



Understanding the New Texas “Open Carry” Laws

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The Texas House and Texas Senate, by an overwhelming margin, recently passed House Bill 910 during the 84th Texas Legislative Session, allowing concealed-handgun-licensed owners to openly carry a handgun in public. HB 910, also known as the “Open Carry” bill, was signed in to law by Governor Greg Abbott on June 13, 2015, and becomes effective (with a few minor exceptions) on January 1, 2016.

The passage of this bill makes Texas the 45th state to allow some form of “open carry” of handguns.

While the advocates of HB 910 tout the bill’s passage as a monumental win for the Second Amendment, the law creates new and interesting challenges for business and property owners who will be required to comply with its provisions. Note, this brief is not intended to cover all aspects of the new Open Carry law but is instead designed to provide an overview of the pertinent provisions of HB 910 that are applicable to business owners, specifically with respect to notice and signage requirements. But first, let’s take a look at the provisions of the law:

- The rules and restrictions already in place with the Concealed Handgun laws are still applicable and apply to Open Carry as well.
- HB 910 authorizes individuals to obtain a license to openly carry a handgun in the same places that allow the licensed carrying of a concealed handgun, with the following two exceptions:

Exception 1: *On the premises and any public or private driveway, street, sidewalk or walkway, parking lot, parking garage or other parking area of an institution of higher education or private or independent institution of higher education. Note: This brief is not intended to cover the complexities of Senate Bill 11, the new “Campus Carry” law that was also passed and signed into law by Governor Abbott. For more information on “Campus Carry,” please contact the author of this brief.*

Exception 2: *By an individual who is acting as a personal protection officer under Chapter 1702, Texas Occupations Code, and is not wearing a uniform.*

- If an individual is openly carrying a handgun (meaning, it is not concealed), the handgun must be carried in a shoulder or belt holster. This applies whether the gun is loaded or unloaded.
- The criteria for obtaining a license to carry a handgun (concealed or openly) will not change.
- All references to “CHL” (concealed handgun license) will be changed to “LTC” (license to carry).
- Current holders of concealed handgun licenses may continue to carry handguns with that license. A separate license will not be required to openly carry and no additional fee will be required.
- Individuals who are currently licensed will not be required to attend additional training.
- New applicants for handgun licenses will be required to complete training, which will be updated to reflect the new requirements relating to the use of restraint holders and other methods to ensure the secure carrying of openly carried handguns. This new curriculum is required for classes starting on or after January 1, 2016.



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LEGAL UPDATE

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Business and Property Signage Requirements:

Private businesses may continue to prohibit the carrying of handguns, whether concealed or open, into their place of business. However, in order to do so, they must post signs on the property to prohibit entry by a licensed holder with a handgun.

- To prohibit the "concealed" carry of handguns, the sign must include the following language (pursuant to TEXAS PENAL CODE Section 30.06):

"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."

- To prohibit the "open" carry of handguns, the sign must include the following language (pursuant to TEXAS PENAL CODE Section 30.07):

"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."

- If a property owner wishes to prohibit BOTH the concealed and open carry of handguns, both signs must be posted.



Our Takeaway:

While many view the passage of "Open Carry" as a win for the Second Amendment, the details of the law and the new requirements can be quite complicated and, admittedly, may be a bit confusing. If you have any questions or need further information, please feel free to contact me directly at jleach@grayreed.com.

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If you have questions regarding the Open Carry ruling as it relates to your business, please call your attorney or call Gray Reed & McGraw, P.C. at 214.954.4135. We are always here to help.

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