



## Texas

### Summary of State Firearms Law

Last Updated April 1, 2011

### Overview

In its publication [Gun Laws Matter: A Comparison of State Firearms Laws and Statistics](#), LCAV ranked each state based on a review of state laws in 25 different firearms-related policy areas. Texas ranked 19th out of 50 – having enacted a modest amount of gun violence prevention laws. Among other things, Texas law does **not**:

- Require a background check prior to [the transfer of a firearm between unlicensed individuals](#);
- Require firearms dealers to obtain a [state license](#);
- Regulate the transfer or possession of [assault weapons](#), [50 caliber rifles](#), or [large capacity ammunition magazines](#);
- Limit the [number of firearms](#) that may be purchased at one time; or
- Regulate unsafe handguns ("[junk guns](#)" or "[Saturday night specials](#)").

Local governments in Texas generally [lack authority](#) to regulate firearms or ammunition, and local law enforcement must issue [a concealed handgun permit](#) to any applicant who meets basic qualifications.

## Texas Statistics

### Gun Deaths

Texas ranks 22nd among the states in terms of the number of gun deaths per capita. In 2007, 2,561 people died from firearm-related injuries in Texas.<sup>1</sup>

### Crime Guns

Mayors Against Illegal Guns recently developed web pages detailing [data about each state's crime gun imports and exports](#). In 2007, 2008, and again in 2009, [Texas](#) was the fourth largest exporter of crime guns to other states. In 2009, 2,240 guns were originally sold in Texas, but recovered after being used in a crime in another state.<sup>2</sup> In addition, Texas is consistently the state that supplies the greatest number of crime guns to Mexico. In 2009, 40% of the Mexican crime guns that were traced to the U.S. were originally sold in Texas.<sup>3</sup>

### Number of Federally Licensed Firearms Dealers

There are 4,792 federally licensed firearms dealers and pawnbrokers in Texas.<sup>4</sup>

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<sup>1</sup> National Center for Injury Prevention and Control, U.S. Centers for Disease Control and Prevention, *WISQARS Injury Mortality Reports, 1999-2007* (2011), at [http://webappa.cdc.gov/sasweb/ncipc/mortrate10\\_sy.html](http://webappa.cdc.gov/sasweb/ncipc/mortrate10_sy.html).

<sup>2</sup> Mayors Against Illegal Guns, *Trace the Guns: The Link Between Gun Laws and Interstate Gun Trafficking* (September 2010), at <http://www.tracetheguns.org/report.pdf>.

<sup>3</sup> Mayors Against Illegal Guns, *Issue Brief: The Movement of Illegal Guns Across the U.S.-Mexico Border* (September 2010) at [http://www.mayorsagainstillegalguns.org/downloads/pdf/issue\\_brief\\_mexico\\_2010.pdf](http://www.mayorsagainstillegalguns.org/downloads/pdf/issue_brief_mexico_2010.pdf).

<sup>4</sup> U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, *List of Federal Firearms Licensees* (June 2011), at <http://www.atf.gov/about/foia/ffl-list.html>.

## Texas “Right to Bear Arms”

Texas’s constitution provides a right to bear arms, but courts have repeatedly upheld the Legislature’s power to regulate firearms, holding that the right to bear arms is not absolute, provided such laws have “a view to prevent crime.” See [LCAV’s State Right to Bear Arms Provisions](#) for more-detailed information.

## **Local Authority to Regulate Firearms in Texas**

Texas has preempted most areas of local firearms regulation. See [LCAV's State Preemption/Local Authority to Regulate Firearms summary](#) for further information.

## State Firearms Policies in Texas

Please note that many firearm-related laws have exceptions for military and law enforcement personnel.

### Persons Prohibited from Firearm Possession

#### Texas Prohibited Purchasers Generally

See [Regulating Guns in America: Prohibited Purchasers](#) for a comprehensive discussion of this issue.

[Federal law prohibits certain persons from purchasing or possessing firearms](#), such as felons, certain domestic abusers, and certain people with a history of mental illness.

Texas law provides that a person who has previously been convicted of a felony commits a felony of the third degree if he or she possesses a firearm:

- After conviction and before the fifth anniversary of his or her release from confinement following the conviction of the felony or from supervision under community supervision, parole, or mandatory supervision, whichever date is later; or
- Anytime following the fifth anniversary of his or her release from confinement or supervision, if at any location other than the premises at which the person lives.<sup>5</sup>

Texas law also provides that a person who has been convicted of certain assault-related misdemeanors involving a member of the person's family or household commits a misdemeanor if he or she possesses a firearm before the fifth anniversary of the later of:

- The date of his or her release from confinement following conviction of the misdemeanor; or
- The date of his or her release from community supervision following conviction of the misdemeanor.<sup>6</sup>

For prohibitions against subjects of protective orders, see the [Texas Domestic Violence and Firearms](#) section below.

For information on the background check process used to enforce these provisions, see the [Texas Background Checks](#) section.

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<sup>5</sup> Tex. Penal Code § 46.04(a).

<sup>6</sup> Tex. Penal Code § 46.04(b).

## Texas Minimum Age to Purchase / Possess

There is no minimum age to possess firearms under Texas law. Texas law prohibits intentionally or knowingly selling, renting, leasing, or giving or offering to sell, rent, lease, or give any firearm to any child younger than age 18.<sup>7</sup> However, it is an affirmative defense to this offense that the parent or the person having legal custody of the minor had given written permission for the sale or, if the transfer was other than a sale, the parent or person having legal custody had given effective consent.<sup>8</sup> [Federal age restrictions](#) impose stricter limits.

See [Regulating Guns in America: Minimum Age to Purchase / Possess Firearms](#) for a comprehensive discussion of this issue.

For additional information related to child safety, see the [Texas Child Access Prevention](#) section.

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<sup>7</sup> Tex. Penal Code § 46.06(a)(2).

<sup>8</sup> Tex. Penal Code § 46.06(c).

## Domestic Violence and Firearms in Texas

See [Regulating Guns in America: Domestic Violence and Firearms](#) for a comprehensive discussion of this issue.

Texas law does **not**:

- Require the surrender of firearms or ammunition by domestic abusers who have become prohibited from possessing firearms or ammunition under federal or state law; or
- Explicitly authorize or require the removal of firearms or ammunition at the scene of a domestic violence incident.

### Firearm Prohibitions for Domestic Violence Misdemeanants

Texas prohibits firearm possession by domestic violence misdemeanants for five years following release from confinement or community supervision.<sup>9</sup> These gun possession prohibitions attach to a domestic violence misdemeanor offender for offenses committed against: 1) a former or current dating partner of the offender or someone with whom the offender has had a romantic relationship; 2) any present or former household member or cohabitant of the offender, regardless of their relationship to the offender; and 3) specified family members of the offender, regardless of whether they reside with the offender.<sup>10</sup> However, a broader [federal law](#) prohibits domestic violence misdemeanants from possessing firearms regardless of when the conviction occurred.

