



# TEXAS CONSTITUTIONAL CARRY GUIDE

2021



LEGAL DEFENSE  
FOR  
SELF DEFENSE



EFFECTIVE SEPTEMBER 1ST, 2021

**WARNING!**

The provisions of HB1927 ("Firearm Carry Act of 2021," "the Act," "Texas Constitutional Carry") DO NOT go into effect until September 1st, 2021.

Until September 1st, 2021, a non-prohibited person (*see* pages 8-9) who does not have a License to Carry ("LTC") must continue to carry a *handgun* as if they were unlicensed (*i.e.*, concealed in a motor vehicle, inside their house, on their property, not on their person in public, *etc.*).

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**Important Note:** You may see this phrase throughout this guide: "*a person carrying a handgun under the authority of Texas Constitutional Carry.*" That is shorthand for a qualified non-prohibited person carrying a *handgun* (openly in a holster or concealed) in a non-prohibited location after September 1st, 2021. These components are explained in greater detail on the following pages. Additionally, *license holders* have significant advantages over non-license holders, including being allowed to carry in locations prohibited to non-license holders and additional defenses to prosecution. This guide focuses primarily on carrying as a non-license holder under the authority of Texas Constitutional Carry, but we will point out some of the important distinctions when comparing to carrying pursuant to an LTC.



# TABLE OF CONTENTS

The Spirit of Constitutional Carry .....	5
Texas Constitutional Carry Summary .....	6
Who Can and Cannot Carry under Texas Constitutional Carry? .....	8
What Weapons Are Covered by Texas Constitutional Carry? .....	10
How Must You Carry a Handgun Under Constitutional Carry?.....	11
Where a Person Can and Cannot Carry Under Texas Constitutional Carry.....	12
What Signs Apply to Me? .....	14
What Conduct Is Prohibited Under Texas Constitutional Carry?.....	16
The Constitutional Carry Checklist .....	17
Can the Police Stop and Disarm Me Because I’m Carrying? .....	18
Why Should I Still Get a License to Carry a Handgun? .....	19
Frequently Asked Questions.....	22
Definitions .....	23
Texas Constitutional Carry Chart.....	24
Thank You .....	27





*We are charged with defending the freedoms that are owed to Texans and guaranteed by the Constitution. My faith is with law-abiding Texans, who are the first to respond because they are there.*

- Texas Representative Matt Schaefer, Author of HB 1927, Closing Speech on the Floor of the Texas House of Representatives, May 23, 2021.





# THE SPIRIT OF CONSTITUTIONAL CARRY

## “The Second Amendment”

The Second Amendment to the United States Constitution restates the broad permanent right of the people to keep and bear arms. This amendment, like other amendments in the Bill of Rights, restrains the government and commands it shall not infringe upon that right.

## “Constitutional Carry”

“Constitutional carry” is a broad term applied to states that do not require a license or permit to carry a handgun. The name “constitutional carry” has caught on in recent years as a reference to the Second Amendment of the United States Constitution, with supporters pointing to the text of the Second Amendment as their “permit” or “license” to carry a *handgun* in public.

## The Spirit of “Constitutional Carry”

The general idea of “constitutional carry” is that every person who is not prohibited by law from legally owning a *handgun* should be free to carry it openly or concealed in public and not fear prosecution for simply exercising their right.

## “Constitutional Carry” Does Not Mean Common Sense

We wish we could say it was easy—if you can legally buy a firearm, you can carry a *handgun* in public without a license—**but that is not the case**. Age limitations, who may lawfully carry, how a person must carry, where carrying is allowed, and other **restrictions apply**. In the following pages, we will provide the information you need to know to stay on the right side of the law. In the ten years that we have protected gun owners, we have seen time after time where a gun owner gets caught up in the legal system.

While this guide was written by a team of lawyers, they have gone to great lengths to make the topic digestible so that everyone can exercise their Second Amendment rights with the confidence that they are following the law.

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***“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.”***

~ The Constitution of the United States, Amendment 2



# TEXAS CONSTITUTIONAL CARRY SUMMARY

A person carrying a handgun under the authority of Texas Constitutional Carry must generally meet the qualifications below. Each topic is also explained in greater detail in the pages to follow. Additionally, you will find Frequently Asked Questions (“FAQ”) at the end of this guide (see page 22).

## Who Can Carry Under Texas Constitutional Carry (see pages 8-9 for full explanation).

1. Must be 21 years of age or older;
2. Must not be prohibited from possessing a firearm in a public place under **Texas law**;
3. Must not have been convicted of: (1) Assault Causes Bodily Injury; (2) Deadly Conduct; (3) Terroristic Threat; (4) Disorderly Conduct - Discharging a Firearm; or (5) Disorderly Conduct - Displaying a Firearm **within the previous five years**; and
4. Must not be prohibited from possessing a firearm or ammunition under **federal law**.

## What Weapons are Covered by Texas Constitutional Carry (see page 10 for full explanation).

**Handguns Only!** While the Firearm Carry Act of 2021 significantly reorganized Texas weapons law (Texas Penal Code Chapter 46), we generally focus on the carrying of a *handgun* by an unlicensed person for the purposes of this guide.

