

Feb. 1995

RESEARCH ORGANIZATION

session focus

Texas House of Representatives

February 8, 1995

License to Carry a Handgun Debated

A proposal to allow Texans to be licensed to carry handguns while in many public places has been filed in the 74th Legislature. Texas is one of 12 states that prohibit most citizens from carrying handguns away from home. The Texas Penal Code generally prohibits the carrying of handguns, but creates exceptions for persons while they are at home or on other premises under their control, hunting, fishing, engaged in a sporting activity, traveling or serving as peace officers, prison guards, armed forces or state military personal and security officers who meet specified qualifications.

Supporters of amending the handgun prohibition say properly trained citizens with clean criminal records should be able to carry handguns away from home to protect themselves and to deter crime. Opponents say allowing Texans to carry handguns in public would not deter crime or decrease violence but instead would increase gun-related crimes, shootings and accidents.

Legislation allowing Texans to carry handguns in public has been considered by the Legislature throughout the last decade, and only a gubernatorial veto blocked a referendum on the issue in 1993. The 73rd Legislature had approved HB 1776 by Wilson, Carter et al., calling for a nonbinding referendum on whether the Department of Public Safety should adopt rules for handgun licensing, but then-Gov. Ann Richards vetoed the bill. Gov. George W. Bush has said he supports allowing Texans to carry concealed handguns if the law includes strict requirements for licensing, background checks and training.

This Session Focus report examines proposals to allow Texans to carry handguns. It summarizes current state and federal law governing gun sales and use, previous Texas proposals on carrying handguns and public opinion and debate over carrying handguns in public. Four major issues in the debate are examined:

personal crime prevention; handguns and law enforcement officials; firearm accidents, suicides and crimes of passion; and licensing requirements.

BACKGROUND

Texas and U.S. Constitutions

The Texas and U.S. Constitutions grant citizens certain rights to be armed, although courts have upheld the right of lawmakers to limit gun sales and use. Art. 1, sec. 23 of the Texas Constitution states, "Every citizen shall have the right to keep and bear arms in the lawful defense of himself or the State; but the Legislature shall have power, by law, to regulate the wearing of arms, with a view to prevent crime." The Second Amendment to the U.S. Constitution reads, "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed."

Federal and state regulation

Federal law. All persons who manufacture, import or sell firearms as a business must have a federal license under the federal Gun Control Act of 1968 (18 USC Ch. 44, sec. 921 et seq.). The law prohibits sales by licensees to persons under indictment for or convicted of felonies, fugitives from justice, illegal controlled substance addicts, persons who have been institutionalized or adjudicated for mental problems, illegal aliens, persons dishonorably discharged from the armed forces and persons who have renounced their U.S. citizenship. Sales of handguns to persons under 21 years old and of any firearms to those under 18 years old are prohibited. The law also bans interstate handgun sales and interstate mail order

handgun sales. The 1994 federal crime bill generally prohibits the possession by juveniles of handguns and handgun ammunition, with exceptions for certain employment, farming, ranching, target practice and hunting. Other federal restrictions include:

- The "Brady Bill," enacted in 1993, requires a five-day waiting period for completing a *handgun* purchase from a federally licensed dealer. The law does not affect private transactions involving unlicensed sellers. Local law enforcement officials are supposed to use the waiting period to make a "reasonable effort" to check a purchaser's criminal background and determine if the purchase would violate the law, and if so, to notify the seller. The waiting period is scheduled to be eliminated in five years and replaced by a national "instant check" system.
- "*Semiautomatic assault weapons*," are restricted by the 1994 federal crime act, which prohibits the manufacture, transfer or possession of specific makes and models of guns.
- The National Firearms Act of 1934 (26 USC 5801 et seq.) requires strict registration and payment of taxes on transfers of *machine guns and short-barrelled long guns* (rifles or shotguns with their barrels sawed off).

State law. Texas Penal Code Chapter 46 regulates the sale and possession of firearms.