If a person is convicted of a misdemeanor involving family violence, the court must notify the person of the fact that it is unlawful for the person to possess or transfer a firearm or ammunition.<sup>11</sup>

A peace officer who is issuing a citation for certain misdemeanors is required to provide the person with the following written notice:

If you are convicted of a misdemeanor offense involving violence where you are or were a spouse, intimate partner, parent, or guardian of the victim or are or were involved in another, similar relationship with the victim, it may be unlawful for you to possess or purchase a firearm, including a handgun or long gun, or ammunition, pursuant to federal law under 18 U.S.C. Section 922(g)(9) or Section 46.04(b), Texas Penal Code. If you have any questions whether these laws make it illegal for you to possess or purchase a firearm, you should consult an attorney.<sup>12</sup>

A court that is accepting a plea of guilty or a plea of nolo contendere by a defendant charged with a misdemeanor involving family violence must admonish the defendant using the same statement, either orally or in writing.<sup>13</sup>

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<sup>9</sup> Tex. Penal Code § 46.04(b). See also Tex. Penal Code § 22.01(a).

<sup>10</sup> Tex. Fam. Code §§ 71.0021, 71.003, 71.005, 71.006.

<sup>11</sup> Tex. Code Crim. Proc. art. 42.0131

<sup>12</sup> Tex. Code Crim. Proc. art. 14.06(b).

<sup>13</sup> Tex. Code Crim. Proc. art. 27.14(e)(1).

## **Firearm Prohibitions for Persons Subject to Domestic Violence Protective Orders**

Texas law prohibits firearm possession by any person (other than an active, sworn, full-time, paid peace officer) who is subject to a protective order for a party to a suit for dissolution of a marriage, a protective order for family violence, a magistrate's order for emergency protection following an arrest for family violence, sexual assault or stalking, a protective order for a victim of sexual assault, or a domestic violence protective order issued by another jurisdiction if he or she has received notice of the order.<sup>14</sup>

The firearm possession prohibitions attach to a person who violates a domestic violence protective order issued for violence he or she committed against: 1) a former or current dating partner of the offender or someone with whom the offender has had a romantic relationship; 2) any present or former household member or cohabitant of the offender, regardless of their relationship to the offender; and 3) specified family members of the offender, regardless of whether they reside with the offender.<sup>15</sup>

If a court issues a temporary ex parte order for family violence, the order may direct the subject of the order to do or refrain from doing specific acts, but does not specify whether specifically prohibiting the subject from possessing a firearm is a permissible restriction.<sup>16</sup> Nevertheless, any protective order for family violence, including a temporary ex parte order, must contain the following statement: "It is unlawful for any person, other than a peace officer, as defined by section 1.07, Penal Code, actively engaged in employment as a sworn, full-time paid employee of a state agency or political subdivision, who is subject to a protective order to possess a firearm or ammunition."<sup>17</sup>

Protective orders for victims of sexual assault and victims of human trafficking, even temporary ex parte orders, must also contain this statement.<sup>18</sup>

A magistrate issuing a protective order following an arrest for family violence, sexual assault or stalking or a court issuing a protective order against family violence must suspend the perpetrator's license to carry a concealed handgun.<sup>19</sup> Courts also have authority to suspend

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<sup>14</sup> Texas Penal Code § 46.04(c). Texas law also prohibits the knowing or intentional possession of a firearm in violation of an outstanding court order issued under Tex. Code Crim. Proc. art. 17.292, Tex. Fam. Code § 6.504, Tex. Fam. Code Chapter 85, Tex. Fam. Code Chapter 83 (temporary ex parte protective orders; applies only if the temporary ex parte order has been served on the person), or by another jurisdiction as provided under Tex. Fam. Code Chapter 88. Tex. Penal Code § 25.07(a). See also Tex. Fam. Code § 85.022(b)(6) (authorizing courts to prohibit the subject of a protective order who committed family violence from possessing a firearm); Tex. Penal Code § 38.112(a)(3) (prohibiting the knowing possession of a firearm in violation of a protective order granted to a victim of sexual assault); and Tex. Crim Proc. Code art. 7B.06(a)(D) (authorizing courts to prohibit the subject of a protective order for a victim of human trafficking from possessing a firearm).

<sup>15</sup> Tex. Fam. Code §§ 71.0021, 71.003, 71.005, 71.006. Tex. Penal Code § 25.07(a), (b).

<sup>16</sup> Tex. Fam. Code § 83.001.

<sup>17</sup> Tex. Fam. Code § 85.026.

<sup>18</sup> Tex. Code Crim. Proc. art. 7A.06, 7B.07(a).

<sup>19</sup> Tex. Code Crim. Proc. art. 17.292(l).

a license when issuing a protective order for a victim of sexual assault or human trafficking (even when an arrest is not made).<sup>20</sup>

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<sup>20</sup> Tex. Crim. Proc. Code art. 7A.05(c), 7B.06(c); Tex. Fam. Code § 85.022(d).

## **Disarming Prohibited Persons in Texas**

Texas has no law requiring the removal of firearms from [persons who have become prohibited from possessing them](#).

## Sales & Transfers

### Background Checks in Texas

See [Regulating Guns in America: Background Checks](#) for a comprehensive discussion of this issue.

[Federal law requires federally licensed firearms dealers \(but not private sellers\) to initiate a background check on the purchaser prior to sale of a firearm.](#) Federal law provides states with the option of serving as a state “point of contact” and conducting their own background checks using state, as well as federal, records and databases, or having the checks performed by the FBI using only the federal [National Instant Criminal Background Check System \(“NICS”\) database](#). (Note that state files are not always included in the federal database.)

Texas is not a point of contact state for the NICS. Texas has no law requiring firearms dealers to initiate background checks prior to transferring a firearm. As a result, in Texas, firearms dealers must initiate the background check required by federal law by contacting the FBI directly.<sup>21</sup>

Federal law does not require dealers to conduct a background check if a firearm purchaser presents a state permit to purchase or possess firearms that meets certain conditions. As a result, concealed handgun license holders in Texas are exempt from the [federal background check requirement](#) when purchasing a handgun. (Note, however, that people who have become prohibited from possessing firearms may continue to hold state permits to purchase or permit firearms if the state fails to remove these permits in a timely fashion.)

Texas does not require private sellers (sellers who are not licensed dealers) to initiate a background check when transferring a firearm. See [Regulating Guns in America: Private Sales](#).

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<sup>21</sup> Federal Bureau of Investigation, *National Instant Criminal Background Check System Participation Map*, at <http://www.fbi.gov/about-us/cjis/nics/general-information/participation-map> (last visited July 26, 2011).

## Mental Health Reporting in Texas

See [Regulating Guns in America: Mental Health Reporting](#) for a comprehensive discussion of this issue.

Federal law prohibits possession of a firearm or ammunition by any person who has been “adjudicated as a mental defective” or involuntarily “committed to any mental institution.”<sup>22</sup> No federal law, however, requires states to report the identities of these individuals to the [National Instant Criminal Background Check System \(“NICS”\) database](#), which the FBI uses to perform background checks prior to firearm transfers.