## How Must You Carry a Handgun Under Texas Constitutional Carry (see page 11 for full explanation).

A person carrying a *handgun* in public under the authority of the Act has two methods of carrying:

1. Concealed (no part of the *handgun* is partially or wholly visible); or
2. Openly in a holster.

## What Conduct Is Prohibited Under Texas Constitutional Carry (see page 16 for full explanation).

In addition to other criminal acts located in the Texas Penal Code and elsewhere—a person **openly carrying a handgun under the authority of Texas Constitutional Carry must keep the handgun holstered!** A *handgun* should not leave the holster unless the person is acting in justified defense (see Texas Penal Code Chapter 9) or other lawful activity.

A person commits an offense if the person carries a *handgun* while the person is intoxicated and is not: A) on their own property or property under their control or on private property with the consent of the owner of the property; or B) inside of or directly *en route* to a motor vehicle or watercraft: (i) that is owned by the person or under their control; or (ii) with the consent of the owner or operator of the vehicle or watercraft.

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# TEXAS CONSTITUTIONAL CARRY SUMMARY

**Places Off-Limits Under Texas Constitutional Carry** (see pages 12-13 for full explanation).

**Prohibited Places:** The Firearm Carry Act of 2021 conveniently reorganized the places weapons are prohibited into one location, Tex. Penal Code Sec. 46.03. With some exceptions, the following places are generally prohibited to *a person carrying a handgun under the authority of Texas Constitutional Carry*. This includes the *premises of*:

1. School or educational institutions, a school or educational institution transportation vehicle, or grounds where a school-sponsored activity is taking place;
2. Polling place, including during early voting;
3. Courts and offices utilized by a court;
4. Racetrack where pari-mutuel wagering takes place: horse or dog racing;
5. The secured area of airports (*i.e.*, inside the metal detectors);
6. Within 1,000 feet of locations designated by TDCJ as a place of execution on the day a death sentence is to be imposed;
7. Bars (*i.e.*, 51% locations);
8. Professional sporting events;
9. Correctional facilities;
10. Civil commitment facilities;
11. Hospitals or nursing homes;
12. Mental hospitals;
13. Amusement parks; and
14. A room or rooms of an open meeting of a governmental entity.

**See chart on pages 24-25.**

**Trespass:** The Firearm Carry Act of 2021 created a new method a private property owner may use to give notice to people other than *license holders* that entering the premises with a firearm (including a *handgun*) constitutes a trespass—the Tex. Penal Code Sec. 30.05 “No Firearm” sign (see page 15 for full explanation).

**Note on Federal Law:** Keep in mind, federal property is subject to federal law (not state law) and typically prohibits firearms anywhere on federal property, including parking lots and sidewalks.



# WHO CAN AND CANNOT CARRY UNDER TEXAS CONSTITUTIONAL CARRY?

A person carrying a *handgun* under the authority of Texas Constitutional Carry must not be prohibited under state and federal law and must meet the following requirements:

**Requirement 1:** Must be 21 years of age or older.

**Requirement 2:** Must not be prohibited from possessing a firearm in a public place under Texas law.

## Who is prohibited from possessing a firearm in a public place under Texas law?

1. **Felons:** A person who has been convicted of a felony. *See* Tex. Penal Code Secs. 12.04 and 46.04(a).
2. **Convicted of Assault Family Violence:** A person who has been convicted of a Class A misdemeanor assault involving a family or household member before the 5th anniversary or release from confinement or community supervision (whichever is later). *See* Tex. Penal Code Sec. 46.04(b).
3. **Under Certain Protective Orders:** A person, other than a peace officer, subject to a protective order, who received notice of the order and before the expiration of the order. *See* Tex. Penal Code Sec. 46.04(c).

**Requirement 3:** Within the past five years, the person must not have been convicted (a final judgment of guilt) of certain offenses:

1. **Assault Causes Bodily Injury.** *See* Tex. Penal Code Secs. 22.01(a)(1) and 46.02(a)(2)(B).
2. **Deadly Conduct.** *See* Tex. Penal Code Secs. 22.05 and 46.02(a)(2)(B).
3. **Terroristic Threat.** *See* Tex. Penal Code Secs. 22.07 and 46.02(a)(2)(B).
4. **Disorderly Conduct - Discharging a Firearm.** *See* Tex. Penal Code Secs. 42.01(a)(7) and 46.02(a)(2)(B).
5. **Disorderly Conduct - Displaying a Firearm.** *See* Tex. Penal Code Secs. 42.01(a)(8) and 46.02(a)(2)(B).

**Legal Tip:** There is no requirement that a person carrying under the Act be a Texas resident.

**Note on “criminal street gangs”:** Carrying a *handgun* in a motor vehicle or watercraft is not generally referred to as “constitutional carry.” However, it is important to note, criminal street gang members (who DO NOT hold an LTC) are generally prohibited from carrying a *handgun* in a motor vehicle or watercraft. The law has moved from Tex. Penal Code Sec. 46.02(a-1)(2)(C) to Tex. Penal Code Sec. 46.04(a-1) effective September 1st, 2021. Interestingly enough, this prohibition does not extend to a person, who is a criminal street gang member, carrying a *handgun* under the authority of Texas Constitutional Carry outside of their motor vehicle or watercraft (e.g., on a public sidewalk). Chalk it up to another quirk of Texas gun law.

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# WHO CAN AND CANNOT CARRY UNDER TEXAS CONSTITUTIONAL CARRY?

