



2021 TEXAS

# CONSTITUTIONAL CARRY GUIDE



[www.USCCA.com](http://www.USCCA.com)



## 2021 TEXAS CONSTITUTIONAL CARRY GUIDE



# The Firearm Carry Act of 2021

***Texas has passed House Bill 1927, the Firearm Carry Act of 2021, which will take effect on Sept. 1, 2021.***

The new law will allow any law-abiding Texan or other law-abiding citizen (regardless of the state in which he or she resides) who is at least 21 years old to open carry or concealed carry a firearm in public without needing a special permit or license. This, of course, does not apply to any individual who is prohibited by law from possessing a firearm (e.g. a felon or an individual with a conviction of domestic abuse). Though the Firearm Carry Act of 2021 applies to both handguns and long guns, this guide is specifically geared toward the carry of handguns.

*\*It is important to note that any individual who is currently prohibited from possessing firearms under state and/or federal law will not gain the right to possess or carry a firearm under this new state law.*

## TEXAS CONSTITUTIONAL PROVISION

*"Every citizen shall have the right to keep and bear arms in the lawful defense of himself or the State; but the Legislature shall have power, by law, to regulate the wearing of arms, with a view to prevent crime."*

**ARTICLE 1, § 23**

**DISCLAIMER:** The information contained in this guide is provided as a service to USCCA Inc. Members and the concealed carry community and does not constitute legal advice. We make no claims, representations, warranties, promises or guarantees as to the accuracy, completeness or adequacy of the information disclosed. Legal advice must always be tailored to the individual facts and circumstances of each individual case. Laws are constantly changing, and, as such, nothing contained in this guide should be used as a substitute for the advice of a lawyer.



## 2021 TEXAS CONSTITUTIONAL CARRY GUIDE

### Definitions

**Permitless carry:** Permitless carry means that a permit is not required to carry a concealed handgun. It is also known as “constitutional carry” or “unrestricted carry.” Some states are fully unrestricted, meaning no permit is required for open or concealed carry. Other states are partially unrestricted, meaning that certain forms of concealed carry may be legal without a permit while other forms of carry require a permit. Each state sets the age limits as well as other restrictions.

**Open carry:** Open carry means carrying a gun in public, where other individuals besides the carrier are able to see it either partially or in full view. The definition of open carry may vary from state to state, so be sure to review your state’s law to determine the exact meaning.

**Concealed carry:** Concealed carry is the practice of carrying a concealed weapon on one’s person in public. A concealed firearm can be carried on a person’s body – typically in a holster – or off-body in a purse, backpack or other specialized concealment accessory or garment. (No matter the carry rig, please always ensure that it covers the weapon’s trigger guard to prevent negligent discharge.) Some states limit concealed carry permits to handguns, whereas others allow the carry of concealed weapons (which may include electronic weapons, billy clubs and knives).





## 2021 TEXAS CONSTITUTIONAL CARRY GUIDE

### The Firearm Carry Act of 2021

#### TYPES OF CARRY

The new law applies to both open carry *in a holster* and concealed carry, where *no part of the firearm is visible*. Texas law is quite specific in that an openly carried handgun must be kept in a holster.

According to [Texas Penal Code § 46.02\(a-5\)](#), it is illegal to carry a handgun and intentionally display it in plain view of another person in a public place, unless the handgun is partially or wholly visible (openly carried) but is carried in a holster.

#### CARRY RESTRICTIONS

##### Brandishing

Although no definition of brandishing was found in Texas law, under [Texas Penal Code § 42.01](#), a person commits disorderly conduct if he or she intentionally or knowingly displays a firearm or other deadly weapon in a public place in a manner calculated to alarm.

##### Intoxication

Carry is prohibited if you are intoxicated anywhere other than:

- On your own property or property under your control or on private property with the consent of the owner; or
- Inside of or directly en route to a motor vehicle or watercraft:
  - That is owned by you or under your control; or
  - With the consent of the owner or operator of the vehicle or watercraft.

[\[Texas Penal Code § 46.02\(a-6\)\]](#)

“Intoxicated” is defined as:

- Not having the normal use of mental or physical faculties by reason of the introduction of alcohol, a controlled substance, a drug, a dangerous drug, a combination of two or more of those substances, or any other substance into the body; or
- Having an alcohol concentration of 0.08 or more.