[A law adopted in Texas in 2009](#) requires the Department of Public Safety (“Department”) to establish a rule for the submission of information to the FBI for use in NICS. The law requires the clerk of a court to prepare and submit information to the Department within 30 days whenever the court:

- Orders a person to receive inpatient mental health services;
- Acquits a person in a criminal case by reason of insanity or lack of mental responsibility;
- Commits a person determined to have mental retardation for long-term placement in a residential care facility;
- Appoints a guardian of the incapacitated adult individual, based on the determination that the person lacks the mental capacity to manage the person's affairs;
- Determines a person is incompetent to stand trial; or
- Finds a person is entitled to relief from disabilities.<sup>23</sup>

The information that must be submitted is:

- The complete name, race, and sex of the person;
- Any known identifying number of the person, including social security number, driver's license number, or state identification number;
- The person's date of birth; and
- The information that causes the person to be prohibited from possessing firearms.<sup>24</sup>

If an order previously reported to the Department is reversed by an appellate court, it is the duty of the clerk of the court to notify the Department of the reversal.<sup>25</sup>

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<sup>22</sup> [18 U.S.C. § 922\(d\)\(4\)](#).

<sup>23</sup> Tex. Gov't Code § 411.0521(a).

<sup>24</sup> Tex. Gov't Code § 411.0521(b).

<sup>25</sup> Tex. Gov't Code § 411.0521(d).

The law requires the clerk of the court to forward this information to the Department in an electronic format as prescribed by the Department, if practicable.<sup>26</sup> The law requires the Department to establish a procedure, by a rule, for submission of this information to NICS.<sup>27</sup>

This information is "confidential," and the Department may disseminate this information only to the extent necessary to allow the FBI to collect and maintain a list of persons prohibited from possessing firearms.<sup>28</sup> However, the Department must grant access to this information to the person who is the subject of the information.<sup>29</sup>

The 2009 law also provides a process by which a person who has been discharged from court ordered mental health services may obtain relief from the federal firearms disability,<sup>30</sup> and requires the Department to establish a rule for submission of this information to NICS.<sup>31</sup>

For general information on the background check process and categories of prohibited purchasers or possessors, see the [Texas Background Checks](#) section and the section entitled [Prohibited Purchasers Generally](#).

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<sup>26</sup> Tex. Gov't Code § 411.0521(c).

<sup>27</sup> Tex. Gov't Code § 411.052 (b). See 37 Tex. Admin. Code § 27.141 for the relevant rule.

<sup>28</sup> Tex. Gov't Code § 411.052(b), (d).

<sup>29</sup> Tex. Gov't Code § 411.052(c).

<sup>30</sup> Tex. Health & Safety Code § 574.088.

<sup>31</sup> Tex. Gov't Code § 411.052(e).

## **Multiple Purchases / Sales of Firearms in Texas**

Texas has no law restricting sales or purchases of multiple firearms. See [\*Regulating Guns in America: Restrictions on Multiple Purchases or Sales of Firearms\*](#) for a comprehensive discussion of this issue.

## **Retention of Sales / Background Check Records in Texas**

Texas has no laws requiring the retention of sales or background check records by firearm sellers generally, or requiring sales of firearms to be reported to a state or local agency. See [\*Regulating Guns in America: Retention of Firearm Sales and Background Check Records\*](#) for a comprehensive discussion of this issue.

## Texas Waiting Periods

Texas imposes no waiting period between the time of purchase and the actual physical transfer of a firearm. See [Regulating Guns in America: Waiting Periods](#) for a comprehensive discussion of this issue.

## Gun Dealers & Other Sellers

### Texas Dealer Regulations

[Federal law requires firearms dealers to obtain a license](#) from the Bureau of Alcohol, Tobacco, Firearms & Explosives (ATF), although resource limitations prevent the ATF from properly overseeing all its licensees.

Texas does not require firearms dealers to obtain a license or otherwise significantly regulate firearms dealers. Firearms dealers are required to post certain warnings regarding the safe storage of firearms.<sup>32</sup> See the [Texas Child Access Prevention](#) section.

A pawnbroker may not display a pistol for sale in a storefront window or sidewalk display case or depict in a sign or advertisement in such a way that the pistol, sign, or advertisement may be viewed from a street.<sup>33</sup>

For laws applicable to both licensed and private firearm sellers, please see the [Texas Private Sales](#) section.

Texas has no law requiring dealers to conduct a background check on prospective firearm purchasers, although the [federal background check requirement](#) applies.

See [Regulating Guns in America: Dealer Regulations](#) for a comprehensive discussion of this issue.

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<sup>32</sup> Tex. Penal Code § 46.13(g).

<sup>33</sup> Tex. Fin. Code § 371.179.

## Private Sales in Texas

See [Regulating Guns in America: Private Sales](#) for a comprehensive discussion of this issue.

Texas has no law requiring a background check on the purchaser of a firearm when the seller is not a licensed dealer. Texas law does, however, state that a person commits a Class A misdemeanor if he or she:

- Sells, rents, leases, loans, or gives a handgun to any person knowing that the person to whom the handgun is to be delivered intends to use it unlawfully or in the commission of an unlawful act;
- Intentionally or knowingly sells, rents, leases, or gives or offers to sell, rent, lease, or give a firearm to any child younger than age 18. It is an affirmative defense to this charge that the transfer was to a minor whose parent or legal custodian had given written permission for the sale or, if the transfer was other than a sale, the parent or legal custodian had given effective consent. This offense rises to the level of a "state jail felony" (the lowest class of felony under state law) if the firearm involved is a handgun;
- Intentionally, knowingly, or recklessly sells a firearm or ammunition to any person who is intoxicated;
- Knowingly sells a firearm or ammunition to any person who has been convicted of a felony before the fifth anniversary of the later of: 1) the person's release from confinement following conviction of the felony; or 2) the person's release from supervision under community supervision, parole, or mandatory supervision following conviction of the felony;
- Sells, rents, leases, loans, or gives a handgun to any person knowing that an active protective order is directed to the person to whom the handgun is to be delivered; or
- Knowingly purchases, rents, leases, or receives as a loan or gift a handgun while an active protective order is directed to the person.<sup>34</sup>

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<sup>34</sup> Tex. Penal Code § 46.06(a).

## Texas Gun Shows

Texas has no laws expressly regulating gun shows. See the [Texas Private Sales](#) section for state laws that apply at gun shows. See [Regulating Guns in America: Gun Shows](#) for a comprehensive discussion of this issue.

## Texas Immunity Statutes

See [LCAV's policy page on Immunity Statutes / Manufacturer Litigation](#) for further information.

Texas law provides that a governmental unit (including a municipality or county) may not bring suit against a firearms or ammunition manufacturer, trade association, or seller for recovery of damages resulting from, or injunctive relief or abatement of a nuisance relating to, the lawful design, manufacture, marketing, or sale of firearms or ammunition to the public, or against a sport shooting range, the owners or operators of a sport shooting range, or the owners of real property on which a sport shooting range is operated, for the lawful discharge of firearms on the sport shooting range.<sup>35</sup> The rules regarding sport shooting ranges were added in 2011.

