

Understanding the New Texas “Open Carry” Gun Laws

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Effective January 1, 2016, individuals with a license to carry¹ will be authorized to carry a holstered handgun openly in public. Texas property owners must comply with specific requirements if they decide to prohibit guns on their premises.

Background

Pursuant to HB 910 (the “Open Carry Laws”), effective January 1, 2016, concealed handgun licensees will be able to openly carry a handgun in public, with exceptions for institutes of higher education and private security.² The criteria for obtaining a license to carry a handgun in Texas will not change, and should a licensee decide to openly carry, they must carry their handgun (whether loaded or unloaded) in a shoulder or belt holster.

Implications for Texas Property Owners

Under the new Open Carry Laws, property owners will have the right to prohibit *both* the concealed and open carry of handguns onto their property. In order to do so, the following signage must be (1) clearly visible to the public and conspicuously displayed at each entrance to the property and (2) written in both English and Spanish with block letters at least one inch in height, in contrasting colors (if a property owner would like to prohibit *both* the concealed and open carry of handguns, then *both* signs must be posted):

To prohibit concealed carry, the signage must read exactly as follows:

“Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun.”

¹ Formerly a “License to Carry a Concealed Handgun,” effective January 1, 2016 such license will be renamed as a “License to Carry a Handgun.” (Tex. Govt. Code Chapter 411, Subchapter H)

² This alert does not address Texas Senate Bill 11, pertaining to the complex “Campus Carry” laws at institutes of higher education, nor the exception for plain-clothed personal protection officers under Texas Occupations Code Chapter 1702.

To prohibit open carry, the signage must read exactly as follows:

“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.”³

The full practical implications of the new Open Carry Laws have yet to be determined. For example, it is unclear if the language “at each entrance to the property” includes small entrances for service personnel and entrances from parking lots and garages, or if signage at the main public entrances will be sufficient. Unless and until law provides otherwise, best practices may be to post additional signs, if and when in doubt. We likely will see how the specifics of the new Open Carry Laws are implemented once such laws become effective and precedent is established.

Additional Considerations

In developing a weapons policy, Texas property owners should work with property managers, security personnel, insurers and counsel to prepare a comprehensive policy specific to each property owner’s needs. In doing so, Texas property owners should consider (to the extent not already addressed in a tenant’s lease, including any attached building rules and regulations) addressing the issue by amending the building rules and regulations to add language providing that the landlord has the right to prohibit anyone from entering the premises with a handgun and to post signs prohibiting the same.

If you have any questions about the content of this alert, please contact the Pillsbury attorney with whom you regularly work, or the authors below.

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 ³ Although HB 910 requires signage in both English and Spanish, no Spanish translation has been provided by statute.

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