**Requirement 4:** Must not be prohibited from possessing a firearm or ammunition under federal law.

## Who is prohibited from possessing a firearm or ammunition under federal law?

1. **Felons:** A person convicted of a crime punishable by imprisonment for a term exceeding one year. *See* 18 U.S.C. 922(g)(1).
2. **Fugitives from Justice:** A person who has fled from any State to avoid prosecution for a crime or to avoid giving testimony in any criminal proceeding. *See* 18 U.S.C. 922(g)(2).
3. **Addicts:** A person who is an unlawful user of or addicted to any controlled substance. *See* 18 U.S.C. 922(g)(3). The U.S. government considers marijuana to be a controlled substance, including use by individuals who reside in a state that has legalized marijuana for medical or recreational use. Therefore, a person may be simultaneously legal to use marijuana under state law (not Texas), yet prohibited from purchasing and possessing firearms under federal law.
4. **Mental Defectives:** A person who has been adjudicated as a mental defective or who has been committed to a mental institution. *See* 18 U.S.C. 922(g)(4). Adjudication is an order rendered by a court, board, or other lawful authority which adheres to the principles of due process, which includes notice and an opportunity to be heard.
5. **Illegal Alien or Non-Exempt Nonimmigrant Aliens:** An alien who is illegally or unlawfully in the United States or has been admitted to the United States under a nonimmigrant visa and does not meet an exception under 18 U.S.C. 922(y)(2). *See* 18 U.S.C. 922(g)(5).
6. **Dishonorably Discharged:** A person who has been discharged from the Armed Forces under dishonorable conditions. *See* 18 U.S.C. 922(g)(6).
7. **Renounced Citizenship:** A person who has renounced his or her United States citizenship. *See* 18 U.S.C. 922(g)(7).
8. **Under Certain Protective Orders:** A person who is subject to an explicit court order restraining them from harassing, stalking, or threatening an intimate partner or child of the intimate partner or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child. *See* 18 U.S.C. 922(g)(8).
9. **Domestic Abusers:** A person who has been convicted of a misdemeanor crime of domestic violence. *See* 18 U.S.C. 922(g)(9).



# WHAT WEAPONS ARE COVERED BY TEXAS CONSTITUTIONAL CARRY?

## Handguns Only!

Much of Texas Constitutional Carry is about conforming *handgun* and long gun carry laws. With the reorganization of Texas Penal Code Chapter 46 brought about by the Firearm Carry Act of 2021, long guns and *handguns* are treated similarly. Previously, possession of any firearm including a long gun was prohibited in any place listed in Tex. Penal Code Sec. 46.03, while places prohibited to *license holders* carrying handguns were listed in Tex. Penal Code Sec. 46.035. These two lists have now been combined in Tex. Penal Code Sec. 46.03, which means that long guns are now explicitly prohibited in 51% establishments, professional sporting events, correctional facilities, hospitals, nursing facilities, mental hospitals, amusement parks, civil commitment facilities, and open meetings of governmental entities.

What is a *handgun*? Under Texas law, "handgun" means any firearm that is designed, made, or adapted to be fired with one hand. *See* Tex. Penal Code Sec. 46.01(5).





# HOW MUST YOU CARRY A HANDGUN UNDER CONSTITUTIONAL CARRY?

## Two Methods of Carrying Under Texas Constitutional Carry

A person carrying a handgun under the authority of Texas Constitutional Carry may either carry (1) concealed or (2) openly in a holster.

1. **Concealed:** No part of the *handgun* is visible based on ordinary observation.  
Examples of concealed carry: No part of the *handgun* is visible while inside a pocket, bag, holster, case, or jacket. This is not an exhaustive list.
2. **Openly in a holster:** A *handgun* that is partially or wholly visible based on ordinary observation must be carried in a holster.  
Examples of open carry in a holster: *handgun* is partially or wholly visible while being carried in a belt holster, shoulder holster, ankle holster, appendix holster, pilot holster, chest holster, or backpack holster (to name a few). The possibilities are endless!

**Law Change Alert:** Simplified Holster Requirement – All references to “shoulder or belt” concerning holsters have been removed from Texas law. All that remains is “holster.”

Previously, an openly carried *handgun* by a *license holder* was required to be carried in a “shoulder or belt holster.” Now, handguns carried openly by *license holders* and persons carrying in public under the authority of the Act need only use a “holster” and are not required to use a “shoulder or belt” holster specifically.

**Tip:** The simplified holster requirement allows the use of vehicle holsters (e.g., magnetic dashboard holsters).



Concealed Carry Holster vs. Open Carry Holster



# WHERE A PERSON CAN AND CANNOT CARRY UNDER TEXAS CONSTITUTIONAL CARRY

**Where Can a Person Carry Under Texas Constitutional Carry?** (see pages 24-25 for chart).

Generally, a person carrying a handgun under the authority of Texas Constitutional Carry may do so in any public non-prohibited place or a public place without effective notice, either verbally (*i.e.*, "Hey, we don't allow guns in here."), or in writing as described below, that carrying a *handgun* is prohibited.