The Texas Attorney General, however, may bring such a suit on behalf of the state or any other governmental unit.<sup>36</sup> In addition, a governmental unit acting on behalf of the state or any other governmental unit may bring such a suit if approved in advance by the legislature.<sup>37</sup>

In addition, a governmental unit may bring an action against a sport shooting range, the owners or operators of a sport shooting range, or the owners of real property on which a sport shooting range is operating for injunctive relief to enforce a valid ordinance, statute, or regulation, or to require the sport shooting range to comply with generally accepted standards followed in the sport shooting range industry in this state at the time of the sport shooting range's construction, if the sport shooting range began operation after September 1, 2011.<sup>38</sup>

A governmental unit may bring an action against a firearms manufacturer, trade association, or seller for recovery of damages for:

- Breach of contract or warranty as to firearms or ammunition purchased by a governmental unit;
- Damage or harm to property owned or leased by the governmental unit caused by a defective firearm or ammunition;
- Personal injury or death, if such action arises from a governmental unit's claim for subrogation;
- Injunctive relief to enforce a valid ordinance, statute, or regulation; or
- Contribution under the law relating to proportionate responsibility.<sup>39</sup>

In a products liability action brought against a manufacturer or seller of a firearm or ammunition that alleges a design defect in the firearm or ammunition, the burden is on the claimant to prove, in addition to any other elements that the claimant must prove, that:

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<sup>35</sup> Tex. Civ. Prac. & Rem. Code § 128.001(b).

<sup>36</sup> Tex. Civ. Prac. & Rem. Code § 128.001(e).

<sup>37</sup> Tex. Civ. Prac. & Rem. Code § 128.001(c).

<sup>38</sup> Tex. Civ. Prac. & Rem. Code § 128.001(f).

<sup>39</sup> Tex. Civ. Prac. & Rem. Code § 128.001(d).

- The actual design of the firearm or ammunition was defective, causing the firearm or ammunition not to function in a manner reasonably expected by an ordinary consumer of firearms or ammunition; and
- The defective design was a producing cause of the personal injury, property damage, or death.<sup>40</sup>

Further, the "claimant may not prove the existence of the defective design by a comparison or weighing of the benefits of the firearm or ammunition against the risk of personal injury, property damage, or death posed by its potential to cause such injury, damage, or death when discharged."<sup>41</sup>

Texas law also prohibits a civil action from being brought against a sport shooting range, or the owner of the range for recovery of damages resulting from, or injunctive relief or abatement of a nuisance relating to, the discharge of firearms.<sup>42</sup> Certain exceptions exist. Damages may be awarded, or an injunction may be obtained, in a civil action brought against a sport shooting range if the claimant shows by a preponderance of the evidence, through the testimony of one or more expert witnesses, that the sport shooting range, its owner or operator, or the owner of real property on which it is operated deviated from the standard of care that is reasonably expected of an ordinarily prudent sport shooting range in the same or similar circumstances.<sup>43</sup>

Texas law prohibits any person from bringing a nuisance or similar cause of action against a shooting range based on noise if the shooting range is in compliance with all applicable municipal and county ordinances, orders, and rules regulating noise, or if no applicable noise ordinance, order, or rule exists.<sup>44</sup> In addition:

A governmental official may not seek a civil or criminal penalty against a sport shooting range or its owner or operator based on the violation of a municipal or county ordinance, order, or rule regulating noise:

- (1) if the sport shooting range is in compliance with the applicable ordinance, order, or rule; or
- (2) if no applicable noise ordinance, order, or rule exists.<sup>45</sup>

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<sup>40</sup> Tex. Civ. Prac. & Rem. Code § 82.006(a).

<sup>41</sup> Tex. Civ. Prac. & Rem. Code § 82.006(b).

<sup>42</sup> Tex. Civ. Prac. & Rem. Code § 128.052(a). A civil action may be brought, however, against a sport shooting range for recovery of damages for:

- Breach of contract for use of the real property on which a sport shooting range is located;
- Damage or harm to private property caused by the discharge of firearms on a sport shooting range;
- Personal injury or death caused by the discharge of a firearm on a sport shooting range; or
- Injunctive relief to enforce a valid ordinance, statute, or regulation. Tex. Civ. Prac. & Rem. Code § 128.052(b).

<sup>43</sup> Tex. Civ. Prac. & Rem. Code § 128.052(c). The law provides for the use of expert testimony to establish the standard of care. Tex. Civ. Prac. & Rem. Code § 128.053.

<sup>44</sup> Tex. Local Gov't Code § 250.001(c).

<sup>45</sup> Tex. Local Gov't Code § 250.001(b).

For detailed information about government and private party lawsuits against the gun industry, the status of litigation involving gun industry immunity statutes in various states, or pending gun industry immunity legislation, visit the [Brady Center's Legal Action Project](#) and the [Coalition to Stop Gun Violence's Gun Industry Immunity page](#).

## **Gun Owner Responsibilities**

### **Licensing of Gun Owners or Purchasers in Texas**

Texas has no law requiring gun owners or purchasers to obtain a license. See [Regulating Guns in America: Licensing of Gun Owners or Purchasers](#) for a comprehensive discussion of this issue.

## Texas Registration of Firearms

Texas had no law requiring firearms to be registered. See [Regulating Guns in America: Registration of Firearms](#) for a comprehensive discussion of this issue.

## **Reporting Lost or Stolen Firearms in Texas**

Texas does not require firearms owners to report the loss or theft of a firearm. See [Regulating Guns in America: Reporting Lost or Stolen Firearms](#) for a comprehensive discussion of this issue.

## Firearms in Public Places

### Concealed Weapons Permitting in Texas

See [Regulating Guns in America: Carrying Concealed Weapons](#) for a comprehensive discussion of this issue.

Texas does not prohibit carrying a handgun on one's person if the person is also carrying a valid license to carry a concealed handgun of the same category as the handgun the person is carrying.<sup>46</sup>

Texas is a "shall-issue" state, meaning that local law enforcement must issue a concealed handgun license if the applicant meets certain qualifications.<sup>47</sup> Texas law provides that a person is eligible for a license to carry a concealed handgun if the person:

- Is a legal resident of Texas for the six-month period preceding the date of the application or meets the special eligibility requirements for legal residents of other states that do not issue licenses to carry concealed handguns;<sup>48</sup>
- Is at least 21 years of age;
- Has never been convicted<sup>49</sup> of a felony;
- Is not charged with the commission of a Class A or Class B misdemeanor or disorderly conduct, or of a felony under an information or indictment;
- Is not a fugitive from justice for a felony or a Class A or Class B misdemeanor;
- Is not a "chemically dependent person";
- Has not been convicted<sup>50</sup> two or more times within the past 10-year period of an offense of the grade of Class B misdemeanor or greater that involves the use of alcohol or a controlled substance as a statutory element of the offense;
- Has not been diagnosed by a licensed physician or declared by a court to be incompetent to manage his or her own affairs;

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<sup>46</sup> Tex. Penal Code §§ 46.02(a), 46.15(b)(6).

<sup>47</sup> Tex. Gov't Code § 411.177.

<sup>48</sup> Tex. Gov't Code § 411.173(a) requires the Department of Public Safety to establish a procedure for a person who meets the eligibility requirements for a license to carry a concealed handgun other than the residency requirement established by section 411.172(a)(1) to obtain a license. This procedure applies if the person is a legal resident of another state or if the person relocates to this state with the intent to establish residency in this state. *Id.* The procedure includes payment of a fee in an amount sufficient to recover the average cost to the Department of obtaining a criminal history record check and investigation on a nonresident applicant. *Id.* See the Reciprocity subsection below for further information.