Prohibited sales, places and firearms. Penal Code sec. 46.06 prohibits the *sale or transfer* of firearms to anyone who is younger than 18 years old, intoxicated or a felon. The code sets no minimum age requirements for possession of firearms. Felons are prohibited from possessing firearms for five years after release from prison or other supervision, and are permanently prohibited from possessing firearms outside of their residences.

All firearms, including handguns, are prohibited in certain *places*, including schools, polling places, courts, racetracks and secured areas of airports in Penal Code sec. 46.03. The possession, manufacturing and selling of certain *types of weapons* including machine guns, short-barrel firearms and firearm silencers are prohibited in sec. 46.05.

Carrying handguns. Penal Code sec. 46.02 prohibits carrying a handgun, illegal knife or club on or about one's person, which courts have interpreted to include "in hand" and within arm's reach. The law creates exceptions (defenses to prosecution) for persons while at home or on other premises under their control, while hunting, fishing, engaged in a sporting activity or traveling and for peace officers, prison guards, armed forces and state military personnel and security officers who meet specified qualifications. Violations are Class A misdemeanors (maximum punishment of one year in jail and a \$4,000 fine), and become third-degree felonies (maximum penalty of 10 years in prison and a fine of up to \$10,000) if the handgun is carried on the premises of a state-licensed seller of alcohol.

The Penal Code's restrictions on carrying handguns have been criticized as vague and confusing. For example, since the code fails to define "traveling," persons accused of illegally carrying a handgun in a vehicle may claim they were "traveling" at the time of the alleged offense. Courts have varied in their interpretations of whether traveling must involve crossing county lines, how long the trip must last and when a person is diverted from traveling.

Carrying rifles or shotguns in public is not specifically prohibited by Texas law, but displaying a firearm in a public place in a manner calculated to alarm or discharging a firearm in public may constitute the offense of disorderly conduct, and the offense of assault may extend to certain displays of firearms.

Proposed changes. Proposals to loosen limits on carrying handguns have been considered repeatedly by the Legislature. The 72nd Legislature's Committee on Public Safety recommended that legislation be introduced in the 73rd Legislature, in 1993, to allow Texans to obtain licenses to carry concealed handguns for personal protection and crime prevention.

The 73rd Legislature subsequently approved HB 1776 by Wilson, Carter et al., the vetoed bill that in its final form would have asked voters in the November 1993 general election whether the Department of Public Safety should adopt rules for issuing licenses for persons to carry handguns. Supporters of the nonbinding referendum said it would allow the people of Texas to decide whether citizens should be licensed to carry handguns.

Opponents said the referendum would be a publicly financed opinion poll for the gun lobby.

The House passed a version of HB 1776 that would have authorized DPS, upon approval by voters in a referendum, to issue licenses to qualified applicants to carry handguns, concealed or exposed, and established eligibility requirements. HB 1776 would have prohibited handguns in such places as schools, polling places, courts, bars, racetracks, parts of airports, some sporting events, banks, public libraries, post offices and hospitals. A House floor amendment specified that licensees could carry guns exposed and that concealment was not required.

Licensees would have had to be at least 21 years old, have lived in Texas at least one year, not have been convicted of a felony, not have been convicted of a Class A or Class B misdemeanor within the previous five years, not be charged with a Class A or Class B misdemeanor or a felony and not be chemically dependent or of unsound mind. Licenses would have been good for four years. Disclosing criminal history and recent treatment for psychological disorders or drug or alcohol abuse would have been required. Licensees would have had to complete a handgun proficiency course given by a certified instructor that included classroom and range instruction and a demonstration of gun proficiency.

Senate changes included making the licenses good for two years instead of four and requiring that licensees submit proof of a negative test of a controlled substance and be registered to vote. The conference committee allowed only for the nonbinding referendum.

Other states

Twelve states prohibit carrying handguns in most circumstances: Texas, Arkansas, Illinois, Kansas, Kentucky, Missouri, Nebraska, New Mexico, North Carolina, Ohio, Oklahoma and Wisconsin. The 38 states with some type of right-to-carry laws, except for Vermont, require a permit or license to carry a concealed handgun, and about half license only persons who meet special criteria, such as job-related need.