## Where Can a Person NOT Carry Under Texas Constitutional Carry?

**Prohibited Places:** The following places are generally prohibited to a person carrying a *handgun under the authority of Texas Constitutional Carry*. This includes these premises:

1. **Schools** or educational institutions, a school or educational institution transportation vehicle, or grounds where a school-sponsored activity is taking place (see Tex. Penal Code Sec. 46.03(a)(1)); 3rd Degree Felony.
2. **Polling places**, including during early voting (see Tex. Penal Code Sec. 46.03(a)(2)); 3rd Degree Felony.
3. **Courts** or offices utilized by a court (see Tex. Penal Code Sec. 46.03(a)(3)); 3rd Degree Felony.
4. **Racetracks** where pari-mutuel wagering takes place: horse or dog racing (see Tex. Penal Code Sec. 46.03(a)(4)); 3rd Degree Felony.
5. **Secured areas of airports** (*i.e.*, inside the metal detectors) (see Tex. Penal Code Sec. 46.03(a)(5)); 3rd Degree Felony.
6. **Within 1,000 feet** of locations designated by TDCJ as a **place of execution** on the day a death sentence is to be imposed (see Tex. Penal Code Sec. 46.03(a)(6)); 3rd Degree Felony.
7. **Bars** (*i.e.*, 51% locations) (see Tex. Penal Code Sec. 46.03(a)(7)); 3rd Degree Felony.
8. **Professional sporting events** (see Tex. Penal Code Sec. 46.03(a)(8)); Class A Misdemeanor.
9. **Correctional facilities** (see Tex. Penal Code Sec. 46.03(a)(9)); 3rd Degree Felony.
10. **Civil commitment facilities** (see Tex. Penal Code Sec. 46.03(a)(10)); Class A Misdemeanor.

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## WHERE A PERSON CAN AND CANNOT CARRY UNDER TEXAS CONSTITUTIONAL CARRY

11. **Hospitals or nursing homes** (*see* Tex. Penal Code Sec. 46.03(a)(11)); Class A Misdemeanor.
12. **Mental hospitals** (*see* Tex. Penal Code Sec. 46.03(a)(12)); 3rd Degree Felony.
13. **Amusement parks** (*see* Tex. Penal Code Sec. 46.03(a)(13)); Class A Misdemeanor.
14. **A room or rooms** of an open meeting of a governmental entity (*see* Tex. Penal Code Sec. 46.03(a)(14)); 3rd Degree Felony.

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Note for *license holders*: an amusement park and hospital are only prohibited if effective Tex. Penal Code Secs. 30.06 and/or 30.07 notice is provided, as applicable. Additionally, a room or rooms of an open meeting of a governmental entity are no longer prohibited for a *license holder* pursuant to Tex. Penal Code Secs. 46.15(b), *effective September 1st, 2021*. However, an unlicensed individual carrying a *handgun* or long gun is strictly prohibited and risks being charged with a felony for carrying in the room of a meeting of a governmental entity.

**Trespass:** Private property owners may give notice to people other than *license holders* that entering the *premises* with a firearm (including a *handgun*) constitutes a trespass. This notice may be provided by a Tex. Penal Code Sec. 30.05 “No Firearms” sign or personally by the owner or someone with apparent authority. The trespass notice provision for *license holders* remains the same under Tex. Penal Code Sec. 30.06 and/or 30.07.



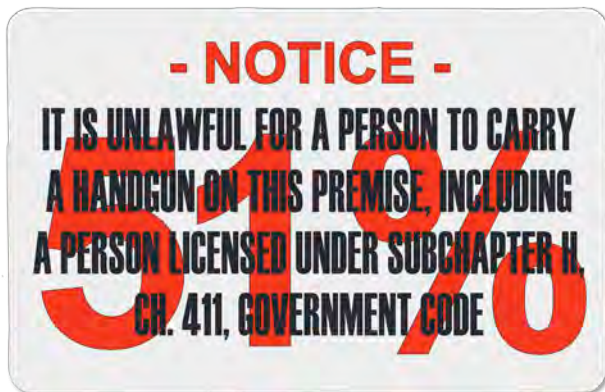
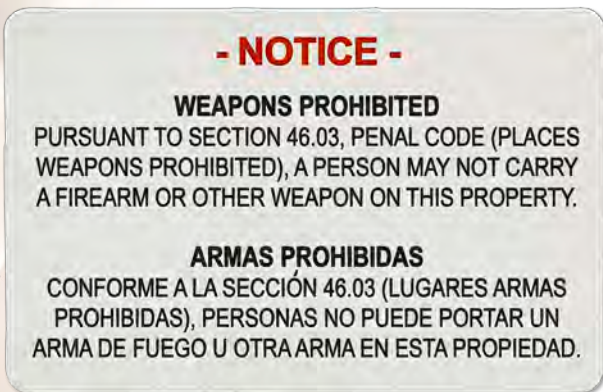
# WHAT SIGNS APPLY TO ME?

## Legally Effective Signage for *License Holders* and for Persons Legally Carrying Under the Firearm Carry Act of 2021.

**51% Sign:** If an establishment sells alcohol by the drink and receives 51% or more of its income from alcohol sales, it must display a 51% sign to legally give notice to all persons that the place is prohibited. However, only *license holders* are provided relief if the establishment does not provide effective notice (post signage) under Tex. Penal Code Sec. 46.15(p) *effective September 1st, 2021*.

