

Welcome!

The webinar will begin shortly. You can submit questions through the chat box at anytime during the presentation. We will answer as many as possible at the end of the presentation.

It is the mission of the Texas Restaurant Association to serve as the advocate in Texas and indispensable resource for the hospitality and foodservice industry.

An investment in TRA is an investment in your business and this industry. We help our members build customer loyalty, rewarding careers and financial success.



The New Open Carry Law & Restaurants

November 11, 2015

Introduction

Kenneth Besserman, TRA's General Counsel, will cover the legal implications of this new open carry law, how the law affects Texas's current concealed carry law, and will discuss firearms policies for customers and employees.

Current Law

The existing concealed carry law was passed in 1995.

- Concealed carry license required
- Handgun must actually be 'concealed' on the license holder
- Gun cannot be openly carried or visible
- Businesses can prohibit concealed carry on their premises by posting the required signage

New Law

‘Open carry’ law (HB 910) was passed during the most recent session of the Texas Legislature – effective Jan. 1, 2016

- Expands scope of a concealed handgun license to allow the license holder to carry a handgun in plain view in a public place
- Handgun must be carried in a shoulder or belt holster
- Individuals are not allowed to carry a gun in their hand
- Businesses can prohibit open carry on their premises by posting the required signage

Key Points about HB 910

- Effective January 1, 2016
- In order to open carry, person must have a license issued by Texas or a licensed from another state recognized by Texas
- Open carry only permitted if handgun is in a shoulder or belt holster
- Concealed carry law has been unaltered – no additional training is required
- Open carry is permitted wherever you can currently concealed carry with the exception of an institution of higher education
- Penalty for violation of a Section 30.07 sign (prohibiting open carry on premises) is a Class C misdemeanor.
- Violation of a verbal warning and person does not leave premises is a Class A misdemeanor.

Your Rights

Business owners have several options:

- Allow both concealed and open carry
- Allow concealed carry but prohibit open carry
- Prohibit both concealed and open carry

While verbal prohibition is allowed under the law, if you choose to prohibit licensed individuals from having their handguns on your property, best practice is to post the required signage

Signage

There are two different signs relating to prohibiting concealed carry and open carry.

- Section 30.06 sign for concealed carry
- Section 30.07 sign for open carry

If you choose to prohibit both, you must post two signs, one prohibiting concealed carry and one prohibiting open carry.

TRA has created signs that meet the legal requirements, they are available for free download.

Signage Legal Requirements

If written communication is provided by a sign posted on the property, the sign must:

- Include the required bolded language in both English and Spanish (there is no official Spanish translation; English version provided in statute and must be exact)
- Appear in contrasting colors with block letters at least one inch in height
- Be displayed in a conspicuous manner clearly visible to the public at **each entrance to the property**

A public entrance is defined as an entrance that the general public has access to without a key, key card, or without other special access.

30.06 Signage – Concealed Carry

Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun.

30.07 Signage – Open Carry

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.

Signage & Penalties

Posting the required signage:

- Makes your policy clear; alerts the public to your policy
- Avoids possible confrontations with customers
- Provides the most protection for your business and employees

Penalties for violations:

- Violators are subject to a class C misdemeanor (up to a \$200 fine)
- If an individual is warned verbally, the person is subject to a class A misdemeanor (up to a \$4000 fine and one year in jail)

Trespass Law

If a business does not want to post signage, it can still prohibit open carry under the general trespass law.

To be subject to criminal trespass under Section 30.05, “A person commits an offense if the person enters or remains on the property of another, including residential land, agricultural land, a recreational vehicle park, a building, an aircraft or other vehicle, without effective consent and the person:

1. had notice that entry was forbidden; or
- 2. received notice to depart but failed to do so**

Long-Barreled Guns

It has always been permissible in Texas to openly carry long-barreled guns except in governmental buildings and on governmental property.

Restaurants can prohibit long-barreled guns; no specific signage is required. General criminal trespass law will apply if a person does not leave the premises if asked to do so.

Restaurants can prohibit long-barreled guns outright, or require them to be held or stored in hard cases.

Alcohol & Guns

The percentage of revenue your business derives from alcohol governs TABC's weapon policies.

More than 50% of revenue in alcohol sales? TABC law prohibits **any type of weapon** in the establishment, regardless of **whether the carrier is licensed or not**.

These establishments must post the '51' sign in the bar area and entrance.



- FELONY NOTICE -



The licensed or unlicensed possession of a weapon on these premises is a felony with a maximum penalty of 10 years imprisonment and a fine not to exceed \$10,000.

Texas Alcoholic Beverage Commission - P.O. Box 13127 - Austin, Texas 78711-3127

TOLL FREE 1 - 888 - THE - TABC

Alcohol & Guns

Not more than 50% of revenue from alcohol sales? TABC prohibits the **unlicensed possession** of a weapon on the premises.

These establishments must post the 'blue' sign in the bar area and entrance.

Restaurants with less than 51% in alcohol sales can adopt their own policy on the licensed possession (concealed and/or open carry) on their premises.



NOTICE



**The unlicensed
possession of a
weapon on these
premises is a
felony with a
maximum penalty
of 10 years
imprisonment and
a fine not to
exceed \$10,000.**

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Employee Policies

Restaurants can establish their own policy with regard to firearms brought on to the premises by employees.

- Company policy supersedes open carry or concealed carry law.
- Businesses could allow open carry or concealed carry by customers but not by employees.
- Employees have the right to store a lawful firearm in the employee's locked, private vehicle while parted on the employer's property.
- Consider adopting a "No Firearms" policy in the workplace. TRA has sample policies available.

Conclusion

We will email all participants the links to the downloadable forms and to the sample employee policies.

The materials will also be posted on www.restaurantville.com/membersonly

More Questions?

Kenneth Besserman, General Counsel

kbesserman@tramail.org

800-395-2872 | 512-457-4170