Most states that authorize carrying handguns require that the guns be kept concealed, but some states allow guns to be carried exposed. Arizona

until recently put few restrictions on carrying handguns but now requires that a person get a permit to carry a *concealed* handgun. Arizona does not require a permit to carry a handgun that remains at least partly visible and is contained in a holster or other holder.

An often-cited example of a state that licenses members of the general public to carry concealed guns is Florida, whose 1987 law requires licensees to be at least 21 years old, not have been convicted of a felony or a recent crime of violence, not be alcohol or drug abusers, be mentally competent and prove firearms proficiency through completion of a safety and training course or equivalent experience. Licenses are valid for three years.

Public opinion on carrying handguns

Recent public opinion polls indicate that well over half of Texas households include a gun owner and that Texans are either about evenly split or somewhat opposed to right-to-carry legislation. A November 1994 poll conducted for the *Houston Post* reported that 48 percent of those surveyed supported, and 51 percent opposed, legislation that would allow residents with clean criminal records and no history of mental illness to carry a concealed weapon. One percent of respondents were undecided. (The survey had a margin of error of plus or minus 4.5 percent)

A Texas Poll in the spring of 1993, while the 73rd Legislature was considering handgun legislation, also showed a nearly even split. Forty-eight percent of those surveyed favored allowing individuals to carry concealed weapons after a background check and issuance of a permit, 47 percent opposed such a law and 5 percent did not know. Fifty-seven percent said restrictions on the sale of guns should be increased, and 15 percent thought they should be decreased. Sixty percent of those surveyed said they or a family member owned a gun. This compares with about 48 percent gun ownership nationwide in 1993, according to the Texas Poll.

Greater opposition was reported in a poll taken about the same time, in April 1993, for two Texas newspapers. That poll found 65 percent of the respondents opposed allowing persons to carry a concealed weapon while 31 percent supported it. Sixty percent said gun control laws should be more strict and 6 percent said less strict.

Opposition from 70 percent of the respondents was reported in a February 1993 Mason-Dixon poll on legislation that would allow law-abiding citizens to carry concealed handguns in public, while 19 percent favored the idea and 11 percent were undecided.

PROPOSALS

Various proposals to change Texas law on carrying handguns have been considered in recent years. A statewide vote on licensing is supported by some, while others say the Legislature alone should decide whether the state should authorize licensed users to carry handguns in most public places.

The proposals generally would allow a person to carry a handgun in all but a few specified locations if the person had a license to carry that gun. The proposals have varied on whether concealment of the gun is required. Handgun-licensing bills usually prohibit carrying guns in schools, polling places, courts, businesses with alcoholic beverage licenses or permits, racetracks, government offices and government meetings.

Licensees would have to meet requirements such as a minimum term of Texas residency, minimum age (usually 21 years old, the minimum age for legally buying a handgun from a licensed dealer), a clean criminal record, no alcohol or drug abuse, mental competency, handgun proficiency training by qualified instructors that includes classroom and range instruction and a demonstration of a person's ability to use a gun. Continuing education requirements usually are proposed for licensees. Most of the proposals would make a license apply solely to a particular type of handgun, not handguns in general. Licenses would be issued by the Department of Public Safety and would be valid for a specified term, usually no more than five years. Most proposals would require license fees, ranging from \$100 to \$200, to fund DPS licensing activities.

Some critics of current proposals say the licensing fees usually proposed, coupled with requirements that licensees pay for a gun-use training program and continuing education, would discriminate against low-income Texans, who are the most vulnerable to violent crime and most in need of self-protection. Others defend the license fees as necessary to pay for adequate DPS background checks and licensing

procedures and argue that licensing and training-program fees would be reasonable and would not burden gun owners.