<sup>49</sup> A person is not "convicted" if an order of deferred adjudication was entered against the person more than 10 years prior to the application unless the order of deferred adjudication was entered for a felony "offense against a person, " a robbery, or a first or second degree burglary. Tex. Gov't Code § 411.1711.

<sup>50</sup> See *id.*

- Has not entered in a criminal proceeding a plea of not guilty by reason of insanity;
- Has not, in the five years preceding the date of application, been convicted<sup>51</sup> of a Class A or Class B misdemeanor or disorderly conduct;
- Is fully qualified under applicable federal and state law to purchase a handgun (see the section entitled [Prohibited Purchasers Generally](#));
- Has not been “finally determined” to be delinquent in making a child support payment administered or collected by the attorney general;
- Has not been “finally determined” to be delinquent in the payment of a tax or other money collected by the comptroller, the tax collector of a political subdivision of the state, or any agency or subdivision of the state;
- Has not been “finally determined” to be in default on a loan made under Tex. Educ. Code Chapter 57;
- Is not currently restricted under a court protective order or subject to a restraining order affecting the spousal relationship, other than a restraining order solely affecting property interests;
- Has not, in the past 10 years, been adjudicated as having engaged in delinquent conduct violating a penal law of the grade of felony;
- Has not made any material misrepresentation, or failed to disclose any material fact, in an application for a license to carry a concealed handgun;
- Has not been diagnosed by a licensed physician as suffering from a psychiatric disorder or condition that causes or is likely to cause substantial impairment in judgment, mood, perception, impulse control, or intellectual ability, unless he or she provides a certificate from a licensed psychiatrist stating that the psychiatric disorder or condition is in remission and is not reasonably likely to redevelop;
- Does not suffer from a psychiatric disorder or condition that causes or is likely to cause substantial impairment in judgment, mood, perception, impulse control, or intellectual ability and that is in remission but reasonably likely to redevelop; and
- Does not require continuous medical treatment to avoid redeveloping a psychiatric disorder or condition that causes or is likely to cause substantial impairment in judgment, mood, perception, impulse control, or intellectual ability.<sup>52</sup>

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<sup>51</sup> See *supra* footnote 50.

<sup>52</sup> Tex. Gov’t Code § 411.172. The following constitute evidence of a psychiatric disorder or condition likely to cause substantial impairment in judgment, mood, perception, impulse control, or intellectual ability:

- Involuntary psychiatric hospitalization in the preceding five-year period;
- Psychiatric hospitalization in the preceding two-year period;
- Inpatient or residential substance abuse treatment in the preceding five-year period;
- Diagnosis in the preceding five-year period by a licensed physician that the person is dependent on alcohol, a controlled substance, or a similar substance; or

At the end of 2006, 258,162 people possessed Texas licenses to carry a concealed handgun.<sup>53</sup>

### **Firearm Safety Training**

Texas requires applicants for concealed handgun licenses to obtain evidence of handgun proficiency as a prerequisite to obtaining a license. The evidence of handgun proficiency may be in any form and manner as permitted by the Texas Department of Public Safety.<sup>54</sup>

The Texas Department of Public Safety must develop a course in handgun proficiency.<sup>55</sup> A person must successfully complete both classroom and range instruction components of a handgun proficiency course to complete the course.<sup>56</sup> Only a qualified handgun instructor may administer the handgun proficiency course.<sup>57</sup>

The handgun proficiency course must include at least 10, and up to 15, hours of instruction on:

- Laws that relate to weapons and to the use of deadly force;
- Handgun use, proficiency, and safety;
- Non-violent dispute resolution; and
- Proper storage practices for handguns (emphasizing storage practices that eliminate the possibility of accidental injury to a child).<sup>58</sup>

The range instruction part of the course must include an actual demonstration by the applicant of his or her ability to safely and proficiently use the category of handgun for which the applicant seeks certification.<sup>59</sup> An applicant may not be certified unless he or she demonstrates, at a minimum, the degree of proficiency that is required to effectively operate a handgun of .32 caliber or above.<sup>60</sup>

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- Diagnosis at any time by a licensed physician relating to schizophrenia or delusional disorder, bipolar disorder, chronic dementia (whether caused by illness, brain defect, or brain injury), dissociative identity disorder, intermittent explosive disorder, or antisocial personality disorder.

Section 411.172(e). Additional application and background check requirements are detailed under Tex. Gov't Code §§ 411.174 through 411.180, and 411.196. For circumstances in which a license may be revoked, see Tex. Gov't Code § 411.186. For situations where a license may be suspended, see Tex. Gov't Code § 411.187.

<sup>53</sup> Melanie Markley, *Nearly 260,000 have license to carry weapon*, Houston Chronicle, Jan. 27, 2007.

<sup>54</sup> Tex. Gov't Code § 411.174(a)(7).

<sup>55</sup> Tex. Gov't Code § 411.188(a).

<sup>56</sup> Tex. Gov't Code § 411.188(a).

<sup>57</sup> Tex. Gov't Code §§ 411.188(b), 411.190.

<sup>58</sup> Tex. Gov't Code § 411.188(b).

<sup>59</sup> Tex. Gov't Code § 411.188(a).

<sup>60</sup> Tex. Gov't Code § 411.188(a).

The proficiency examination must also include a written section on the subjects listed above, as well as the physical demonstration of proficiency in the use and safety procedures of one or more handguns of specific categories, and in handgun safety procedures.<sup>61</sup>

A handgun instructor may submit to the Department a written recommendation for disapproval of the application for a license, renewal, or modification of a license, accompanied by an affidavit stating the facts that lead the instructor to believe that an applicant does not possess the required handgun proficiency. The Department may use this written recommendation as the basis for denial of a license only if the Department determines that the recommendation is made in good faith and is supported by a preponderance of the evidence.<sup>62</sup>

The license will indicate the category of any handgun for which the applicant has demonstrated proficiency in the form and manner required by the Department. The categories of handguns are: "SA" (any handguns, whether semi-automatic or not), and "NSA" (handguns that are not semi-automatic).<sup>63</sup> The Department will issue a license to carry handguns *only* of the categories indicated on the applicant's certificate of proficiency.<sup>64</sup>

### **Duration & Renewal**

Once issued, a Texas license to carry a concealed handgun expires "on the first birthday of the license holder occurring after the fourth anniversary of the date of issuance."<sup>65</sup>

To renew a license, a license holder must:

- Complete a continuing education course in handgun proficiency that includes at least four hours of instruction on one or more of the subjects listed covered in the original course, along with any other information the director deems appropriate not more than six months before the date of application for renewal; and
- Submit additional application materials and an application fee to the Department, including evidence of handgun proficiency in the manner and form required by the Department.<sup>66</sup>

A renewed license expires on the license holder's birthday, five years after the date of the expiration of the previous license.<sup>67</sup>

### **Disclosure or Use of Information**

Texas law requires the Department to disclose to a criminal justice agency information contained in its files and records regarding whether a specific individual is licensed to carry

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<sup>61</sup> Tex. Gov't Code § 411.188(d).

<sup>62</sup> Tex. Gov't Code § 411.188(k).

