

TEXAS FIREARMS LAWS

By Attorney Michael H. Wald

The State of Texas grants its citizens the right to own and use firearms in the Texas Constitution of 1876. Only the state, not cities or counties, can regulate how firearms are bought and sold, who can own them and how they are used and stored.

Firearms that are prohibited by state law are: machine guns, short barrel firearms such as rifles with barrels under 16 inches in length and shotguns with barrels under 18 inches, and firearms silencers. An exception to this prohibition is if the weapons are registered with the federal government under the provisions of the National Firearms Act. Police departments, the National Guard, and the military are also exempt.

Under Texas law a person can be charged with unlawfully carrying weapons if he intentionally, knowingly, or recklessly carries on or about his person a handgun. This offense is considered a class A misdemeanor unless the violation occurs on any premises licensed or issued a permit by the State for the sale or service of alcoholic beverages. In this case the offense is a felony of the third degree.

These provisions, found in the Texas Penal Code, do not apply to peace officers on duty, members of the armed forces, prison guards and security guards. Private citizens are also exempt from being charged with illegally carrying a weapon if they are on their own premises under their control, traveling, or engaged in lawful hunting, fishing, or other sporting activity if the weapon is a type commonly used in the activity.

Under Texas law a person is prohibited from carrying a firearm on the premises of a school or other educational institution without written authorization of the institution, or on the premises of a

polling place on the day of an election or while absentee balloting is in progress. Persons are also prohibited from carrying firearms in any government court or any offices utilized by the court without the authorization of the court. Peace officers and members of the military are exempt from these provisions if they are discharging their official duties. An offense under this section of the Texas Penal Code is a third degree felony.

State law also prohibits persons convicted of a felony involving an act of violence or threatened violence to a person or property from possessing a firearm away from the premises where he lives. An offense under this section is a third degree felony.

Certain transfers of firearms are illegal under state law. It is a class A misdemeanor to sell, rent, or give a firearm or ammunition to a person who is intoxicated, knowingly intends to commit an unlawful act, or is under 18 years of age.

My thanks to Erik Crytzer, a student in my law class at the University of Texas at Dallas, who assisted in preparation of this column.

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