Some proposals would require licensees to keep handguns concealed, and would create penalties for failing to do so, while others would allow carrying guns either concealed or exposed. Some analysts argue that licensees should be required to carry their guns concealed, to keep criminals off guard about whether a potential victim has a handgun or not and to prevent alarm and uneasiness among gun-shy members of the public. Supporters of concealment note that off-duty police officers conceal their weapons so they do not alarm the public. Another position is that the state should allow licensees to carry guns either concealed or exposed, while a third view is that the law should require that handguns be carried exposed, to maximize any crime-deterrent effect and to make clear which members of any group are armed.

THE DEBATE

Supporters of allowing Texans to carry handguns say Texans should have the right to carry handguns away from home to legally protect themselves and their property and to deter crime. Opponents of the proposals argue that allowing Texans to carry handguns on the streets and other public places would not deter crime or protect individuals but instead would result in more random violence, deaths, accidents, crimes of passion, domestic violence and suicides.

Among those actively supporting license-to-carry legislation are the Texas State Rifle Association, the National Rifle Association and many gun and rifle clubs. Those actively opposing such legislation include groups such as Texans Against Gun Violence and Texans Against Violence and the national group Handgun Control, Inc. The Texas State Parent Teacher Association also opposes the proposal. Texas law enforcement groups appear divided on the issue.

Crime and violence prevention

Right-to-carry supporters say: Law-abiding Texans need better defenses against armed criminals, and a licensing law will give them the necessary help. The current Texas law governing handgun use

is confusing, too restrictive about when and where citizens may carry handguns and lacks licensing and training requirements. Allowing Texans to be armed in public places would deter crime. A licensed, trained adult who is carrying a handgun feels the same peace of mind about preventing harm that a licensed driver feels while wearing a seatbelt.

A clearer gun law would force criminals to think twice before victimizing citizens. Two surveys indicate that guns help deter crime. From 1987 to 1992 an average of about 62,200 persons threatened with violent crimes (1 percent of the total) used guns to defend themselves, and about 20,300 persons used guns to protect property, according to the U.S. Department of Justice. Florida State University professor Gary Kleck estimated that, based on a 1993 survey, guns are used 2.2 to 2.5 million times annually for self defense, and that handguns are used in 1.5 to 1.9 million of those cases. An often-cited study in the *New England Journal of Medicine*, purporting to show that a gun kept at home is more likely to be used to kill family members than to be used for self-defense, was seriously flawed and miscounted defensive uses of firearms.

Contrasting incidents in Texas and Alabama clearly illustrate the effects of current Texas law. In 1991 George Hennard drove his pickup truck through the windows of a Luby's cafeteria in Killeen, Texas, and used two pistols to murder 23 people. Suzanna Gratia, who watched as her parents were killed in the shooting, told the Texas House Committee on Public Safety in 1992 that she had left her handgun in her car because she said she was afraid she might lose her chiropractic license for illegally carrying it. Gratia testified that if she had carried her gun into the cafeteria she might have stopped Hennard. In contrast, in 1991 an Alabama citizen legally carrying a .45 caliber pistol killed an armed robber and seriously wounded another who had herded about 20 customers and employees of an Anniston, Alabama, Shoney's restaurant into a walk-in refrigerator.

Criminals say an armed person makes a poor victim. A 1986 survey of convicted felons in 10 states showed that 56 percent said they would not attack a victim known to be armed and 39 percent had decided not to commit a crime because they thought the victim might have a gun, the Independence Institute has reported.

Fears of criminals using a victim's weapon or of a victim harming innocent bystanders are exaggerated. Criminals are easily identified, and there is little likelihood of shooting the wrong person. Six years of federal crime data showed that in no more than 1 percent of defensive gun uses was the gun taken from a victim by a criminal, according to a report on research by Professor Kleck at Florida State.

In other states violence has decreased after approval of right-to-carry legislation. The homicide rate in Florida decreased 21 percent between 1987, when Florida first allowed residents to carry concealed handguns, and 1992, despite an increasing national homicide rate. In 1987 the Florida homicide rate was 37 percent above the national average, but in 1992 it was 3 percent below the national average. In 1987 Florida's homicide rate was 11.4 per 100,000, while the national rate was 8.3; in 1992 Florida's rate was 9.0 and the U.S. rate 9.3. Florida had a lower violent-crime increase in that period than the 24 percent reported nationally.

