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***ICUT Legislative Mandate #2
84th Legislature, Regular Session
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S.B. 11

Relating to the carrying of concealed handguns on the campuses of and certain other locations associated with institutions of higher education.

WHAT DOES THIS NEW LAW DO?

S.B. 11 amends the Government Code to authorize a concealed handgun license holder to carry a concealed handgun while on the campus of a public or private institution of higher education in Texas. S.B. 11 authorizes public and private institutions of higher education to establish rules, regulations, or other provisions concerning the storage of handguns in dormitories or other residential facilities owned or leased by the institution and located on the campus of the institution.

HOW DOES S.B. 11 CHANGE CURRENT LAW?

Current Texas law allows individuals with a concealed handgun license (CHL) to bring their handgun to the parking lot of a public or private institution of higher education and to keep it securely locked in the vehicle. Texas law also currently allows public and private institutions of higher education to prohibit the carrying of concealed handguns on non-public areas of the campus of the institution.

S.B. 11 makes numerous changes to current law, including:

- Authorizes a private institution of higher education, after consulting with students, staff, and faculty of the institution, to establish rules, regulations, or other provisions prohibiting license holders from carrying handguns on the campus of the institution, any grounds or building on which an activity sponsored by the institution is being conducted, or a passenger transportation vehicle owned by the institution. [S.B. 11, Sec. 411.2031(e).]
- Prohibits liability for damages and cause of action in damages (unless actions were capricious or arbitrary) against public and private institutions of higher education or an officer or employee of a public or private institution of higher education. [S.B. 11, Section 2, Sec. 411.208(a) – (f).]
- Creates an offense for a concealed handgun license holder to carry a partially or wholly visible handgun (open carry) on the premises of a public or private institution of higher education or on any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area of such an institution. [S.B. 11, Section 4, Sec. 46.035(a-1)(1)-(2).]
- Creates an offense for a concealed handgun license holder to carry a handgun on the campus of a private or independent institution of higher education in Texas that has established rules, regulations, or other provisions prohibiting license holders from carrying handguns on the campus of the institution, any grounds or building on which an activity sponsored by such an institution is being conducted, or in a passenger transportation vehicle of such an institution, regardless of whether the handgun is concealed, provided the institution gives effective notice (30.06 Government Code). [S.B. 11, Section 4, Sec. 46.035(a-2).]

WHAT ACTION IS REQUIRED BY ICUT INSTITUTIONS?

- The effective date of S.B. 11 for public and private institutions of higher education is **August 1, 2016**. Any public or private institution of higher education may adopt rules, regulations, or other provisions as allowed by Section 411.2031 prior to that date. Current law remains in effect until August 1, 2016. Importantly, once S.B. 11 becomes effective on August 1, 2016, the carrying of concealed handguns on the campus of any public or private institution of higher education in Texas will be allowed *unless* an institution chooses to utilize its opt-out discretion.
- Any ICUT institution that chooses to establish rules, regulations, or provisions with regard to carrying of concealed handguns by license holders on their campus must first consult with students, faculty, and staff as required by Section 411.2031(e).
- An ICUT institution that implements rules, regulations, or provisions prohibiting or limiting the carrying of a concealed handgun must provide effective notice under Section 30.06 (Government Code) for any violation by a license holder to be considered an offense.

S.B. 11 FREQUENTLY ASKED QUESTIONS:

What does the Legislature mean by “...consulting with students, staff, and faculty of the institution.”

Answer: Although “consulting” is not defined in S.B. 11, ICUT staff believes there will be much scrutiny on how public and private institutions of higher education may choose to implement their opt-out discretion. Some institutions may decide to consult with students, faculty, and staff in a number of ways, such as through an online survey or via email; a vote of the Faculty Senate and/or Student Association; or the holding of a campus forum. ICUT will provide our members with ongoing guidance on implementation of S.B. 11, which will include convening a workshop to share best practices and other resources regarding implementation of S.B. 11.

We believe it is likely that the Texas Legislature will include implementation of S.B. 11 as an interim charge in 2016. If such an interim charge is issued, leaders of some public and private institutions of higher education may be asked to testify at a hearing prior to the start of the next legislative session to explain what actions were taken to determine the institution’s campus carry policy. Accordingly, for those ICUT institutions that choose to exercise their opt-out authority, we strongly recommend a transparent, inclusive, and process-driven approach by which the institution demonstrates that appropriate due diligence was exercised.

If a private institution of higher education decides to prohibit the carrying of concealed handguns after consulting with students, staff and faculty, is the posting of a “30.06 notice” required? If so, how does the institution accomplish “effective notice?”

Answer: If a private institution of higher education decides to utilize their opt-out discretion, S.B. 11 requires the posting of “effective notice” as required by Section 30.06 (Government Code) in order for a violation to be considered an offense. [See, S.B. 11, Section 4, Sec. 46.035(a-2).] Although consultation with legal counsel is strongly recommended to ensure full compliance with this requirement, “effective notice” would likely include: (1) posting of a “30.06 notice” in the form of signage at all entrances to the campus and, (2) posting of the institution’s “campus carry” policy prominently on the institution’s website, student handbook, and personnel manual.