**New 46.03 Sign:** Prohibited places (locations listed on pages 12-13) have the option to provide a new form of notice that the location is prohibited under Tex. Penal Code Sec. 46.03. This notice can be provided by a sign meeting the legal requirements that is posted prominently at each entrance to the premises or property. If effective notice is provided by this new 46.03 sign under Tex. Penal Code Sec. 46.15(o), any person who carries a firearm (even accidentally) into that location will not have the benefit of the newly created defense to prosecution intended to guard against mistakes. Regardless if the location has or has not posted a 46.03 sign, it is still prohibited.

A violation of carrying into a 51% or prohibited place (under Tex. Penal Code Sec. 46.03) is generally a 3rd Degree Felony (a hospital, nursing facility, or *amusement park* is a Class A Misdemeanor).



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# WHAT SIGNS APPLY TO ME?

## Legally Effective Signage for a Person Carrying Under the Firearm Carry Act of 2021

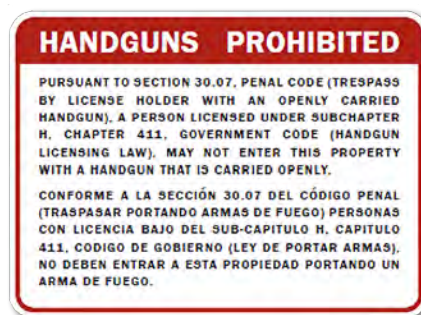
Tex. Penal Code Sec. 30.05(c) establishes a new option for a property owner to provide notice to exclude non-license holders carrying a firearm (including a *handgun*), in places governed by the general trespass statute. The sign could come in many different forms; the only legal requirement is that it is reasonably likely to come to the attention of the person entering the building.



These signs are effective against a person carrying under the authority of the Firearm Carry Act and not *license holders*.

## Legally Effective Signage for *License Holders* in Texas

Tex. Penal Code Secs. 30.06 and 30.07 establish strict requirements for signs to give legally effective notice to exclude *license holders* who are carrying in Texas in places not otherwise governed by statute. **Note:** valid warning can be given orally, in writing, or by signage.





# WHAT CONDUCT IS PROHIBITED UNDER TEXAS CONSTITUTIONAL CARRY?

## General Note on Open Carrying

In addition to other criminal acts located in the Texas Penal Code and elsewhere—a person *openly carrying a handgun under the authority of Texas Constitutional Carry must keep the handgun holstered!* A handgun should not leave the holster unless the person is acting in justified defense (see Texas Penal Code Chapter 9) or other lawful activity.



## Brandishing

A person cannot display a firearm (including a *handgun*) in a manner calculated to “alarm.” People commonly call the display of a *handgun* “brandishing” although this word is not used in the Texas Penal Code. Texas law criminalizes the general display of a firearm as either disorderly conduct or deadly conduct. If a person intentionally or knowingly displays a firearm or other deadly weapon in a public place in a manner calculated to alarm, this is an act of disorderly conduct. The complicated language of Tex. Penal Code Sec. 42.01(a)(8) went uninterpreted by the appellate courts for decades. However, in May 2019, the Texas Court of Criminal Appeals finally clarified the proper standard to apply to the conduct of a person who displays a deadly weapon, including a firearm, in public. “[T]o be guilty of disorderly conduct under Penal Code Section 42.01(a)(8), a person must intentionally and knowingly display a firearm in a public place in a manner that he knows is likely, under an objective standard of reasonableness, to frighten the average, ordinary person.” *State v. Ross*, 573 S.W.3d 817, 825 (Tex. Crim. App. 2019).

## Carrying While Intoxicated

An unlicensed person commits an offense if the person carries a *handgun* while the person is intoxicated and is not: A) on their own property or property under their control or on private property with the consent of the owner of the property; or B) inside of or directly *en route* to a motor vehicle or watercraft: (i) that is owned by the person or under their control; or (ii) with the consent of the owner or operator of the vehicle or watercraft. Tex. Penal Code Sec. 46.02(a-6)(1).





# THE CONSTITUTIONAL CARRY CHECKLIST

## Who May Be Qualified?

1. I am 21 years of age or older;  YES or  NO
2. I can legally purchase firearms and ammunition under federal law;  YES or  NO
3. I have never been convicted of a crime or subject to a protective order (if the answer is “yes” go straight to #4; if the answer is “no” go to 3.1);  YES or  NO
  - 3.1 I am a felon;  YES or  NO
  - 3.2 In the past five years, I have been convicted and confined or convicted and have been placed on community supervision for Assault Causes Bodily Injury – Family Violence;  YES or  NO
  - 3.3 I am currently subject to a protective order, for which I have received notice of the order and before the expiration of the order, under Section 6.504 or Chapter 85, Family Code, under Article 17.292 or Subchapter A, Chapter 7B, Code of Criminal Procedure, or by another jurisdiction as provided by Chapter 88, Family Code;  YES or  NO and
  - 3.4 In the past five years, I have been convicted of one of the following: (1) Assault Causes Bodily Injury, (2) Deadly Conduct, (3) Terroristic Threat, (4) Disorderly Conduct - Discharging a Firearm, (5) Disorderly Conduct - Displaying a Firearm  YES or  NO
4. I am carrying a *handgun* openly in a holster or concealed;  YES or  NO and
5. I am carrying in a place not prohibited by law or in a place I have not been provided notice that carrying a firearm is prohibited.  YES or  NO

## KEY

### QUALIFIED

If you answered “yes” to 1, 2, 3, 4, and 5, you may qualify as a person eligible to carry a *handgun* under the authority of Texas Constitutional Carry.\*

If you answered “yes” to 1, 2, 4, 5 and “no” to 3, 3.1, 3.2, 3.3, and 3.4, you may qualify as a person eligible to carry a *handgun* under the authority of Texas Constitutional Carry.\*

### NOT QUALIFIED

If you answered “no” to 1, 2, 4, or 5 or “yes” to 3.1, 3.2, 3.3, or 3.4, you are not qualified to carry a *handgun* under the authority of Texas Constitutional Carry.