A right-to-carry law would not lead to a flood of gun use. Only about 1 percent to 4 percent of a state's population typically obtains concealed handgun permits, according to an Independence Institute report. From October 1987 through September 1994, Florida, with a population of about 13 million, issued only 250,381 licenses. During the same period 409 licenses were revoked, and only 22 of them were for crimes involving firearm use.

Right-to-carry opponents say: Carrying a handgun is a poor means of personal protection and may create a false sense of security. Armed criminals rarely give victims an opportunity to retrieve a weapon and often wrest the weapon from its owner, sometimes even from highly trained police officers. Of the 743 police officers killed nationwide in the line of duty in a recent 10-year period, 104 were killed with their own weapons, according to the Texas Police Chiefs Association. A 1992 FBI study reported that 85 percent of law enforcement officers killed on duty did not fire their weapons and 20 percent were killed with their own weapons, according to Handgun Control, Inc. It is unlikely that an average citizen could do better.

Former White House Press Secretary Jim Brady, in opposing the concealed-gun legislation considered by the 73rd Legislature, said he and President Reagan were surrounded by the most highly trained Secret

Service officers, all carrying concealed weapons, when they were shot by an assailant.

Increasing the number of legal gun users will not help reduce crime. In the five years after a concealed-handgun law was enacted in Florida in 1987 the violent crime rate (crimes per 100,000 people) increased 18 percent, and the number of violent crimes rose 32 percent. In 1992 Florida had the highest state violent crime rate in the country, 59 percent higher than the national average. In the first two years after Florida's concealed-weapon law was approved the homicide rate was virtually unchanged, and it declined only after background checks and a waiting-period requirement for gun purchases went into effect.

Gun violence is increasing, and putting more guns on the streets would increase it further. In 1992 handguns were used in about 931,000 murders, rapes, robberies and assaults nationwide, according to the U.S. Department of Justice. In 1993, for the fourth year in a row, more Texans were killed by firearms (3,456) than by motor vehicles (3,184), according preliminary numbers from the Texas Department of Health. If guns made people safer, Texas already would be one of the safest places in the world.

Firearms were the leading cause of death for those aged 1 to 44, about 70 percent of the Texas population, in 1992, TDH reports. Half of the Texas firearm deaths in 1992 were homicides, 44 percent were self-inflicted, 5 percent were unintentional and 1 percent were due to legal interventions, according to TDH. Just over half of all Texas murders in 1992 were by handguns, according to FBI data.

Even gun-license supporters propose excluding handguns from schools, polling places, courtrooms, bars and some sporting events. This is a tacit admission that carrying handguns poses a threat to innocent people, and raises questions about how extensive the exempt list should be. Should loaded handguns be permitted in crowded convenience stores, shopping malls, nuclear power plants, rock concerts and shelters for battered women? Should handgun check-in racks be required at the locations where guns are prohibited?

Controlling criminals is the job of law enforcement, the courts and the penal system, not average citizens. The only real hope for combatting violent crime is to disarm criminals and to implement

long-term solutions to crime such as more education and more economic opportunities. For the average citizen, non-lethal self-defense items like Mace and "stun guns," pose far less danger than carrying a loaded handgun in a holster or purse. Dreams that an armed citizen might intervene to avert a dramatic crime are purveyed by those using emotional responses to crime to shape public policy.

Handguns and law enforcement

Right-to-carry supporters say: Most police officers and some police organizations support concealed-carry proposals that allow properly trained, law-abiding citizens to protect themselves when the police cannot. For example, during the 1993 debate over a law allowing Texans to carry concealed handguns at least two law enforcement organizations supported the idea. Law officers often carry handguns for protection when they are off duty, an option all Texans should have. Law enforcement officers already justifiably fear that every car they pull over and every crime scene they enter could contain a loaded gun. A licensing system would let officers cross-reference license plate numbers to determine whether a vehicle owner has a gun permit.