<sup>63</sup> Tex. Gov't Code § 411.179(b).

<sup>64</sup> Tex. Gov't Code § 411.177(a). For information on modifying a license to permit a license holder to carry a handgun of a different category than his or her license indicates, see section 411.184.

<sup>65</sup> Tex. Gov't Code § 411.183(a).

<sup>66</sup> Tex. Gov't Code § 411.185.

<sup>67</sup> Tex. Gov't Code § 411.183(b).

a concealed handgun in Texas.<sup>68</sup> The Department must notify a license holder of any request that is made for information relating to the license holder and provide the name of the agency making the request.<sup>69</sup>

Generally, all other records are confidential and are not subject to mandatory disclosure, except that the applicant or license holder may be furnished a copy of disclosable records on request and the payment of a reasonable fee.<sup>70</sup>

Texas law requires the Department to make a monthly statistical report that includes the number of licenses issued, denied, suspended, or revoked by the Department during the preceding month, "listed by age, gender, race and zip code of the applicant or license holder." This report is available on request and payment of a reasonable fee.<sup>71</sup>

On request of a local law enforcement agency, the Department shall notify the agency of the licenses that have been issued to license holders who reside in the county in which the agency is located.<sup>72</sup> The Department is required to report annually on its [website](#) statistics related to incidents in which a person licensed to carry a handgun is convicted of certain offenses.<sup>73</sup>

### **Reciprocity**

Texas law requires the Governor of Texas to negotiate agreements with other states that issue concealed handgun licenses so that Texas may recognize such licenses.<sup>74</sup> The Governor must also issue a proclamation that licenses issued by another state are recognized in Texas, if the Texas Attorney General determines that state or local authorities or an agent of the state or local authorities initiates a background check of each applicant for a license issued by that state before the license is issued, to determine the applicant's eligibility to possess a firearm under federal law.<sup>75</sup> The Attorney General is required to make this determination annually for each state, and determine what changes to the statutes of all other states are necessary for Texas to recognize those states' licenses.<sup>76</sup>

The states with which Texas has established concealed handgun license reciprocity agreements are listed on the [Texas Department of Public Safety's Concealed Handgun License Reciprocity page](#). That page also lists each proclamation made by the Governor to the effect that licenses issued by another state are recognized in Texas.

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<sup>68</sup> Tex. Gov't Code § 411.192(a). Information on an individual subject to disclosure includes the individual's name, date of birth, gender, race, and zip code. Tex. Gov't Code § 411.192(a).

<sup>69</sup> Tex. Gov't Code § 411.192(c).

<sup>70</sup> Tex. Gov't Code § 411.192(a), (b).

<sup>71</sup> Tex. Gov't Code § 411.193.

<sup>72</sup> Tex. Gov't Code § 411.178.

<sup>73</sup> Tex. Gov't Code § 411.047.

<sup>74</sup> Tex. Gov't Code § 411.173.

<sup>75</sup> *Id.*

<sup>76</sup> Tex. Gov't Code § 411.173(c).

## Open Carrying in Texas

Texas prohibits the [open carrying](#) of handguns, whether loaded or unloaded, on or about the person.<sup>77</sup> This rule does not apply to, *inter alia*, certain security officers, to most persons on their own premises or premises under their control, or to persons who are engaging in (including going to or from) a lawful hunting or sporting activity.<sup>78</sup> Individuals in motor vehicles are also generally prohibited from carrying a handgun in plain view in Texas, although individuals who are “traveling” are exempt from this prohibition.<sup>79</sup>

Texas also prohibits a concealed handgun licensee from intentionally failing to conceal a handgun which is carried on or about his or her person.<sup>80</sup>

The open carrying of long guns is generally allowed in Texas. However, Texas law prohibits the display of a firearm in a public place in a “manner calculated to alarm.”<sup>81</sup>

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<sup>77</sup> Tex. Penal Code § 46.02.

<sup>78</sup> Tex. Penal Code § 46.15.

<sup>79</sup> Tex. Penal Code §§ 46.02(a-1), 46.15(b)(2).

<sup>80</sup> Tex. Penal Code § 46.035(a).

<sup>81</sup> Tex. Penal Code § 42.01(a)(8).

## Location Restrictions

### Guns in Vehicles in Texas

Texas has no laws regarding the carrying of long guns (rifles or shotguns) in motor vehicles.

Texas does not require a person to have a concealed handgun license in order to carry a loaded handgun in a motor vehicle, although Texas generally prohibits intentionally, knowingly, or recklessly carrying a handgun *in plain view* in a motor vehicle or watercraft.<sup>82</sup> Even concealed handgun license holders must conceal their handguns when in a motor vehicle or watercraft.<sup>83</sup>

Texas law also prohibits intentionally, knowingly, or recklessly possessing or going with a firearm on a passenger transportation vehicle of a school or educational institution except pursuant to written regulations or written authorization of the institution.<sup>84</sup>

In 2011, [Texas passed a law](#) prohibiting the Department of Family and Child Services from restricting a foster parent from carrying a handgun in a vehicle while transporting a foster child.<sup>85</sup>

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<sup>82</sup> Tex. Penal Code § 46.02(a-1).

<sup>83</sup> Tex. Penal Code §§ 46.02(a-1), 46.035. 46.15(b)(6). For other narrow exceptions to the requirement that firearms in cars be concealed, see section 46.15(b).

<sup>84</sup> Tex. Penal Code § 46.03.

<sup>85</sup> Tex. Hum. Res. Code § 42.042(e-2).

## Guns in Schools in Texas

Texas law prohibits intentionally, knowingly, or recklessly possessing or going with a firearm on the physical premises of a school or educational institution, any grounds or building on which an activity sponsored by a school or educational institution is being conducted, or in a passenger transportation vehicle of a school or educational institution, whether the school or educational institution is public or private, unless pursuant to written regulations or written authorization of the institution.<sup>86</sup> Concealed weapons permit holders are subject to this prohibition.<sup>87</sup> (The terms "school" and "educational institution" are not defined, but presumably apply to colleges and universities as well as K-12 schools.)

Texas law generally requires a student to be expelled if he or she exhibits, uses or possesses a firearm on school property or while attending a school-sponsored or school-related activity on or off of school property.<sup>88</sup> Texas law also authorizes the expulsion of a student who possesses a firearm while within 300 feet of school property, with certain exceptions.<sup>89</sup>

See [LCAV's policy page on Guns in Schools](#) for further information.

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<sup>86</sup> Tex. Penal Code § 46.03(a). See also Tex. Educ. Code § 37.125(a) (regarding exhibiting, using or threatening to exhibit or use a firearm in a school bus in a manner intended to alarm or to damage school property).

<sup>87</sup> Tex. Penal Code § 46.03(f).

<sup>88</sup> Tex. Educ. Code § 37.007(a)(1)(A), (e), (k).

<sup>89</sup> Tex. Educ. Code § 37.007(b)(3)(B), (k).

