, so only the room(s) where a government meeting is taking place, not the entire facility, are restricted to licensed carry, and then, only if the meeting is an open meeting subject to open-meetings law (Ch. 551), and proper notice was provided.

HB554 LTC Tolerance at Airport Gates—*Penal Code §46.03(a)(5)* has been amended to help people who show up at airports with their CHL (now LTC) sidearms. It is a defense to *state* prosecution if you show up at airport gate security carrying a firearm legally under a valid license if, once it's detected, you leave the gate area immediately after screening. A peace officer cannot arrest you if you comply but can if you fail to comply. **Caution:** Doesn't affect federal TSA agents, they could still pose a threat and charge you with an offense even though Texas won't.

HB905 Preemption of Knives—*Local Government Code §229.001.* Knives get added to the preemption list of things municipalities have no control over the transfer, private ownership, keeping, transportation, licensing, or registration of, including firearms, air guns, ammunition, firearm or air-gun supplies and more. *LGC §§236.001, .002* definitions are updated.

• 2016 CHL BECOMES LTC •

After 20 years (1995-2015) the familiar Texas Concealed Handgun License (CHL) program officially changed into a **Texas License To Carry** or **LTC**—because it now protects both discreet and open carry of sidearms. License holders get the new freedoms automatically.

The lost right to bear arms in Texas is being restored—at least for folks with official carry papers—after more than 12 decades of near-total infringement (the ban was introduced in "An Act to Regulate the Keeping and Bearing of Deadly Weapons, Law of April 12, 1871, ch. 34, §1, 1871 Tex. Gen. Laws 25"). Texas is the 45th somewhat open-carry state with 937,419 licensees (2015), a source of pride to many, but it means 97% of Texans are infringed—carry without papers is mostly banned. Still, it's a positive step, for pro-rights folks (the left dislikes this liberty bitterly).

As Texas joins the rest of the nation in its growing freedoms to publicly bear arms, be cautious while kinks are worked out, authorities get used to new standards and procedures, social norms develop, shop keepers acclimatize, people get used to the new normal, some bad apples test the limits of endurance and civility and a few of you become test cases.

Avoid being a test case. The anti-rights advocates out there and some authorities will be looking for the very worst examples to make test cases, to hurt our rights, make gun owners look bad in public, and set precedents that limit the Second Amendment. They'll be seeking to "prove" the BITS myth—blood in the streets—like they tried in vain when CHL passed. Don't argue in public while armed.

Especially in the early days of open carry, watch out for each other and be on best behavior. We don't live in the same wild west any longer. Belligerence or anything less than calm civilized behavior while you're reasonably well dressed and carrying openly is an invitation for scrutiny and attention you might do best to avoid.

Open carry has advantages, especially the "inoculation effect" on the uninitiated, when they see reasonable people going about business politely armed. Because you can switch over as circumstance merits, your carry options grow. Criminals get the message, and things get better (despite lunatic ravings, never recanted... in the "news" media).

When open, be constantly on alert for a grab (exhausting), know you've given up tactical advantage, and expect the chilling glances it attracts like super-conducting magnetism. It has its place, convenience on a range trip, deterrence at a convenience counter, or any of the many open carry banquets ("tasteful open carry appreciated"), political meetings and other events where it's the new normal. Like:

Like... **Gunburger**—coordinated meals out, periodically with like-minded people at gun-friendly restaurants, who love the revenue from good people. “Safest room in town.” Otherwise, discreet wins out often. Why be a target, attract eyeballs and hostile gunfire. Try to act natural around traffic cops even when you know you’ve done nothing wrong... amplified ten times when you’re both wearing loaded guns... where do you put your hands...

DESCRIPTION OF ALL THE BOOK’S CHANGES

1 Delete the word “concealed” in 60 places, in 50 Texas gun laws (the round numbers are coincidental). This has the effect of changing “a license to carry a concealed handgun” to “a license to carry a handgun,” a simple, elegant way to revamp all the laws. The list is in the statute itself: <http://www.legis.state.tx.us/tlodocs/84R/billtext/html/HB00910F.htm>

2 In *The Texas Gun Owner’s Guide* text, change every occurrence of “CHL” and Concealed Handgun License to “LTC” and License To Carry. Because the law essentially keeps in place what former CHLs (now LTCs) can do, and then tacks on open carry, the various parts of the book remain accurate except for the change in verbiage. This affects primarily pages 29–33 and Chapter 2. This update fills in the gaps.

