

# CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

May 23, 2011  
Date

Honorable David Dewhurst  
President of the Senate

Honorable Joe Straus  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on SB 321 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Glenn Hegge

Wentworth

Amend

Sam Sindwell

White

On the part of the Senate

Amend

Pat Guillea

Allen Fletcher

CM Gen

Paul L. Hatt

On the part of the House

## Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

# CONFERENCE COMMITTEE REPORT

3<sup>rd</sup> Printing

S.B. No. 321

A BILL TO BE ENTITLED

AN ACT

relating to an employee's transportation and storage of certain firearms or ammunition while on certain property owned or controlled by the employee's employer.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 52, Labor Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. RESTRICTIONS ON PROHIBITING EMPLOYEE TRANSPORTATION  
OR STORAGE OF CERTAIN FIREARMS OR AMMUNITION

Sec. 52.061. RESTRICTION ON PROHIBITING EMPLOYEE ACCESS TO  
OR STORAGE OF FIREARM OR AMMUNITION. A public or private employer  
may not prohibit an employee who holds a license to carry a  
concealed handgun under Subchapter H, Chapter 411, Government Code,  
who otherwise lawfully possesses a firearm, or who lawfully  
possesses ammunition from transporting or storing a firearm or  
ammunition the employee is authorized by law to possess in a locked,  
privately owned motor vehicle in a parking lot, parking garage, or  
other parking area the employer provides for employees.

Sec. 52.062. EXCEPTIONS. (a) Section 52.061 does not:

(1) authorize a person who holds a license to carry a  
concealed handgun under Subchapter H, Chapter 411, Government Code,  
who otherwise lawfully possesses a firearm, or who lawfully  
possesses ammunition to possess a firearm or ammunition on any  
property where the possession of a firearm or ammunition is

1 prohibited by state or federal law; or

2 (2) apply to:

3 (A) a vehicle owned or leased by a public or  
4 private employer and used by an employee in the course and scope of  
5 the employee's employment, unless the employee is required to  
6 transport or store a firearm in the official discharge of the  
7 employee's duties;

8 (B) a school district;

9 (C) an open-enrollment charter school, as  
10 defined by Section 5.001, Education Code;

11 (D) a private school, as defined by Section  
12 22.081, Education Code;

13 (E) property owned or controlled by a person,  
14 other than the employer, that is subject to a valid, unexpired oil,  
15 gas, or other mineral lease that contains a provision prohibiting  
16 the possession of firearms on the property; or

17 (F) property owned or leased by a chemical  
18 manufacturer or oil and gas refiner with an air authorization under  
19 Chapter 382, Health and Safety Code, and on which the primary  
20 business conducted is the manufacture, use, storage, or  
21 transportation of hazardous, combustible, or explosive materials,  
22 except in regard to an employee who holds a license to carry a  
23 concealed handgun under Subchapter H, Chapter 411, Government Code,  
24 and who stores a firearm or ammunition the employee is authorized by  
25 law to possess in a locked, privately owned motor vehicle in a  
26 parking lot, parking garage, or other parking area the employer  
27 provides for employees that is outside of a secured and restricted

1 area:

- 2 (i) that contains the physical plant;  
3 (ii) that is not open to the public; and  
4 (iii) the ingress into which is constantly  
5 monitored by security personnel.

6 (b) Section 52.061 does not prohibit an employer from  
7 prohibiting an employee who holds a license to carry a concealed  
8 handgun under Subchapter H, Chapter 411, Government Code, or who  
9 otherwise lawfully possesses a firearm, from possessing a firearm  
10 the employee is otherwise authorized by law to possess on the  
11 premises of the employer's business. In this subsection,  
12 "premises" has the meaning assigned by Section 46.035(f)(3), Penal  
13 Code.

14 Sec. 52.063. IMMUNITY FROM CIVIL LIABILITY. (a) Except in  
15 cases of gross negligence, a public or private employer, or the  
16 employer's principal, officer, director, employee, or agent, is not  
17 liable in a civil action for personal injury, death, property  
18 damage, or any other damages resulting from or arising out of an  
19 occurrence involving a firearm or ammunition that the employer is  
20 required to allow on the employer's property under this subchapter.