## Other Location Restrictions in Texas

### General Prohibitions

Texas law prohibits any person, including a concealed handgun licensee, from intentionally, knowingly, or recklessly possessing a firearm of any sort:

- On the premises of a polling place on the day of an election or while early voting is in progress;
- On the premises of any government court or offices utilized by the court, unless pursuant to written regulations or written authorization of the court;
- On the premises of a racetrack;
- In or into the area of an airport terminal building to which access is controlled by the inspection of persons and property under federal law unless all firearms were checked as baggage in accordance with federal or state law or regulations before entering; or
- Within 1,000 feet of premises the location of which is designated by the Texas Department of Criminal Justice as a place of execution on a day that a sentence of death is set to be imposed, if the person received proper notice that going within 1,000 feet of the premises with a weapon was prohibited or that possessing a weapon within 1,000 feet of the premises was prohibited, unless the actor possesses the firearm while in a vehicle being driven on a public road or while at the actor's residence or place of employment.<sup>90</sup>

Any assisted living facility is required to post a "provider's bill of rights" in a prominent place in the facility, stating that a provider of personal care services has the right to "maintain an environment free of weapons."<sup>91</sup>

Texas prohibits the possession of a deadly weapon while in a correctional facility.<sup>92</sup>

Texas law prohibits the possession of firearms on certain state-owned lands.<sup>93</sup>

Texas law considers a person to be guilty of trespassing if the person enters or remains on another person's property with a firearm after receiving notice that firearms are forbidden. Special rules apply to CCW holders, as noted below.<sup>94</sup>

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<sup>90</sup> Tex. Penal Code § 46.03(a), (f) and (g).

<sup>91</sup> Tex. Health & Safety Code § 247.065(b)(9).

<sup>92</sup> Tex. Penal Code § 38.11(d)(2).

<sup>93</sup> Tex. Parks & Wild. Code § 62.081 prohibits the possession of a firearm on or across the land of the Lower Colorado River Authority. Possession of a firearm is also prohibited in:

- All the state-owned riverbeds in LaSalle County (Tex. Parks & Wild. Code § 82.712);
- All the state-owned riverbeds in McMullen County (Tex. Parks & Wild. Code § 82.722);
- The state-owned land area and water in the Aransas and Poesta rivers in Bee County (Tex. Parks & Wild. Code § 82.732); and
- The state-owned riverbeds of the Nueces, Frio, and Atascosa rivers in Live Oak County (Tex. Parks & Wild. Code § 82.762).

No person may possess a rifle or pistol for shooting on or over the water of Murvaul Lake in Panola County. Tex. Parks & Wild. Code § 283.022.

## Prohibitions Specific to CCW Holders

Texas law specifically provides that a concealed handgun license holder is prohibited from intentionally, knowingly, or recklessly carrying a handgun on or about his or her person, regardless of whether the handgun is concealed:

- On the premises where a high school, collegiate, or professional sporting event or interscholastic event is taking place, unless the license holder is a participant in the event and a handgun is used in the event;
- On the premises of a correctional facility;
- On the premises of a hospital or a nursing home, unless the license holder has written authorization of the hospital or nursing home administration, as appropriate, provided effective notice was given;
- In an amusement park, provided effective notice was given;
- On the premises of a church, synagogue, or other established place of religious worship, provided effective notice was given; or
- At any meeting of a governmental entity, provided effective notice was given.<sup>95</sup>

Effective "notice" is given if the owner of the property or someone with apparent authority to act for the owner provides notice by:

- Oral communication;
- A card or other document on which is written the following language: "Pursuant to Section 30.06, Penal Code (trespass by holder of license to carry a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (concealed handgun law), may not enter this property with a concealed handgun"; or
- A sign posted on the property that includes the above language in both English and Spanish, appearing in contrasting colors with block letters at least one inch in height; and displayed in a conspicuous manner clearly visible to the public.<sup>96</sup>

If a license holder carries a handgun on the property of another without effective consent and received "notice" (as defined above) that entry by a license holder on the property with a concealed handgun was forbidden or that remaining on the property with a concealed handgun was prohibited and the license holder failed to depart, the license holder is criminally liable.<sup>97</sup>

Texas law allows public or private employers to prohibit persons who are licensed to carry concealed handguns from doing so on the premises of the business.<sup>98</sup> However, in 2011,

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<sup>94</sup> See Tex. Penal Code § 30.05(f).

<sup>95</sup> Tex. Penal Code § 46.035.

<sup>96</sup> Tex. Penal Code § 30.06(b), (c)(3).

<sup>97</sup> Tex. Penal Code § 30.06. This prohibition does not apply if the license holder possesses a handgun on property that is owned or leased by a governmental entity, and possession on that government property is otherwise lawful. Tex. Penal Code § 30.06(e).

<sup>98</sup> Tex. Gov't Code § 411.203; Tex. Labor Code § 52.062(b).

[Texas enacted a law](#) that prevents employers from prohibiting employees who are concealed handgun license holders from transporting or storing firearms or ammunition in a locked, privately owned motor vehicle in a parking area the employer provides for employees.<sup>99</sup>

### **Liquor Licensees, Hospitals, and Nursing Homes**

Concealed handgun license holders are also specifically prohibited from intentionally, knowingly, or recklessly carrying a handgun on or about his or her person, regardless of whether the handgun is concealed, on the premises of a business that has a permit or license issued under certain chapters of the Texas Alcoholic Beverage Code, if the business derives 51 percent or more of its income from the sale or service of alcoholic beverages for on-premises consumption. A person is subject to prosecution under this prohibition only if he or she received notice that entry on the property by a license holder with a concealed handgun was forbidden, or that remaining on the property with a concealed handgun was forbidden and failed to depart. For purposes of this prohibition, a person receives notice if the owner of the property or someone with apparent authority to act for the owner provides "notice" as described above.<sup>100</sup>

In addition, Texas law requires these businesses, as well as licensed hospitals and nursing homes, to prominently display, in both English and Spanish, a sign stating that it is unlawful for a person licensed to carry a concealed handgun to carry a handgun on the premises. The sign must appear in contrasting colors with block letters at least one inch in height and, for the establishments serving alcohol, must include on its face the number "51" printed in solid red at least five inches in height. The sign must also be displayed in a conspicuous manner clearly visible to the public.<sup>101</sup>

Businesses holding these liquor permits or licenses who do not derive 51% or more of their income from the sale of alcoholic beverages for on-premises consumption, or who hold other liquor permits or licenses are also prohibited from knowingly allowing a person to possess a firearm in a building on the licensed premises, but concealed weapons permits holders are exempt.<sup>102</sup> Texas law requires a sign to be displayed in a prominent place on the premises giving notice that it is unlawful to carry a weapon on the premises unless the person is licensed to carry the weapon and it is a properly concealed firearm.<sup>103</sup> The sign must be at least 6 inches high and 14 inches wide, must appear in contrasting colors, and shall be displayed in a conspicuous manner clearly visible to the public.<sup>104</sup>

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<sup>99</sup> Tex. Labor Code § 52.061.

<sup>100</sup> Tex. Penal Code § 30.06(a)-(c). See also Tex. Penal Code § 46.035(b)(1), (k).

<sup>101</sup> Tex. Gov't Code § 411.204.

<sup>102</sup> Tex. Alco. Bev. Code §§ 11.61(e) and 61.71(f).

<sup>103</sup> Tex. Alco. Bev. Code §§ 11.041 and 61.11.