The actual LTC law changes, in the order they appear in HB 910:

- Statute **GC §411.188(b)**: The classroom portion of LTC classes, going forward, must now teach: “use of restraint holsters and methods to ensure the secure carrying of openly carried handguns.” **GC §411.190(b)** gets a similar change. Those terms are not defined, and DPS has issued instructions about this for LTC trainers and the public. <https://www.txdps.state.tx.us/RSD/CHL/documents/useofrestraightholsters.pdf>. Use of restraint holsters is not required, just teaching about them. People with current licenses, which become LTCs automatically, don’t need to go back to class. New licensees and renewals will get the additional instruction, and the look of new licenses will change.

- **OC §1702.206(b)**: A personal protection officer who is not in a security officer uniform must carry concealed, and if in uniform must carry openly.

TRESPASS, AND KEEPING GUN CARRIERS OUT

- **PC §30.05(f)** It remains a defense to prosecution—not an exemption from law—to be armed, openly or discreetly even with a license, on someone’s property where they ban gun possession without consent and you fail to leave (trespass). What this means is you can be charged with trespass while armed and get to defend yourself in court. You can produce a valid license, the “defense to prosecution,” to get off (or suffer consequences).

When you are carrying discreetly your risk is obviously reduced. If you are carrying openly though, your exposure is evident, and you could be charged more easily, and “tell it to the judge.” An officer has no duty to resolve your case for you, just to charge you. If asked to leave, or if signs ban entry, be smart and do it.

THE NO-GUNS SIGNS

- **PC §30.06** (the no-gun-signs law) is amended so armed trespass by LTCs while concealed is a Class C misdemeanor with a maximum \$200 fine. If you refuse to leave when told orally, it is a Class A misdemeanor, up to one year in jail and a \$4,000 fine.

- The PC §30.06 concealed-carry trespass sign is amended so the sign or card (like a ticket stub) only applies to licensees carrying concealed (a new §30.07 sign covers open carry). Because statute says the sign’s language must be “identical” and is now slightly different, all existing signs are flawed (they do not give precise notice), and so should be replaced if they are to ban LTC entry, (unless some court decides close is good enough). Don’t be a test case.

- A new section, **PC §30.07**, is added to introduce trespass by people carrying openly, basically similar to concealed-carry trespass. A §30.07 sign or card must exactly say:

- “Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly”

- Like the §30.06 sign, this must be posted in contrasting colors, in block letters at least 1-inch high, in English and Spanish, posted where it is clearly visible at each entrance. Places that want to keep guns out must now post both §30.06 and §30.07 signs.

- The rules for guns in places that serve alcohol (the “51” signs) are not affected. If the place exceeds the 51% alcohol-revenue rule, no guns, if less, it’s their option.

- If other states’ experience is an example, you will see many signs spring up, including many total bans, some encouraging armed patrons and some welcoming concealed only. Similar to the change to discreet carry, trespass by a licensee while openly carrying is a Class C misdemeanor with a maximum \$200 fine, unless you refuse to leave when told orally, which makes it a Class A misdemeanor.

- It is *not* a defense to prosecution that you were properly carrying in a shoulder or belt holster. The ban on carrying openly does not apply to property owned or leased by a governmental entity if it is not a premises or other place on which the license holder is prohibited from carrying the handgun under §§46.03 or 46.035. The long list of prohibited places is found on pages 31-33 in *The Texas Gun Owner’s Guide* or the DPS website.

What this means is government facilities, as a general rule, are not off limits. Clarifying a confusing gray area, a state attorney general’s opinion declared that, when a court proceeding is held in a government facility, only the court portion is off limits, not the rest of the facility.

“VEHICLE LEGAL”

- **PC §46.02(a-1)** is amended, so the former offense of intentionally, knowingly or recklessly carrying a handgun in plain view in a motor vehicle or watercraft you own or have under your control, is eliminated—if you are an LTC carrying

in a shoulder or belt holster. In plain English, a shoulder or belt holster makes fully or partially visible handguns “vehicle legal” for land and water vehicles. Concealed carry under the Motorist Protection Law is unchanged.

WEARING IT

- The statute doesn’t say or require *wearing* the holster, and other parts of statute distinguish clearly between having a handgun on or about you, or having one holstered. For example, the law controlling guns in “bars” distinguishes between guns on you, about you, concealed, and holstered two ways (PC §46.035(b)), and the campus-carry ban also notes a difference: “regardless of whether the handgun is holstered, on or about the license holder’s person” (.035a-1).