[\[Texas Penal Code 49.01\(2\)\]](#)





## 2021 TEXAS CONSTITUTIONAL CARRY GUIDE



### The Basics of Constitutional Carry in Texas

#### WHO IS ALLOWED TO PERMITLESS CARRY IN TEXAS?

##### 1. Anyone who is at least 21 years old and who:

##### (a) Can legally possess a firearm under federal law.

*Who is prohibited from owning or possessing a firearm under federal law?*

- Any person who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;
- Any fugitive from justice;
- Any person who is an unlawful user of or is addicted to narcotics or any other controlled substances (including medical marijuana; see below);
- Any person adjudicated as a mental defective or who has been committed to a mental institution;
- Any alien illegally in the U.S.;
- Any military veteran discharged under dishonorable conditions;
- Any person who has renounced U.S. citizenship;
- Any alien illegally in the U.S.;
- Any person convicted in any court of a misdemeanor crime of domestic violence; or



## 2021 TEXAS CONSTITUTIONAL CARRY GUIDE

### The Basics of Constitutional Carry in Texas

#### WHO IS ALLOWED TO PERMITLESS CARRY IN TEXAS?

(CONTINUED)

- Any person subject to a court order that restrains him or her from harassing, stalking or threatening an intimate partner or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child, with limited exceptions, provided the court order:
  - Was issued after a hearing of which such person received actual notice and at which such person had the opportunity to participate; and:
    - Includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or
    - By its terms explicitly prohibits the use, attempted use or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury.

[18 USC 922 (g)]

#### **(b) Can legally possess a firearm under Texas state law.**

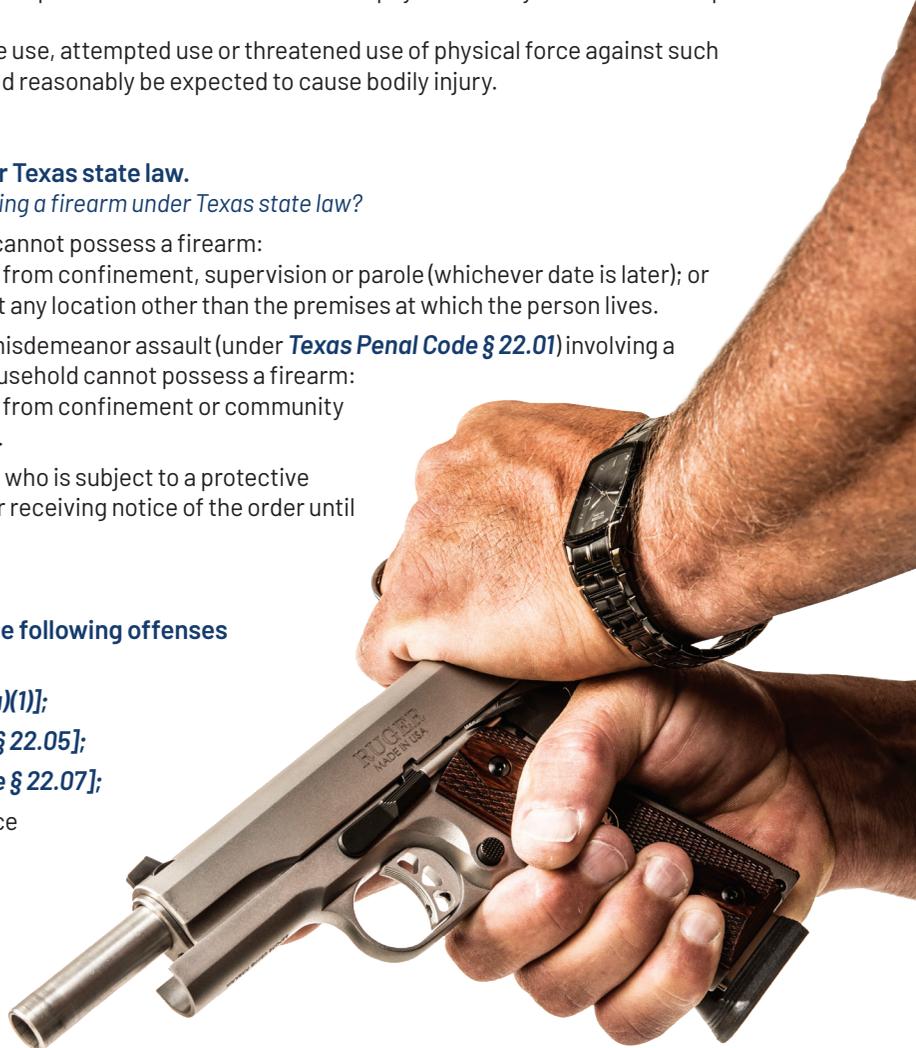
*Who is prohibited from owning or possessing a firearm under Texas state law?*

