

TOWN OF BARTONVILLE, TEXAS

Frequently Asked Questions – Texas Open Carry Laws

THE BASICS

What does “open carry” mean?

The practice of openly (visibly) carrying a handgun in a shoulder or belt holster on one's person in public.

What are a “CHL” and an “LTC”?

“CHL” is the acronym for a “concealed handgun license.” “LTC” is the acronym for a “license to carry” a handgun.

What are the differences between a firearm, a handgun, and a long arm?

A “firearm” means any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use. A “handgun” means any firearm that is designed, made, or adapted to be fired with one hand, such as a revolver or pistol. A “long arm” means any firearm that is designed, made, or adapted to be fired with both hands, such as a rifle or shotgun.

What are “premises” for the purpose of Texas gun laws?

“Premises” generally means a building or a portion of a building, but not including any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area.

WHERE CAN I CARRY?

Can I lawfully open carry a handgun in Texas?

Yes, as of January 1, 2016, you can carry a handgun openly or concealed in many places as long as you possess a CHL issued by Texas or a similar license issued by a state with reciprocity. By law, the handgun must be carried in a “shoulder or belt holster.” You do not need a CHL to open carry a long arm.

Can I open carry on private property?

Yes, provided that the property does not display a sign described in Section 30.07 of the Texas Penal Code at each of its entrances. A business wanting to completely ban handguns must post signs both in English and in Spanish. However, if the owner or manager asks you to remove the weapon or leave the property, you must comply. Failure to leave the property when requested to do so could result in you being charged with criminal trespass.

Texas Penal Code § 30.06 – Trespass by a holder of a license to carry a concealed handgun only applies to persons carrying a concealed handgun. Notice can be either by a sign, card, or other document. A sign prohibiting concealed handguns must be in English and Spanish. The sign must appear in contrasting colors with block letters at least one inch in height and must state: “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.”

Texas Penal Code § 30.07 – Trespass by license holder with an openly carried handgun only applies to persons openly carrying a handgun. Notice can be either by a sign, card, or other document. A sign prohibiting open carry must be in English and Spanish. The sign must appear in contrasting colors with block letters at least one inch in height and must state: “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.”

Can I open carry at my university or college?

No, while campus carry is legal as of August 1, 2016, it must remain concealed and you must have a CHL.

Can I carry at a governmental institution if I have an LTC?

Yes, you may carry in state and local governmental institutions, EXCEPT FOR: (1) a public meeting of a governmental body (note that license holders may carry at a public meeting *unless* there are signs displayed that comply with Texas Penal Code §§ 30.06 & 30.07; a governmental employee asks the license holder to leave; or the governmental prints the statements described in Texas Penal Code §§ 30.06 & 30.07 on the agenda or on cards to hand to attendees, in which cases the license holder must comply); (2) on the premises of any government court or offices utilized by the court, unless pursuant to written regulations or written authorization of the court; (3) a polling place on the day of an election or while early voting is in progress; and (4) non-public areas of a governmental institution (*i.e.*, a LTC gives no special right of access to parts of governmental buildings and facilities that are not open to the general public). You may not carry on federal properties in most circumstances. You may not knowingly possess or cause to be present a firearm in federal facilities operated by federal agencies, such as the IRS, SSA, USDA, and federal courts, unless you are a federal or state law enforcement officer or a member of the armed forces authorized by federal law to carry at that location or are hunting on federal property in accordance with federal law. See 18 U.S.C. § 930. You may not carry on postal property, such as a post office and its parking lot, except for official purposes. See 39 C.F.R. § 232.1(l). Except for ranger stations, visitor centers, bathrooms, or other buildings at a national park or national wildlife refuge, you may concealed carry at those properties if it would be allowable under state law and not prohibited by applicable federal law. See 36 C.F.R. § 2.4 & 50 C.F.R. § 27.42. You may not carry on property controlled by the U.S Army Corps of Engineers unless the firearm is unloaded and stored in a vehicle.

Can I open carry in a vehicle?

Yes, as long as the handgun is in a shoulder or belt holster and you have a CHL. If you do not have a CHL, you still must keep your handgun concealed.

Where am I prohibited by state law from carrying a handgun?

Even if you have a CHL, Texas law prohibits you from intentionally, knowingly, or recklessly possessing or carrying any firearm: (1) on the premises of a school or educational institution (hereinafter “school”), (2) any grounds or building on which an activity sponsored by a school is being conducted, or (3) a passenger transportation vehicle of a school, however, beginning on August 1, 2016, a CHL holder may carry a concealed handgun on the premises of an institution of higher education (other than a junior college, but note that beginning on August 1, 2017, a

CHL holder may carry a concealed handgun on the premises of a junior college); (4) on the premises of a private or independent institution of higher education, on any grounds or building on which an activity sponsored by the institution is being conducted, or (5) in a passenger transportation vehicle of the institution; (6) on the premises of a polling place on the day of an election or while early voting is in progress; (7) on the premises of any government court or offices utilized by the court, unless pursuant to written regulations or written authorization of the court; (8) on the premises of a racetrack; (9) in or into a secured area of an airport under federal law; (10) within 1,000 feet of premises 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 on the premises and the person received notice that doing so is prohibited (unless the person is on a public road and going to or from his home or business).