<sup>104</sup> Tex. Alco. Bev. Code §§ 11.041, 61.11.

## **Consumer & Child Safety**

### **Texas Design Safety Standards for Handguns**

Texas does not specifically regulate junk guns or unsafe firearms. See [\*Regulating Guns in America: Design Safety Standards for Handguns\*](#) for a comprehensive discussion of this issue.

## Locking Devices in Texas

Texas law does not require a locking device to accompany the sale of a firearm (although the [federal law](#) applies). Nor does Texas law require firearm owners to lock their weapons. See [Regulating Guns in America: Locking Devices](#) for a comprehensive discussion of this issue.

## **Personalized / Owner-Authorized Firearms in Texas**

Texas does not require firearms to be personalized. See [Regulating Guns in America: Personalized Firearms](#) for a comprehensive discussion of this issue.

## Texas Child Access Prevention

See [Regulating Guns in America: Child Access Prevention](#) for a comprehensive discussion of this issue.

Under Texas law, if a child under 17 years of age gains access to a readily dischargeable firearm (*i.e.*, loaded with ammunition, whether or not a round is in the chamber), a person is criminally liable if he or she, “with criminal negligence:”

- Failed to secure the firearm (*i.e.*, to take steps a reasonable person would take to prevent the access to a readily dischargeable firearm by a child, including but not limited to placing a firearm in a locked container or temporarily rendering the firearm inoperable by a trigger lock or other means); or
- Left the firearm in a place to which the person knew or should have known the child would gain access.<sup>105</sup>

However, a person is not guilty under this law if the child's access to the firearm:

- Was supervised by a person older than age 18 and was for hunting, sporting, or other lawful purposes;
- Consisted of lawful defense by the child of people or property;
- Was gained by entering property in violation of this code; or
- Occurred during a time when the actor was engaged in an agricultural enterprise.<sup>106</sup>

The penalty for a violation is significantly harsher if the child discharges the firearm and causes death or serious bodily injury to himself or another person.<sup>107</sup>

If the negligent person is a member of the family of the child who discharged the firearm, and the child was killed or seriously injured, an arrest cannot be made until seven days after the offense was committed.<sup>108</sup>

Finally, a firearms dealer must post in a “conspicuous position” on the premises where he or she conducts business a sign that contains the following warning in block letters not less than one inch in height:

IT IS UNLAWFUL TO STORE, TRANSPORT, OR ABANDON AN UNSECURED  
FIREARM IN A PLACE WHERE CHILDREN ARE LIKELY TO BE AND CAN OBTAIN  
ACCESS TO THE FIREARM.<sup>109</sup>

Please note that state administrative regulations govern the storage of firearms in certain locations.

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<sup>105</sup> Tex. Penal Code § 46.13.

<sup>106</sup> Tex. Penal Code § 46.13(c)

<sup>107</sup> Tex. Penal Code § 46.13(d), (e).

<sup>108</sup> Tex. Penal Code § 46.13(f).

<sup>109</sup> Tex. Penal Code § 46.13(g).

## **Classes of Weapons / Ammunition**

### **Assault Weapons in Texas**

Texas has no law restricting assault weapons. See [Regulating Guns in America: Assault Weapons](#) for a comprehensive discussion of this issue.

## **Large Capacity Ammunition Magazines in Texas**

Texas has no law restricting large capacity ammunition magazines. See [Regulating Guns in America: Large Capacity Ammunition Magazines](#) for a comprehensive discussion of this issue.

## **Fifty Caliber Rifles in Texas**

Texas has no law restricting fifty caliber rifles. See [Regulating Guns in America: Fifty Caliber Rifles](#) for a comprehensive discussion of this issue.

## Machine Guns/Automatic Firearms in Texas

Texas law prohibits intentionally or knowingly possessing, manufacturing, transporting, repairing, or selling a machine gun.<sup>110</sup> However, it is a defense to prosecution if the machine gun was properly registered under federal law.<sup>111</sup> Note that federal law generally allows private citizens to register machine guns so long as the machine guns were manufactured prior to May 19, 1986.

See [LCAV's policy page on Machine Guns](#) for further information.

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<sup>110</sup> Tex. Penal Code § 46.05(a)(2).

<sup>111</sup> Tex. Penal Code §§ 46.05(b), (c).

## **Non-Powder Guns in Texas**

Texas has no law restricting non-powder guns. See [Regulating Guns in America: Non-Powder Guns](#) for a comprehensive discussion of this issue.

## **Ammunition Regulation in Texas**

See [Regulating Guns in America: Ammunition Regulation](#) for a comprehensive discussion of this issue.

Texas law does not:

- Impose a minimum age for the purchase or possession of ammunition;
- Require a license for the purchase or possession of ammunition; or
- Require a license to sell ammunition.

### **Purchase/Possession Prohibitions**

Texas prohibits the transfer of ammunition to some, but not all, of the same categories of persons who are prohibited from purchasing firearms under state law. More specifically, Texas prohibits any person from intentionally, knowingly, or recklessly selling ammunition to any person who is intoxicated, and from knowingly selling ammunition to any person who has been convicted of a felony before the fifth anniversary of the later of: 1) the person's release from confinement following conviction of the felony; or 2) the person's release from supervision under community supervision, parole, or mandatory supervision following conviction of the felony.<sup>112</sup>

### **Regulation of Unreasonably Dangerous Ammunition**

Texas prohibits the intentional or knowing possession, manufacture, sale, transportation or repair of any armor-piercing ammunition. "Armor-piercing ammunition" is defined as "handgun ammunition that is designed primarily for the purpose of penetrating metal or body armor and to be used principally in pistols and revolvers."<sup>113</sup>

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<sup>112</sup> Tex. Penal Code § 46.06(a)(3)–(4).

<sup>113</sup> Tex. Penal Code § 46.01(12), 46.05(a)(7).

## **Investigating Gun Crimes**

### **Texas Microstamping/Ballistic Identification**

Texas has no law regarding firearm microstamping or ballistic identification. See [Regulating Guns in America: Ballistic Identification](#) for a comprehensive discussion of this issue.

## Texas Trafficking

As noted in the [Statistics section](#) above, Texas plays a major role in firearms trafficking.

A [2009 Texas law](#) prohibits “firearm smuggling,” which is defined as knowingly engaging in the business of transporting or transferring a firearm that the person knows was acquired in violation of Texas or federal law. For purposes of this definition, a person is considered to engage in the business of transporting or transferring a firearm if the person engages in the conduct on more than one occasion, or for profit or other remuneration.<sup>114</sup>

Texas law does **not**:

- Prohibit purchasing a gun with the intent to transfer it to an ineligible individual (“straw purchasing”);
- Prohibit providing false information when purchasing a firearm; or
- Penalize a firearms dealer for failing to conduct the [federally required background check](#) on a purchaser.

See [LCAV’s policy page on Firearms Trafficking](#) for further information.

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<sup>114</sup> Tex. Penal Code § 46.14(a).

## Texas State Links

[Attorney General of Texas](#)

[Bureau of Alcohol, Tobacco, Firearms & Explosives, Dallas Field Division \(OK, TX\)](#)

[Texans For Gun Safety](#)