Right-to-carry opponents say: Allowing Texans to carry concealed weapons would further endanger police officers. If more handguns are on the street, investigating police officers will have even more difficulty knowing who is armed, which is why many police officers oppose a license to carry handguns. Police do not want well-intentioned civilians firing off rounds in public. In 1993 at least two law enforcement organizations opposed a proposal allowing Texans to carry concealed handguns. Law officers' jobs would become more difficult with an increase in split-second decisions about whether every person with a gun was a friend or a foe. Cross-checking license plates numbers and gun permits would be a futile bit of red tape, since armed persons would not necessarily be in their own cars, nor would they always have taken out gun permits.

Accidents, suicides, crimes of passion

Right-to-carry supporters say: Most firearm accidents, suicides, domestic violence and crimes of passion occur in the home, where Texans already can legally carry handguns. Despite often sensationalized media reports, the number of accidental gun deaths has steadily fallen over the past two decades while

ownership was increasing, according to National Safety Council data. Texas should face the fact that handgun ownership is increasing and license the users.

Comparing firearm deaths to all motor vehicle deaths ignores key facts and uses faulty logic. According to *Guns, Crime, and Freedom*, the 1994 book by Wayne R. LaPierre, the National Rifle Association's chief executive officer, comparing 1993 nationwide motor vehicle accidents to gun accidents shows fewer deaths by guns than motor vehicles, with 1,600 accidental deaths by firearms and 42,000 accidental motor vehicle deaths.

Accidents in which children misuse guns are tragic and can be prevented through education and proper safeguards. Media reports of gun accidents involving children distort the true nature of dangers to children. In 1985 firearms accidents made up only 2.9 percent of nationwide accidents to children under 15 years old while bicycles made up 3.7 percent, pedestrian traffic 12.3 percent and drowning 13.4 percent, according a report by The Johns Hopkins Injury Prevention Center.

Opponents of right-to-carry laws claim the laws would increase domestic violence and crimes of passion. Yet most domestic violence emerges gradually and could be quelled early through law enforcement, the courts or social service agencies. Crimes of passion are not premeditated, and would not increase just because people are authorized to carry the guns they may already have in their homes.

Potential suicide victims already can obtain a gun and legally keep it at home. The Penal Code restrictions on carrying a handgun are no deterrent to suicides. Suicide rates vary widely among countries and appear to be influenced by personal, cultural and other factors, not firearm-possession laws.

Right-to-carry opponents say: Increasing the number of handguns and handgun users would result in increases in gun-related accidents, domestic violence, crimes of passion and suicides. About 170 Texans are killed each year in firearm accidents, and about a third of these are children, according to the Texas Department of Health. Every crime an armed citizen might prevent would be offset by deaths from accidents and arguments ending in gunfire. Any angry encounter could become a shootout. Highway fender-benders, sidewalk arguments and disputes over retail or bureaucratic transactions could turn deadly. In September 1994 a shoving incident in a Houston

restaurant escalated into a gun battle and three men were killed. The overzealous could shoot those suspected of misdemeanor theft or criminal mischief. Vigilantes would shoot first and ask questions later.

Already almost half the state's murder victims are killed by a family member or acquaintance. A gun in the home is 43 times more likely to kill a family member or a friend than it is to be used in self-defense, according to a 1986 study cited by the Children's Safety Network. A 1994 study of firearm deaths and hospitalizations in Travis County found that in 86 percent of assault-related shootings in which the victim-offender relationship was known, the victim was shot by an acquaintance, relative or lover. If handguns use becomes more common, guns will be used as murder weapons more often.

The inevitable surge in gun sales stimulated by state-issued licenses to carry concealed weapons would endanger more children. Nearly 5,370 children age 1 to 19 nationwide and 540 children in Texas were killed by firearms in 1992, according to the National Center for Health Statistics at the Center for Disease Control (CDC). Of the Texas deaths, 335 were homicides, 138 suicides, 59 accidents and 8 were of undetermined type, according to the CDC. License-to-carry laws are promoted in part by gun manufacturers and dealers who want increased sales but have been unwilling to make simple manufacturing changes that would protect children from accidents.