If I have a CHL, are there any other places state law prohibits me from carrying my handgun openly or concealed?

Yes, you may not conceal or open carry if you are given written notice, on the premises of a business that is licensed by the Texas Alcoholic Beverage Commission and which business derives 51 percent or more of its business from the sale of alcohol; if you are given written notice per Section 30.06 of the Texas Penal Code that concealed carrying is prohibited, on the premises where a high school, collegiate, or professional sporting event is taking place, unless the handgun is used for the event; on the premises of a correctional facility; if you are given written notice pursuant to Sections 30.06 and/or 30.07 of the Texas Penal Code that carrying is prohibited, on the premises of a state licensed hospital or nursing home, unless the administration has granted written permission to the license holder; if you are given written notice pursuant to Sections 30.06 and/or 30.07 of the Texas Penal Code that carrying is prohibited, in an amusement park; if you are given written notice pursuant to Sections 30.06 and/or 30.07 of the Texas Penal Code that carrying is prohibited, on the premises of a church, synagogue, or other established place of religious worship; anytime the handgun is not in a belt or shoulder holster, concealed, or if you are intoxicated; if you are given written notice pursuant to Sections 30.06 and/or 30.07 of the Texas Penal Code that carrying is prohibited, into any meeting of a governmental entity that is subject to the Open Meetings Act; and on the premises of your place of employment if prohibited by your employer, but an employee generally may leave a handgun in a private, locked car in a parking lot.

In what places does state law allow me to openly carry a firearm?

Long Guns: Because state law governs firearms, and because it does not prohibit the carrying of a rifle or shotgun in a public place, a person is generally allowed to carry those weapons in public in Texas.

Handguns without an LTC:

The open carry of handguns in public is prohibited in Texas, unless the person holds an LTC for a handgun. An unlicensed person may carry a handgun on private property or in a car or boat. A handgun in a car or boat must be concealed.

Handguns with an LTC:

An LTC holder may generally openly carry a handgun in a belt or shoulder holster beginning January 1, 2016; however, see the answers to the previous questions for numerous limitations on that authority.

Can my openly carried firearm be loaded?

Yes. The law makes no distinction between a loaded and an unloaded firearm. For safety purposes, we recommend every firearm be treated as if it were loaded.

WHAT QUALIFICATIONS AND CONDITIONS EXIST ON OPEN CARRY?

Can everyone open carry?

No, a person convicted of certain crimes cannot carry a firearm. Generally, if you can lawfully possess a firearm, you can open carry with a CHL. You must be 21 years old to obtain a CHL, unless you are in the military, a veteran, or honorably discharged, in which case you can get a CHL if you are at least 18. Federal laws must also be considered when discussing the legality of firearm ownership.

I live out of the state. Can I open carry in Texas?

Yes. There are no residency restrictions to open carry as long as you possess a CHL or a handgun license from a reciprocating state.

Will I need to get another license for open carry?

No. Your CHL will qualify you to open carry a handgun. The CHL will become a LTC.

I heard there is additional training for open carry. Do I need to retake the class?

No, the new training will be added to the CHL classes required by law for those required to take the class. No additional training will be required for current CHL holders.

Do I give up my right to open carry if I obtain a concealed handgun permit?

No, the CHL serves as the license for the open carry and will later be changed to a License to Carry or LTC.

Can I prohibit persons from openly or concealed carrying in my business by displaying signs described in Sections 30.06 and 30.07 of the Texas Penal Code?

Yes.

If I am asked to leave a store for openly carrying a weapon, can I cover up the gun and go back in the store if I have a CHL?

Yes, unless the store owner or manager asked you not to return, in which case returning would constitute a criminal trespass.

Does a person have a right to view a CHL of another person?

A person can ask to view the CHL, but the holder of a CHL does not have to show a CHL to the person unless that person is a peace officer or magistrate.

What is a “belt holster” and what kind of holster would be a violation?

The law does not define a “belt holster”—state law simply provides that you must carry your handgun in a “shoulder or belt holster.” A “drop down” holster attached to your belt is considered to be a belt holster.

Am I required to use a retention holster?

The only requirement is that it be a belt or shoulder holster. A retention holster is often recommended to better ensure that your firearm remains secure while carried openly or concealed.

HOW WILL POLICE OFFICERS RESPOND TO OPEN CARRY?

Do Bartonville police officers know that open carry is legal as of January 1, 2016?