- Any individual convicted of a felony cannot possess a firearm:
  - For at least five years after release from confinement, supervision or parole (whichever date is later); or
  - After the period described above at any location other than the premises at which the person lives.
- Any individual convicted of Class A misdemeanor assault (under [Texas Penal Code § 22.01](#)) involving a member of the person's family or household cannot possess a firearm:
  - For at least five years after release from confinement or community supervision (whichever date is later).
- A person, other than a peace officer, who is subject to a protective order cannot possess a firearm after receiving notice of the order until expiration of the order.

[Texas Penal Code § 46.04]

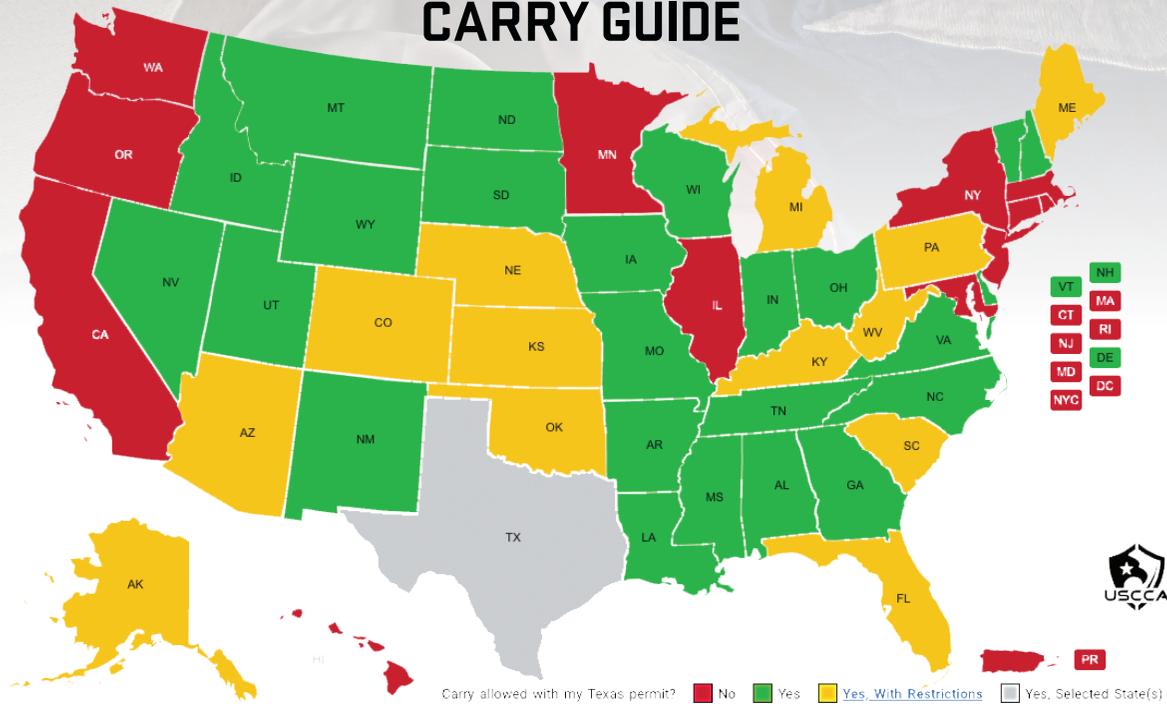
#### **(c) Has not been convicted of any of the following offenses within the preceding five-year period:**

- Assault [[Texas Penal Code § 22.01\(a\)\(1\)](#)];
- Deadly conduct [[Texas Penal Code § 22.05](#)];
- Terroristic threat [[Texas Penal Code § 22.07](#)];
- Discharging a firearm in a public place [[Texas Penal Code § 42.01\(a\)\(7\)](#)]; or
- Displaying a firearm in a public place [[Texas Penal Code § 42.01\(a\)\(8\)](#)].





