



Texas' Gun Laws & Religious Properties

Beginning January 1, 2016, concealed handgun license holders will be allowed to openly carry handguns into houses of worship. Although “concealed carry” has been Texas law for 20 years, visible handguns may alarm parishioners and prompt conversation. Under Texas law, congregations wishing to prevent concealed or openly carried weapons must ensure an individual has “*received notice*” that entry with a handgun is forbidden.

According to the law, “*notice*” must be provided orally, on a written card, or by means of a posted sign. Provision of oral notice or a written card requires confrontation, and for this reason is not recommended. Posting of appropriate signage minimizes risks to staff and greeters, and enables immediate enforcement of the law by police. If a person disregards properly posted signage, it is appropriate to call the police immediately.

To be legally enforceable, signage must adhere exactly to specifications prescribed by the Texas Penal Code:

- If a congregation wishes to prohibit “open carry,” the signage needs to meet the requirements of Section 30.07 of the Penal Code.
- If a congregation wishes to prohibit “concealed carry,” the signage needs to meet the requirements of Section 30.06 of the Penal Code.
- **According to legal experts, the word “identical” in §30.06(c)(3) and §30.07(c)(3) renders old §30.06 signs unenforceable; requires those wishing to prohibit both open and concealed handguns to post both signs; and prevents consolidation into one sign.**
- Legally enforceable signage reviewed by prosecutors is available for purchase at www.texasimpact.org/gunsigns.

To ensure that notice is “*received*,” legal experts recommend that signage be posted conspicuously at each entrance to the building that is open to the public. Congregations are encouraged to use this opportunity to examine their security practices and to identify which of their doors should be public entrances and which doors should remain locked from the outside. Often local law enforcement will help congregations to conduct safety assessments and develop preparedness plans.

Questions often arise as to whether posting notice creates a “gun-free zone.” The trespass by license holder laws apply only to the general public who are license holders. Therefore, posting notice does not apply to trained professionals such as peace officers (on or off-duty) or contracted private security.

Under current law, houses of worship cannot prevent open or concealed carry on portions of their properties that are not buildings—such as parking lots, playgrounds, or sidewalks. However, congregations may still have individuals removed from any private property under the general trespass statute found in Section 30.05 of the Penal Code for a reason unrelated to the handgun license. In such an instance, work closely with your local law enforcement.

Invariably, congregations will discover unique circumstances in their properties or operations about which they require specific guidance. Local law enforcement agencies are the entities best positioned to offer situation-specific counsel about safety and security for congregational property.

“Show Me Where it Says Religious Properties Have to Post Signs.”

At first glance, Section 46.035 appears to prohibit guns in houses of worship and certain other facilities. However, Subsection 46.035(i)—which was added in 1997—clarifies that the prohibition only applies if the facility posts or otherwise provides effective notice to license holders. Here are the details:

In 1995, SB 60 created Section 46.035 Unlawful Carrying of Handgun by License Holder. Section 46.035(b)(6) reads: “A license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun... (6) on the premises of a church, synagogue, or other established place of religious worship.”

In 1995, SB 60 created a special definition for “premises” in Section 46.035(f)(3). Section 46.035(f)(3) reads: “‘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.”

In 1997, Senate floor amendment #5 added Section 46.035(i) to HB 2909. Subsection (i) reads: “Subsections (b)(4), (b)(5), (b)(6), and (c) do not apply if the actor was not given effective notice under Section 30.06 or 30.07.”¹

In 1997, HB 2909 created Section 30.06 Trespass By License Holder With A [Of License to Carry] Concealed Handgun. Section 30.06(b) defines “notice” as “...a person receives notice if the owner of the property or someone with apparent authority to act for the owner provides notice to the person by oral or written communication.”

In 1997, Senate floor amendment #4 added Section 30.06(c)(3) defining “written communication.” Subsection (c)(3) reads: “‘Written communication’ means: (A) a card or other document on which is written language identical to the following: ‘Pursuant to Section 30.06, Penal Code (trespass by license holder with [of license to carry] a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code ([concealed] handgun licensing law), may not enter this property with a concealed handgun’; or (B) a sign posted on the property that: (i) includes the language described by Paragraph (A) in both English and Spanish; (ii) appears in contrasting colors with block letters at least one inch in height; and (iii) is displayed in a conspicuous manner clearly visible to the public.”

In 2015, HB 910 created Section 30.07 Trespass By License Holder With an Openly Carried Handgun. Section 30.07 mirrors the legal construction of §30.06, however, it contains slightly different magic words for “written communication” in Section 30.07(c)(3)(A) which reads: “a card or other document on which is written language identical to the following: ‘Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly’”.

¹ Underlined and strike through denotes HB 910 changes that take effect Jan. 1, 2016.

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