Yes. The Bartonville Police Department (BPD) is training its officers in the new law and how to handle situations that will arise from implementing the law. BPD is using roll call training and shift briefings to educate its officers about the law and how to handle interactions with residents. BPD officers know that most residents are law abiding and are not open carrying to violate the law. BPD will have a measured response to instances of open carry that give residents a professional experience with each officer.

Should I call 911 each time I see someone carrying an open weapon?

Before calling, take time to observe what the person is doing. Ask yourself whether the person is doing anything that looks suspicious. Just because the person is openly carrying a handgun does not mean he has no right to do so. If you call 911 to verify whether a person is lawfully openly carrying a handgun, officers will come based on 911 training and information provided on the call.

Does BPD have a strategy to detect fake 911 calls? For example, there is a group that has told its members to call 911 and report that persons openly carrying are committing a crime to get a police response.

911 will be trained to handle these types of calls.

Am I required to show an identification document (ID) with a photo issued by a governmental entity if I am stopped for open carry?

Yes. When obtaining your CHL, you agreed to provide your CHL and ID (such as a driver’s license) when asked by a police officer (see Section 411.205 of the Texas Government Code). In addition, you still will violate Section 46.02 of the Texas Penal Code by carrying a handgun unless you possess a CHL.

Can a peace officer arrest or disarm me if I am open carrying a long arm in public?

It is legal to open carry a long arm in public as long as you are not committing a crime. A peace officer may not arrest or disarm you unless he has a reasonable suspicion of illegal conduct. Section 42.01 of the Texas Penal Code provides that a person commits a Class B misdemeanor if he or she intentionally or knowingly “displays a firearm or other deadly weapon in a public place in a manner calculated to alarm.” A peace officer may inquire about the weapon; however, if you are not holding the weapon at ready, pointing the weapon, brandishing it in a

threatening manner, or otherwise using it in a manner calculated to cause alarm, the officer—without more—should not arrest or disarm you.

Can a police officer question or disarm me if I am openly carrying a holstered handgun in public?

Yes. State law gives a peace officer more authority to disarm a license holder who is carrying a handgun than it does for a non-licensed long gun carrier. If a license holder is carrying a handgun on or about the license holder's person when a peace officer demands that the license holder display identification, the license holder must display both the license holder's driver's license or identification certificate and the license holder's handgun license. Moreover, a peace officer may disarm a license holder at any time the officer reasonably believes it is necessary for the protection of the license holder, officer, or another individual. The peace officer shall return the handgun to the license holder before allowing the license holder to leave the scene if the officer determines that the license holder is not a threat to any person and if the license holder has not violated any other law that results in arrest.

Can I be arrested for open carry?

Yes, you violate Section 46.02 of the Texas Penal Code if you open carry without a CHL or refuse to provide an officer with your CHL while carrying a handgun openly.

Would the mere carrying of an open weapon violate Section 42.01(a) (8) of the Texas Penal Code if another person says he is alarmed or afraid?

No, as long as the handgun is in the holster as required by law.

Would an assault committed by a person who is openly carrying be an aggravated assault since he is openly carrying?

No, as long as the handgun was in the holster and not used in the commission of the offense.

MISCELLANEOUS

What is "constitutional carry"?

This is the so-called "right" to carry a weapon openly or concealed without having to obtain a license or permit. The Texas Legislature has not enacted constitutional carry in Texas.

What should I tell my children when they see a person openly carrying a gun because they have been taught that it's wrong or dangerous to carry a gun?

Just like any other situation, a child should alert his/her parent and/or a police officer if he/she is in need of assistance or scared. The parent or police officer would be there to reassure the child. Circumstances are handled on a case-by-case basis and exceptions applied to prohibit open carry when allowed by law.

Does the law provide extra protection to a person that is open carrying with a CHL?

No.

STATES HAVING RECIPROCAL AGREEMENTS WITH TEXAS AUTHORIZING THEIR RESIDENTS TO CARRY CONCEALED HANDGUNS IN TEXAS IF THEY HAVE A LICENSE FROM THEIR HOME STATE AND COMPLY WITH TEXAS LAWS

(As of December 7, 2015)

Alabama	Alaska	Arizona	Arkansas
Colorado	Delaware	Florida	Georgia
Idaho	Indiana	Kansas	Kentucky
Louisiana	Michigan	Mississippi	Missouri
Montana	Nebraska	New Mexico	North Carolina
North Dakota	Ohio	Oklahoma	Pennsylvania
South Carolina	South Dakota	Tennessee	Utah
Virginia	Wyoming	West Virginia	

STATES THAT TEXAS GOVERNOR HAS UNILATERALLY AUTHORIZED THEIR RESIDENTS TO CARRY CONCEALED HANDGUNS IN TEXAS IF THEY HAVE A LICENSE FROM THEIR HOME STATE AND COMPLY WITH TEXAS LAWS

(As of December 7, 2015)

California	Connecticut	Hawaii	Iowa
Maryland	Massachusetts	Nevada	New Jersey
New York	Rhode Island	Washington	