## 2021 TEXAS CONSTITUTIONAL CARRY GUIDE



### Why Should I Get a Permit If I Don't Have To?

Although permitless carry will be allowed and is an inalienable right, there are significant benefits to having a concealed carry permit:

- A permit holder can carry in the 37 states that currently honor a Texas LTC on the map above, 20 of which also allow permitless carry.
- A permit holder is entitled to more notice in some prohibited locations. An unpermitted individual is prohibited from carrying in these locations with effective notice of a 30.05 sign, but these signs don't apply to a licensed carrier. In order to provide effective notice prohibiting licensed carry, a 30.06 sign prohibiting concealed carry or a 30.07 sign prohibiting open carry would be required. These locations include:
  - Buildings on college campuses and sporting events
  - Open meetings of government entities
  - Hospitals
  - Nursing facilities
  - Amusement parks
- A Texas License to Carry qualifies as an alternative to background check requirements for up to five years from the date of issuance. Therefore, an LTC expedites a firearms purchase by allowing a licensee to not have to submit to and wait on the results of a background check.
- An individual with an LTC or a permit from a state that Texas honors will have a legal defense to carry in businesses and on properties that display the new 30.05 signs (which prohibit just the *permitless carry* of handguns in their establishments).
- A public or private employer may not prohibit an employee who holds a valid concealed carry license 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 area the employer provides for employees except in locations prohibited by state or federal law. This includes school districts and open-enrollment charter schools per [Texas Education Code § 37.0815](#), provided that the firearm or ammunition is not in plain view, and institutions of higher education per [Gov. Code § 411.2032](#). There are exceptions, including oil and gas refineries [[Texas Labor Code § 52.061](#)].
- Texas has an interesting law that allows a permit holder grace if he or she happens to have a handgun in his or her possession when going through airport screening, provided the permit holder immediately exits the screening checkpoint if found to possess a firearm.
- While a person needs to be at least 21 years old to qualify for permitless carry, a member or honorably discharged veteran of the U.S. military between the ages of 18 and 21 can obtain a Texas LTC in order to carry a firearm.



## 2021 TEXAS CONSTITUTIONAL CARRY GUIDE



### Why Should I Get Firearms Training If It's Not Required?

The body cannot go where the mind has never been. By taking a class with a USCCA Certified Instructor or training at your local USCCA Official Partner, you can prepare for the worst-case scenario. As training and education experts, we've developed a curriculum with you – the student, the protector – in mind. The USCCA has compiled everything you need to know to legally and effectively protect the ones you love – whether you're looking for concealed carry training, facts about firearms, shooting drills or self-defense information.

*"Being responsibly armed means knowing and understanding the laws surrounding concealed carry and the judicious use of deadly force. Your constitutional right to carry a firearm does not absolve you from the responsibility that goes along with using that firearm legally, morally and ethically. The USCCA supports the right of all law-abiding citizens to carry a firearm for self-defense, and we encourage anyone who carries a gun to get as much training as he or she can, whether it is required or not."*

*-Kevin Michalowski, U.S. Concealed Carry Association Director of Content*

Permit holders and responsible gun owners who obtain self-defense and firearms training may also bolster their defense to potential prosecution in the aftermath of a deadly force incident.



## 2021 TEXAS CONSTITUTIONAL CARRY GUIDE



### Where Can I Carry Without a Permit?

It's difficult to spell out where permitless carry will be allowed. Rather, a person carrying under the Firearm Carry Act of 2021 without a permit can carry in locations other than:

- Federally banned locations
- State banned locations
- Locations legally posted as off-limits to all firearms
- Locations legally posted as off-limits to unpermitted carry

### Federally Banned Locations

- Federal courthouses\*
- Federal buildings\*
- Federal prisons\*
- U.S. Army Corps of Engineers property\*
- National cemeteries\*
- Post offices\*
- Any building owned, leased or rented by the federal government, including buildings in National Forests, National Parks and Bureau of Land Management (BLM) lands
- Sterile areas of airports
- Military bases
- Rented offices

*\*This includes parking lots adjacent to, or part of, the facility if the federal entity owns or has control of the parking lot and it is posted "No Firearms." The lot has to be posted under federal law (see "Texas Locations Off-Limits to Permitless Carry" below) if it does not wish to have firearms present.*