*\*This checklist is only provided for general informational purposes. Only an attorney licensed in the State of Texas can advise you on your particular circumstances. U.S. LawShield members have access to an attorney for non-emergency firearms and self-defense questions. Call U.S. LawShield at 877-448-6839 to speak to an Independent Program Attorney about your rights to carry.*



# CAN THE POLICE STOP AND DISARM ME BECAUSE I'M CARRYING?

## What Are Your Rights?

With the passage of the Firearm Carry Act of 2021 came a new provision of law; Article 14.03(h)(1), (2), and (3), *effective September 1st, 2021*, of the Code of Criminal Procedure. This article, at its core, discusses when a peace officer may disarm a person. It is modeled after existing Government Code Section 411.206, which applies to *license holders*. This was considered one of the most controversial sections of the Act and was the cause of much debate. On top of that, another section that would have expressly prohibited the police from disarming a person without reasonable suspicion was intentionally removed.

You may be asking yourself: "Can the police just stop and disarm me because I'm carrying a handgun under the authority of the Act?" Well, that depends on how the courts will interpret "A peace officer who is **acting in the lawful discharge of the officer's official duties** may disarm a person at any time the officer reasonably believes it is necessary for the protection of the person, officer, or another individual."

We hope a court would conclude that the seizure of a firearm would constitute a detention and that detention would need to be based on reasonable suspicion of some criminal offense. But until this provision is interpreted, we will have to wait and see. That being said, the place to fight an unlawful detention or arrest is in a courtroom. If you find yourself in an encounter with police, stay calm, be courteous, follow the officer's directions, and use common sense (including not waiving any of your legal rights without speaking to an attorney).

Here is a quick overview of the three primary types of police encounters.

**Voluntary Encounter** (right to walk away): The police may approach any person in a public place and engage them in ordinary conversation just like any other individual. A person who finds themselves in a voluntary encounter with the police is fully within their right to not engage in conversation and walk away.

**Temporary Detention** (requires reasonable suspicion): A temporary detention occurs when a police officer stops and holds a person, restricting their right to walk away. A police officer is legally justified in conducting a temporary detention when the officer has "reasonable suspicion" based on specific articulable facts that a person has broken, is breaking, or will break the law. While lawfully detained, a police officer may check arrest warrants, frisk the outside of clothing, remove weapons, or handcuff and place a person in the back of a squad car.

**Arrest** (requires probable cause): Police may arrest a person if they have probable cause to believe a crime has been or is being committed. In Texas, a formal arrest occurs when someone is placed into custody in a manner such that a reasonable person would believe they have been deprived of their freedom. At the point of arrest, most of the person's legal rights and protections are triggered (including the right to remain silent, the right to counsel, *etc.*).

**Legal Tip:** Identification only needs to be provided if a suspect has been arrested.

**Remember: Don't waive your rights without talking to your lawyer!**





# WHY SHOULD I STILL GET A LICENSE TO CARRY A HANDGUN?

## **Fast Lane for Firearm Purchases (Avoid Background Check Delay)**

Generally, every person who purchases a firearm from a Federal Firearms Licensed dealer (“FFL”), is subject to a background check through the National Instant Criminal Check System (“NICS”). This can lead to delays and erroneous denials due to mistaken identity. However, no NICS background check may be required if the transferee is legally exempt for reasons such as possessing a state-issued firearms license like a Texas LTC. *See* 18 U.S.C. 922(t)(3).

## **Carrying a *Handgun* With an LTC When Under the Age of 21**

An individual must be 21 years of age or older in order to take advantage of the right to carry a *handgun* under the Firearm Carry Act of 2021. However, members of the military (or those honorably discharged) remain eligible to obtain an LTC if they are between the ages of 18 and 20. This means that a 19-year-old member of the U.S. military may obtain the right to lawfully carry a *handgun* in public once they acquire an LTC. *See* Tex. Gov. Code Sec. 411.172(g).

## **School District Employees Who Have an LTC Are Protected**

If you are an employee of a school district and have been issued a Texas LTC, Texas law protects your right to keep a firearm and ammunition concealed in your locked motor vehicle while it is parked in a school parking lot. In fact, Texas law prevents the school district from imposing any duties, restrictions, or reporting requirements on where or how your firearms and ammunition are stored. However, these protections are not given to employees who do not possess a valid *handgun* license. *See* Tex. Edu. Code Sec. 37.0815.