About half of all firearm-related deaths are suicides, and firearms were used in about half of the suicides nationwide during two recent year-long periods, Congressional Research Service has reported. The Travis County study of gun-related deaths and injuries in 1991 and 1992 reported that of the 155 firearm related deaths, 52 percent were suicide and of the suicides, 77 percent involved handguns. If victims live, it is at great cost to society. The study of gun-related deaths in Travis County reported that total medical charges for those hospitalized for gun-related injuries was over \$2.2 million, 82 percent of it paid by public or uncompensated funds.

The argument that a licensing law requiring training of gun users would increase safe use of guns is refuted by a recent study. The study showed that gun owners who received training were more likely to keep their guns loaded and unlocked than

those who had received no training. Officials of the Harvard School of Public Health, which did the study, said even gun proponents agree that keeping guns loaded and unlocked creates a hazard.

Licensing safeguards

Right-to-carry supporters say: Licensing safeguards will ensure that only law-abiding, mentally competent and properly trained people get handgun licenses. Extensive criminal history checks will reveal arrests, charges and disposition of felonies and misdemeanors and disclose recent treatment for drug or alcohol problems. DPS, or possibly local law enforcement, could do whatever is necessary, including checking with local police departments or talking to neighbors, to assure that applicants are of sound mind, are law-abiding and have no drug or alcohol problems.

Licensees would have to pass a handgun proficiency course taught by a certified instructor. The course would include classroom and shooting range instruction and would require persons to demonstrate their proficiency with a gun. Topics would include deadly force laws, gun safety, dispute resolution and gun storage with an emphasis on practices that would eliminate the possibility of accidents. To renew a license, persons would have to complete a continuing education course, a more stringent standard than imposed on some law enforcement officers. Many good citizens already carry handguns illegally because the law is muddy and confusing. This bill would decriminalize handgun-carrying by responsible people and require gun owners to undergo training.

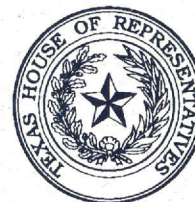
Right-to-carry opponents say: No law can ensure that handguns would be used safely and legally. Police officers receive hundreds of hours of training on the use of their weapons, and it is naive to think that one firearm safety class would be adequate for citizens. Peace officers also receive extensive training on *when*, not just *how*, to use deadly force. It is doubtful that civilians would be able to respond safely and correctly when faced with a potentially dangerous situation.

Background checks would have to rely on insufficient criminal records, medical records and self-disclosure. No effective statewide screening process exists to identify violent criminals. The Texas computerized criminal history data base kept by the Department of Public Safety only identifies Class B misdemeanors and higher, leaving out some types of assault, disorderly conduct and other violent offenses and incidents. Even required information about serious crimes may be missing if counties are careless about reporting. Records kept by the Federal Bureau of Investigation are only as reliable as the uneven records submitted by each state, and fail to include records of persons who enter from outside the country.

DPS lacks any reliable way to check for mental competence or substance abuse, and confidentiality requirements would limit such investigations. DPS could never accurately predict how a person would respond in a dangerous or threatening situation. Many substance abusers would fail to acknowledge their condition on a license application, and medical records may not reflect drug or alcohol abuse.

—By Kellie Dworaczyk

House Research Organization
Texas House of Representatives
P.O. Box 2910
Austin, Texas 78768-2910
(512) 463-0752
FAX (512) 463-1962



Steering Committee: Henry Cuellar, Chairman • Carolyn Park, Vice Chairman

Tom Craddick

Renato Cuellar

Dianne White Delisi

Robert Duncan

Harold Dutton

Roberto Gutierrez

Peggy Hamric

John Hirschi

Robert Junell

Mike Krusee

Al Price

Leticia Van de Putte

Steve Wolens