## 2021 TEXAS CONSTITUTIONAL CARRY GUIDE

### Texas Locations **Off-Limits** to Permitless Carry

- Prohibited locations posted with **Texas Penal Code § 30.05** or **§ 46.03** signs;
- On the physical premises\* of an elementary or secondary school or educational institution, any grounds or building on which a school-sponsored activity is being conducted, or a passenger transportation vehicle of a school or educational institution, without authorization;
- Within 1,000 feet of a school (outside of school buildings);
- On the premises\* of an institution of higher education, any grounds or building on which a school-sponsored activity is being conducted, or a passenger transportation vehicle of an institution of higher education;
- Premises\* where a high school, collegiate or interscholastic event is taking place;
- Premises\* where a professional sporting event is taking place;
- Polling places on election day or while early voting is in progress;
- Premises\* of any government court or offices utilized by the court, unless authorized by the court;
- Premises\* of a racetrack;
- Secured area of an airport;
- On the premises\* of a business that derives 51% or more of its income from the sale or service of alcoholic beverages for on-premises\* consumption (posted with a red sign with "51%" in large red letters superimposed over a warning that says possession of a concealed weapon on the premises\* is a felony);
- On premises\* where the possession of any concealed weapon is illegal;
- Premises\* of a correctional facility;
- Premises\* of a civil commitment facility;
- Within 1,000 feet of any premises\* of a place of execution on a day that a sentence of death is set to be imposed by the Texas Department of Criminal Justice;
- Premises\* of a hospital;
- Premises\* of a mental hospital or nursing home;
- Premises\* of a permanent amusement park;
- In the room of an open meeting of a governmental entity; and
- Any place where the carrying of firearms is prohibited by federal law.

**Note:** "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.

**[Texas Penal Code § 46.03]**



## 2021 TEXAS CONSTITUTIONAL CARRY GUIDE



### Locations **Off-Limits** to Open Carry, Even With a Permit

- Prohibited locations posted with [Texas Penal Code § 30.07](#) or [§ 46.03](#) signs;
- On the physical premises\* of an elementary or secondary school or educational institution, any grounds or building on which a school-sponsored activity is being conducted, or a passenger transportation vehicle of a school or educational institution, without authorization;
- On the premises\* of an institution of higher education, any grounds or building on which a school-sponsored activity is being conducted, or a passenger transportation vehicle of an institution of higher education;
- Premises\* where a professional sporting event is taking place;
- Premises\* of any government court or offices utilized by the court, unless authorized by the court;
- Premises\* of a racetrack;
- Polling places on election day or while early voting is in progress;
- Premises\* of a correctional facility;
- Premises\* of a civil commitment facility;
- Within 1,000 feet of any premises\* of a place of execution on a day that a sentence of death is set to be imposed by the Texas Department of Criminal Justice; and
- On the premises\* of a business that derives 51% or more of its income from the sale or service of alcoholic beverages for on-premises\* consumption (posted with a red sign with "51%" in large red letters superimposed over a warning that says possession of a concealed weapon on the premises\* is a felony).

**Note:** "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.



## 2021 TEXAS CONSTITUTIONAL CARRY GUIDE



### Locations **Off-Limits** to Concealed Carry, *Even With a Permit*

- Prohibited locations posted with [Texas Penal Code § 30.06](#) or [§ 46.03](#) signs;
- On the physical premises\* of an elementary or secondary school or educational institution, any grounds or building on which a school-sponsored activity is being conducted, or a passenger transportation vehicle of a school or educational institution, without authorization;
- Premises\* where a professional sporting event is taking place;
- Premises\* of a racetrack;
- Premises\* of any government court or offices utilized by the court, unless authorized by the court;
- Polling places on election day or while early voting is in progress;
- Premises\* of a correctional facility;
- Premises\* of a civil commitment facility;
- Within 1,000 feet of any premises\* of a place of execution on a day that a sentence of death is set to be imposed by the Texas Department of Criminal Justice; and
- On the premises\* of a business that derives 51% or more of its income from the sale or service of alcoholic beverages for on-premises\* consumption (posted with a red sign with "51%" in large red letters superimposed over a warning that says possession of a concealed weapon on the premises\* is a felony).

**Note:** "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.

**Does my current Texas concealed carry license exempt me from needing a background check when I purchase a firearm?** Yes. Based on provisions of the Brady law, [18 U.S.C. § 922\(t\)\(3\)](#), a Texas License to Carry qualifies as an alternative to background check requirements for up to five years from the date of issuance.