## **Private Property Owners May Not Allow Constitutional Carry**

There may be private property owners who have grown comfortable with *license holders* carrying openly or concealed in their places of business but are uneasy with the thought of unlicensed individuals exercising their right to carry on their property. The unlicensed people can be prevented with effective notice under the general criminal trespass statute, Tex. Penal Code Sec. 30.05. However, this section does not apply to *license holders*. In the event a property owner wants to prevent *license holders* from carrying, they are still required to provide effective criminal trespass notices under Tex. Penal Code Secs. 30.06 (for concealed carry) and 30.07 (for open carry).

## **LTC Holders Are Entitled to More Notice at Some Prohibited Locations**

Hospitals, nursing facilities, and amusement parks continue to be statutorily prohibited places for *a person carrying a handgun under the authority of Texas Constitutional Carry*. However, to enforce this prohibition against *license holders*, effective Tex. Penal Code Secs. 30.06 and/or 30.07 notice is required. *See* Tex. Penal Code Sec. 46.15(p) *effective September 1st, 2021*. Also, open meetings of governmental entities are no longer prohibited to *license holders* carrying a *handgun* under the authority of their LTC. *See* Tex. Penal Code Sec. 46.15(b)(6) *effective September 1st, 2021*.

Continued >>



## WHY SHOULD I STILL GET A LICENSE TO CARRY A HANDGUN?

Finally, the statutory prohibition against carrying a *handgun* into a bar does not apply to a *license holder* unless the bar has posted its 51% sign in accordance with the law. *See* Tex. Penal Code Sec. 46.15(p) *effective September 1st, 2021.*

The campus of an institution of higher learning also holds some benefits for the holder of a Texas LTC. An unlicensed, constitutional carrier will now be allowed to walk the parking lots, parking garages, streets, sidewalks, and walkways of a college campus, as well as grounds where a school sponsored activity is NOT taking place. However, once that individual reaches the threshold of a building or sporting event of that college or university, they cannot carry. Alternatively, a person who holds a Texas LTC will be able to conceal his or her *handgun* and walk into that building or sporting activity as long as there is not a 30.06 sign. *See* Tex. Penal Code Secs. 46.03(a-2), (a-3), and (a-4) *effective September 1st, 2021.*

### **LTC Holders Are Allowed “Oopsies” at Airports**

When traveling by air, a *license holder* retains their ability to avoid arrest in the event they inadvertently leave their *handgun* in their carry-on baggage, as long as they promptly depart the secured area when notified they are in possession of a *handgun*. The unlicensed individual who leaves a *handgun* in their carry-on bag is given no such courtesies and may find themselves charged with a felony. *See* Tex. Penal Code Secs. 46.03(e-1) and (e-2) *effective September 1st, 2021.*



## FREQUENTLY ASKED QUESTIONS

**Q:** *When does Texas Constitutional Carry go into effect?*

**A:** September 1st, 2021.

**Q:** *Can a non-Texas resident carry under the authority of Texas Constitutional Carry?*

**A:** Yes, there is no requirement under The Firearm Carry Act of 2021 that a person has to be a Texas resident. So long as the person is otherwise qualified (e.g., non-prohibited person, who is a resident of another state), they may carry.

**Q:** *Does the handgun I carry have to be registered to me?*

**A:** There is not a firearm registry under federal or Texas law. As long as a person legally possesses the handgun (e.g., the gun is not stolen), it will be considered "legal."

**Q:** *Can the handgun I carry be loaded (e.g., one in the chamber)?*

**A:** Yes, but with all firearms, continue to exercise safe handling practices.

**Q:** *Can the police disarm me if I am carrying a handgun under the authority of Texas Constitutional Carry?*

**A:** Yes, a peace officer may lawfully disarm any person carrying under the Act if they reasonably suspect they have committed a crime.

**Q:** *Can I carry while wearing a mask?*

**A:** Yes, "mask requirements" here in Texas should have little effect on an individual's carry rights.



## DEFINITIONS

**“Amusement park”** means a permanent indoor or outdoor facility or park where amusement rides are available for use by the public that is located in a county with a population of more than one million, encompasses at least 75 acres in surface area, is enclosed with access only through controlled entries, is open for operation more than 120 days in each calendar year, and has security guards on the premises at all times. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area. *See Tex. Penal Code Sec. 46.03(c)(1) effective September 1st, 2021.*

**“Handgun”** means any firearm that is designed, made, or adapted to be fired with one hand. *See Tex. Penal Code Sec. 46.01(5).*

**“License holder”** means a person licensed to carry a *handgun* under Subchapter H, Chapter 411, Government Code. *See Tex. Penal Code Sec. 46.03(c)(3) effective September 1st, 2021.*

**“Premises”** means a building or a portion of a building. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area. *See Tex. Penal Code Sec. 46.03(c)(4) effective September 1st, 2021.*

**“Secured area”** means an area of an airport terminal building to which access is controlled by the inspection of persons and property under federal law. *See Tex. Penal Code Sec. 46.03(c)(5) effective September 1st, 2021.*