21 (b) The presence of a firearm or ammunition on an employer's  
22 property under the authority of this subchapter does not by itself  
23 constitute a failure by the employer to provide a safe workplace.

24 (c) For purposes of this section, a public or private  
25 employer, or the employer's principal, officer, director,  
26 employee, or agent, does not have a duty:

- 27 (1) to patrol, inspect, or secure:

1           (A) any parking lot, parking garage, or other  
2 parking area the employer provides for employees; or

3           (B) any privately owned motor vehicle located in  
4 a parking lot, parking garage, or other parking area described by  
5 Paragraph (A); or

6           (2) to investigate, confirm, or determine an  
7 employee's compliance with laws related to the ownership or  
8 possession of a firearm or ammunition or the transportation and  
9 storage of a firearm or ammunition.

10       Sec. 52.064. CONSTRUCTION OF PROVISION RELATING TO IMMUNITY  
11 FROM CIVIL LIABILITY. Section 52.063 does not limit or alter the  
12 personal liability of:

13           (1) an individual who causes harm or injury by using a  
14 firearm or ammunition;

15           (2) an individual who aids, assists, or encourages  
16 another individual to cause harm or injury by using a firearm or  
17 ammunition; or

18           (3) an employee who transports or stores a firearm or  
19 ammunition on the property of the employee's employer but who fails  
20 to comply with the requirements of Section 52.061.

21       SECTION 2. Section 411.203, Government Code, is amended to  
22 read as follows:

23       Sec. 411.203. RIGHTS OF EMPLOYERS. This subchapter does  
24 not prevent or otherwise limit the right of a public or private  
25 employer to prohibit persons who are licensed under this subchapter  
26 from carrying a concealed handgun on the premises of the business.  
27 In this section, "premises" has the meaning assigned by Section

1 46.035(f)(3), Penal Code.

2       SECTION 3. The change in law made by this Act applies only  
3 to a cause of action that accrues on or after the effective date of  
4 this Act. A cause of action that accrues before that date is  
5 governed by the law as it existed immediately before the effective  
6 date of this Act, and that law is continued in effect for that  
7 purpose.

8       SECTION 4. This Act takes effect September 1, 2011.

**Senate Bill 321**  
Conference Committee Report  
Section-by-Section Analysis

SENATE VERSION

SECTION 1. Chapter 52, Labor Code, is amended by adding Subchapter G, Restrictions on Prohibiting Employee Transportation or Storage of Certain Firearms or Ammunition, as follows:

Sec. 52.061. Restriction on Prohibiting Employee Access to or Storage of Firearm or Ammunition.

Sec. 52.062. Exceptions.

Sec. 52.063. Immunity From Civil Liability.

[part] Establishes that, except in cases of gross negligence, a public or private employer or the employer's *agent* is not liable in a civil action for personal injury, death, property damage, or any other damages resulting from or arising out of an occurrence involving *a firearm or ammunition transported or stored in accordance with Section 52.061, including an action for damages arising from the theft of the firearm or ammunition or the use of the firearm or ammunition by a person other than the employee authorized by Section 52.061 to transport or store the firearm or ammunition.*

HOUSE VERSION (IE)

SECTION 1. Same as Senate version except as follows:

Sec. 52.061. Same as Senate version.

Sec. 52.062. Same as Senate version except adds an exception for property owned or leased by certain chemical manufacturers or oil and gas refiners, except in regard to an employee who holds a license to carry a concealed handgun under state law and who stores *the handgun and related handgun ammunition* in a locked, privately owned motor vehicle in a parking area the employer provides for employees that is outside of specified secured and restricted areas.

Sec. 52.063. Same as Senate version as follows:

[part] Same as Senate version.

CONFERENCE

SECTION 1. Same as Senate version except as follows:

Sec. 52.061. Same as Senate version.

Sec. 52.062. Same as House version except provides that the added exception does not apply to an employee who holds a license to carry a concealed handgun and who stores *a firearm or ammunition the employee is authorized by law to possess* in a locked, privately owned motor vehicle in such a parking area.

