

Confused About the New Gun Law? Here Are the Facts

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By Scott Callahan

On Jan. 1, Texas became the most recent of 45 states to implement an “open carry” law that allows people to walk around with a handgun that is easily visible. The new law has created plenty of concern and confusion about just where handguns are allowed and who can legally carry them in public.

Have you noticed anyone packing a gun at the mall, grocery store, movie theater or your favorite restaurant? Have your kids asked you about it yet? And what can you do if you are worried about someone you see carrying a gun? First of all, being aware of the law may provide some peace of mind and a reality check.

Perhaps you weren't aware, but Texas has long allowed the open carrying of “long guns” such as rifles and shotguns. Before this new law, however, anyone taking a handgun beyond their property, vehicle, or outside hunting/fishing venues, was required to keep it concealed and have a concealed handgun license.

Here are the facts about the new handgun open carry law:



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Openly carrying pistols is being allowed for the first time since 1871.

People with a license to carry (LTC), including those already holding concealed handgun licenses (CHL), must carry the legal handgun in a shoulder or belt holster. The gun cannot be stuck behind your back or tucked in your belt.

The LTC is the license now being issued, but a CHL also serves as a license to carry.

The police can stop you and ask for your license to carry unless the courts determine otherwise. Law enforcement will expect you to have your LTC and driver's license if they ask. However, the new law provides no penalty for a carrier who refuses to produce, or does not have a license on hand.

An ordinary citizen has no right to stop someone and ask to see the license.

Generally speaking, weapons can be kept in an employee's locked, privately owned vehicle, such as in the parking lot, unless at a chemical plant, refinery, utility or school.

Are there prohibited areas where handguns cannot be taken? Yes, these include a narrow list of places such as bars, correctional facilities, secured areas within airports, and certain sections of government buildings, such as courtrooms and polling places.

Campus carry at public universities becomes legal Aug. 1, but the gun must remain concealed and the carrier must be at least 21 years old and have a handgun license. Meanwhile, private universities are allowed to ban guns, and Rice University did that recently.

Private businesses also can prohibit guns inside their premises, and several high-profile businesses are doing that: Target, Starbucks, Chipotle, HEB supermarkets and the Houston Galleria.

Businesses with bans must post compliant signs stating the prohibition pursuant to:

Texas Penal Code Section 30.06 – No Trespassing (Concealed Weapon); and/or Texas Penal Code Section 30.07 – No Trespassing (Open Weapon).

The business may display either sign or both. The signs must be clearly displayed at all entrances in both English and Spanish and appear in contrasting colors with block letters at least one inch in height. If no sign is posted, then a business or employer still has the right to ask someone to leave or to place their gun in their vehicle.

This new law carries with it a haze of gray areas, unanswered questions, confusion, and even fear. This is true for citizens, business owners and law enforcement. If you are uncomfortable seeing someone carrying a gun, you may just want to avoid the situation or seek out businesses and other venues that ban guns. And if someone's behavior with a gun is questionable, of course call the police.

During the next legislative session the law likely will be revisited for more clarification and guidance. For example, in recent days, newspapers have reported a startling loophole that allows carrying guns into psychiatric hospitals, which previously had the right to ban them.

So, regardless of where you stand on gun rights, open carry is here. And regardless of whether you are a gun owner, you should be equipped with the basic knowledge and understanding of your rights and how to keep you and your family safe.

The information in this column is not intended as legal advice, but to provide a general understanding of the law. Readers with legal issues, including those whose questions are addressed here, should consult attorneys for advice on their particular circumstances.

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