# TEXAS CONSTITUTIONAL CARRY CHART

LOCATION		WITH A LICENSE TO CARRY		WITHOUT A LICENSE TO CARRY		LONG GUN (with or without a license to carry, open or concealed)
		HANDGUN CONCEALED	HANDGUN OPEN	HANDGUN CONCEALED	HANDGUN OPEN	
	Private property with owner's consent.	✓	✓	✓	✓	✓
	Motor vehicle or watercraft with owner's consent.	✓	✓	✓	✓	✓
	A public place that has provided no notice and is not otherwise prohibited by TPC 46.03.	✓	✓	✓	✓	✓
	A liquor, grocery, or convenience store that sells alcohol that has provided no notice of prohibition.	✓	✓	✓	✓	✓
	Employee parking lots.*	✓	✓	✓	✓	✓
	Established place of religious worship, including churches and synagogues, without notice of prohibition.	✓	✓	✓	✓	✓
	A public place with only a TPC 30.05 "no firearm" sign that is reasonably likely to come to the attention of intruders.±	✓	✓	✗	✗	✗
	A public place that only has effective TPC 30.06 sign prohibiting concealed carry.±	✗	✓	✓	✓	✓
	A public place that only has effective TPC 30.07 sign prohibiting open carry.±	✓	✗	✓	✓	✓
	A public place that has posted effective TPC 30.05, 30.06, and 30.07 signs or provided personal notice.±	✗	✗	✗	✗	✗
	A prohibited location with a TPC 46.03 sign.**	✗	✗	✗	✗	✗
	A business receiving 51% or more of its income from serving alcohol for consumption on premises that has posted an effective TGC 411.204 sign.	✗	✗	✗	✗	✗
	Elementary or secondary school premises (not including parking lots, sidewalks, and walkways outside of buildings), in a school or educational institution transportation vehicle, or grounds or building where a school-sponsored activity is taking place, without written authorization.	✗	✗	✗	✗	✗
	Within 1,000 feet of a school (outside of school buildings).***	✓	✓	✗	✗	✗***
	Premises, grounds, or buildings (including collegiate sporting events) of an institution of higher education on which a sponsored activity is taking place, or a passenger transportation vehicle of an institution of higher education where effective TPC 30.06 sign is not posted.±	✓	✗	✗	✗	✗
	College campus or area, including a driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area of an institution of higher education, where effective TPC 30.06 sign is not posted.±	✓	✓	✓	✓	✓
	Professional sporting event.	✗	✗	✗	✗	✗

Continued >>





# TEXAS CONSTITUTIONAL CARRY CHART

LOCATION		WITH A LICENSE TO CARRY		WITHOUT A LICENSE TO CARRY		LONG GUN (with or without a license to carry, open or concealed)
		HANDGUN CONCEALED	HANDGUN OPEN	HANDGUN CONCEALED	HANDGUN OPEN	
	Premises of a pari-mutuel racetrack: horse or dog racing.	✗	✗	✗	✗	✗
	National park (except buildings and facilities), state parks, and state forests.	✓	✓	✓	✓	✓
	In a secured area of an airport ( <i>i.e.</i> , inside the metal detectors).	✗	✗	✗	✗	✗
	A hospital or nursing facility, or amusement park with no effective TPC 30.06 or 30.07 notice.±	✓	✓	✗	✗	✗
	Room of an open meeting of a governmental entity.	✓	✓	✗	✗	✗
	A court or office used by the court, without permission.	✗	✗	✗	✗	✗
	Correctional or civil commitment facility, or within 1,000 feet of a Texas Department of Criminal Justice place of execution on the day a death sentence is set to be imposed.	✗	✗	✗	✗	✗
	U.S. Post Office, VA Hospital, or other place prohibited by federal law, including parking lots and sidewalks.	✗	✗	✗	✗	✗
	Polling place on election day, including during early voting.	✗	✗	✗	✗	✗

**Note:** To carry a handgun in Texas, an eligible person must be 21 years of age or older and not prohibited from possessing a firearm, or must possess a handgun license or permit. Keep in mind, there are exceptions and nuances with every law—for questions about your particular circumstances, please consult an attorney licensed in the State of Texas.

\* Generally, a person may carry in their employer’s parking lot, however, some employers may exclude all firearms. See Tex. Labor Code Secs. 52.061-52.062 for details (*e.g.*, secured petrochemical plants, *etc.*).

\*\* Effective TPC 46.03 notice is not required for the location to be prohibited. Signage merely removes a possible defense to prosecution.

\*\*\* There are several exceptions to federal gun-free school zones. Notably, possessing a license or permit to carry a firearm issued by the state in which the zone is located. For example, a Texas License to Carry (“LTC”) would meet the exception for a handgun in a Texas school zone. As of this writing, there is no controlling case law on applying this exception to long guns carried by LTC holders.

± If at any point a person receives notice from the owner or someone with apparent authority that carrying a firearm in the location is prohibited, they must immediately depart or face heightened penalties.





# THANK YOU



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# TEXAS CONSTITUTIONAL CARRY GUIDE

## Be Armed & Educated

The *Texas Constitutional Carry Guide* is the definitive resource for law-abiding gun owners who want to stay on the right side of the law. This book summarizes the provisions of HB 1927 that are in effect in Texas on September 1, 2021, and goes into detail on what you need to know to carry in the Lone Star State.

With this guide, you will learn who can and cannot carry under Texas Constitutional Carry, what weapons are covered and how you must carry under the new law, as well as where a person can and cannot carry in the state.

Also included in this comprehensive guide is a breakdown of what signs apply to people who are carrying and what conduct is prohibited under Texas Constitutional Carry.

Ignorance of the law will not protect you from the legal system. With this *Texas Constitutional Carry Guide*, you are armed with the facts you need to know!



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