Sec. 52.063. Same as Senate version except as follows:

(a) Establishes that, except in cases of gross negligence, a public or private employer, or the employer's *principal, officer, director, employee, or agent*, is not liable in a civil action for personal injury, death, property damage, or any other damages resulting from or arising out of an occurrence involving *a firearm or ammunition that the employer is required to allow on the employer's property under this subchapter.*

[The conference committee may have exceeded the limitations imposed on its jurisdiction, but only the presiding officer can make the final determination on this issue.]

**Senate Bill 321**  
Conference Committee Report  
Section-by-Section Analysis

SENATE VERSION

[part] Establishes that the presence of a firearm or ammunition *transported or stored in the manner and in a location described by Section 52.061* does not by itself constitute a failure by the employer to provide a safe workplace.

No equivalent provision.

No equivalent provision.

HOUSE VERSION (IE)

[part] Same as Senate version.

Same as Senate version.

Sec. 52.064. Construction of Provision Relating to Immunity From Civil Liability. Provides that Section 52.063 does not limit or alter the personal liability of an individual who causes harm or injury by using a firearm or ammunition *for a firearm*; an individual who aids, assists, or encourages *another person* to cause harm or injury by using a firearm or ammunition *for a firearm*; or an employee who transports or stores a firearm or ammunition *for a firearm* on the property of *an employer* but who fails to comply with the requirements of Section 52.061.

CONFERENCE

(b) Establishes that the presence of a firearm or ammunition *on an employer's property under the authority of this subchapter* does not by itself constitute a failure by the employer to provide a safe workplace.  
[The conference committee may have exceeded the limitations imposed on its jurisdiction, but only the presiding officer can make the final determination on this issue.]

(c) Provides that, for purposes of this section, a public or private employer, or the employer's principal, officer, director, employee, or agent, does not have a duty to patrol, inspect, or secure any parking lot, parking garage, or other parking area the employer provides for employees or any privately owned motor vehicle located in such a parking lot, parking garage, or other parking area or to investigate, confirm, or determine an employee's compliance with laws related to the ownership or possession of a firearm or ammunition or the transportation and storage of a firearm or ammunition.  
[The conference committee may have exceeded the limitations imposed on its jurisdiction, but only the presiding officer can make the final determination on this issue.]

Sec. 52.064. Same as Senate version, except removes the specification that the ammunition used in causing harm or injury or that is transported or stored is ammunition for a firearm. Makes the provision applicable to an individual who aids, assists, or encourages *another individual* to cause harm or injury by using a firearm or ammunition. Specifies that the provision's applicability to an employee who transports or stores a firearm or ammunition on the property of an employer refers to the property of *the employee's employer*.



**Senate Bill 321**  
**Conference Committee Report**  
**Section-by-Section Analysis**

| SENATE VERSION                                                           | HOUSE VERSION (IE)                 | CONFERENCE                         |
|--------------------------------------------------------------------------|------------------------------------|------------------------------------|
|                                                                          | [FA1;FA2;FA1,3rd]                  |                                    |
| SECTION 2. Amends Section 411.203, Government Code, Rights Of Employers. | SECTION 2. Same as Senate version. | SECTION 2. Same as Senate version. |
| SECTION 3. Saving provision.                                             | SECTION 3. Same as Senate version. | SECTION 3. Same as Senate version. |
| SECTION 4. Effective date.                                               | SECTION 4. Same as Senate version. | SECTION 4. Same as Senate version. |

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION**

**May 24, 2011**

**TO:** Honorable David Dewhurst, Lieutenant Governor, Senate  
Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: SB321** by Hegar (Relating to an employee's transportation and storage of certain firearms or ammunition while on certain property owned or controlled by the employee's employer.),  
**Conference Committee Report**

|                                                                       |
|-----------------------------------------------------------------------|
| <b>No significant fiscal implication to the State is anticipated.</b> |
|-----------------------------------------------------------------------|

The bill would amend the Labor Code relating to an employee's transportation and storage of certain firearms or ammunition while on certain property owned or controlled by the employee's employer. Based on the analysis of the Texas Workforce Commission, it is assumed that duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 320 Texas Workforce Commission

**LBB Staff:** JOB, AG, ESi, MW, NV