The implication is strong: whether you wear the holster or not, the law affects it while you possess it “on or about you,” but the point could be adjudicated and very well may be. Whoever goes on that case may go through years of very expensive agony and will get indelible history, win or lose. No one knows but we should hope for more freedom.

Some commenters assume the holster is worn, and some officials appear to want it that way, a conclusion not supported by the language. The extra freedom of having a holstered gun that isn’t worn on your body proves valuable often, especially on a day when you switch back and forth from open to discreet to vehicle storage for entry into a place that denies your rights (risky move if the joint is being cased). Blatant civil-rights discrimination (denying you entry) causes screaming from the “news” media and outrage from some segments of society, but not for this specific, enumerated, fundamental constitutional right to bear arms. Yet.

A holstered but carried (non-worn) gun is common bringing a firearm to a friend, the range, putting on later especially with clip-on holsters, or transporting more than a few firearms. This last point seems overlooked in the heady buildup to Day One when people seem eager and focused on trying out this new fangled freedom. Even seatbelts interfere with worn holsters, as Texans are about to find out, making clip-ons and paddle types on a passenger seat more common.

- **PC 46.035** is amended, to provide an exception to the offense of (former CHL) intentionally letting a handgun show in public, if the person is an LTC and the firearm is in a shoulder or belt holster. Basically, you can carry openly where you could formerly carry discreetly (watch out for specified schools). While you can carry discreetly in any manner (free of holsters), open carry requires the shoulder or belt holster.

NOTE: The uncomfortable wording here provides “an exception to the application” of the offense, instead of just eliminating the offense altogether. It’s an affront to the 2nd Amendment. It is infringement, and the parties drafting it should earn punishment, not the public. Letting a gun show is not a true crime. Yes, brandishing a gun intending to cause a negative reaction ought to be chargeable. If just letting a gun show inadvertently causes someone dread where none is actually warranted, remedial education, or counseling for that person is always an option. Bearing arms is not some right hidden in penumbras and emanations. Folks used to have such biased reactions when people of color ate at lunch counters. It’s time

for such prejudice to be recognized for what it is, and end.

- **(a-1)** Also in this section, we have the new offense of intentionally letting properly open carried firearms show at an institution of higher education or private or independent institution of higher education, or on any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area of such a school.

This means these schools will be concealed-only zones, when SB11 takes effect for campus carry on Aug. 1, 2016 (for 4-year schools) and Aug. 1, 2017 (for 2-year schools) under school rules that are still being worked out. Concealed carry remains the rule on the ancillary areas around those schools, unless a school activity is taking place there, according to a recent attorney general opinion.

SIDEBAR 1:

So do you have to be actually wearing the shoulder or belt holster to legally have a sidearm with you? Or can you just holster it and make it openly legal? It’s an obvious question for a test case. If I was the judge and I wanted a protective approach to Texans’ precious right to arms, then read the law precisely, and as long as that gun was in anything that could remotely pass for a shoulder or belt holster, even an ankle holster attached with a short belt, I would find it perfectly legal anywhere in a vehicle or possessed, stop bothering these good people officer. Next case. [I’m not a judge, this is not legal advice, we’re just citizens discussing an issue under the protection of the First Amendment.]

On the other hand, if I hated guns, thought all you rabble are too dangerous to have guns, and I know better than you all, I would read the law precisely and know the legislature clearly intended belt and shoulder holsters to be worn as belts and on shoulders, so unless they were perfectly fitted through belt loops with the latest best retention models as I judge them, you would be in violation, bring in the next victim. This is called: “A nation of laws.”

SIDEBAR 2:

The §46.02 Problem. Intentionally bearing a handgun in public is currently illegal under Texas statute, were you aware of that? The statute goes on to provide a list of exceptions. An apparently direct violation of the U.S. Constitution (which brooks no infringement), it is so ingrained in Texas it is sometimes hardly noticed. Because your right to bear arms should be inviolate under the U.S. Constitution, state law ought to go no further than to outline and provide punishment for the crimes that can be committed or enhanced with firearms, not outlaw the basic right and then carve out exemptions. Too late.

This leads to the current problem with the LTC law. The license gives you an exception to the crime, but anyone seeing you *openly* armed can’t tell by looking that you have the exception (your “papers”). By *looks* you’re in violation. When discreet carry was required under the CHL, the issue didn’t come up. Should LEOs stop folks on the street, ask everyone, no one, spot check, profile “the bubbas,” look for probable cause, seek articulable suspicion... should you