## 2021 TEXAS CONSTITUTIONAL CARRY GUIDE



### Signs, Signs and More Signs Signs Are Getting More Complicated in Texas...

Signage is becoming quite complicated in Texas, and anyone carrying a firearm will need to understand the differences between the definitions of each sign. There are currently three established types of “no weapons” signs:

- **Texas Penal Code § 30.06** signs that indicate locations where *concealed carry permit holders* cannot carry;
- **Texas Penal Code § 30.07** signs that indicate locations where *open carry for permit holders* is prohibited; and
- 51% signs that indicate the establishment sells alcohol by the drink and receives more than 51% of its income from alcohol sales. Only *concealed carry permit holders* have a legal defense if effective notice has not been provided [**Texas Penal Code § 46.15(p)**].

### The Firearm Carry Act of 2021 Creates Two Additional Weapons Signs:

- **Texas Penal Code § 30.05** signs will indicate locations where firearms are prohibited; however, there is a defense for licensed concealed carriers. Therefore, *permitless carry of firearms* is prohibited, provided no additional signs (such as 30.06 or 30.07 signs) are posted.
- **Texas Penal Code § 46.03(o)** signs will state, “Pursuant to Section 46.03, Penal Code (places weapons prohibited), a person may not carry a firearm or other weapon on this property.” If this sign is posted in a conspicuous location, *no firearms are allowed*.

Regardless of which sign is posted, once a person receives effective consent (either verbal or written notice) that entry on the property is prohibited, he or she must promptly leave or risk being charged with an offense.

[**Texas Penal Code § 30.05**]



## 2021 TEXAS CONSTITUTIONAL CARRY GUIDE



### Constitutional Carry FAQs

■ **Do the same rules apply everywhere in Texas, or are there any specific local/municipal restrictions that I may need to know about?**

The state has preemption of firearms laws in Texas, except local municipalities may regulate the carrying of a handgun at:

- A public park;
- A public meeting of a municipality, county or other governmental body;
- A political rally, parade or official political meeting; and
- A non-firearms-related school, college or professional athletic event.

Also, based on an Attorney General opinion, counties may prohibit concealed handgun license holders from carrying concealed handguns in county parks, and rapid transit authorities may prohibit concealed handgun licensees from carrying handguns while on public transportation [[Texas Local Government Code § 229.001](#)].

■ **Can I carry my handgun in a vehicle?**

Yes. However, it is an offense if it is in plain view, unless it is in a holster and you are either 21 years old or have a Texas License to Carry (or a permit that Texas honors) *and* provided you are not engaging in a criminal activity (other than a traffic violation). There are exemptions for peace officers, military, and other security and governmental professionals.

■ **Can I carry my handgun in places of worship?**

Yes, unless the location has posted signs prohibiting firearms.

■ **What common non-lethal self-defense weapons are legal to use in Texas?**

Both stun guns and Tasers are legal to purchase and possess without a license. In addition, there is no statute prohibiting the purchase or use of small chemical dispensers of pepper spray sold commercially for personal protection [[Texas Penal Code § 46.05 \(a\)\(3\)](#)].



## 2021 TEXAS CONSTITUTIONAL CARRY GUIDE

### Constitutional Carry FAQs

■ **What about establishments posted with 51% signs?**

These locations are off-limits to all firearms. However, only permit holders have a legal defense if effective notice is not given by the business [[Texas Penal Code § 46.03\(p\)](#)].

■ **Won't crime rates increase once people can carry firearms without permits?**

Nearly every time a state makes the decision to allow permitless carry, gun-control supporters declare that criminals will commit more crimes. However, that just hasn't happened in the many states that already have constitutional carry laws. A 2019 study by the *Journal of the American College of Surgeons* details the impact of state concealed carry laws over the last three decades and concludes: "This study demonstrated no statistically significant association between the liberalization of state-level firearm-carry legislation over the last 30 years and the rates of homicides or other violent crime."

■ **Do I have a duty to inform a police officer that I'm carrying a concealed firearm in Texas?**

You have a duty to inform a law enforcement officer that you're carrying a concealed firearm in Texas. When an officer demands that you display identification, you must display both your driver's license or identification and your handgun license [[Texas Government Code § 411.205](#)].

■ **Can I carry my firearm in a Texas airport?**

Yes and no. Both federal law and Texas state law prohibit firearms in the secured area of an airport, which is beyond the screening point. However, interestingly, Texas state law provides a concealed carry permit holder the ability to avoid arrest if he or she immediately exits the screening checkpoint if found to possess a firearm. If the permit holder doesn't immediately exit the screening checkpoint after being advised by a peace officer to do so, he or she is subject to arrest [[Texas Penal Code 46.03\(5\)\(e-1\) and \(e-2\)](#)].

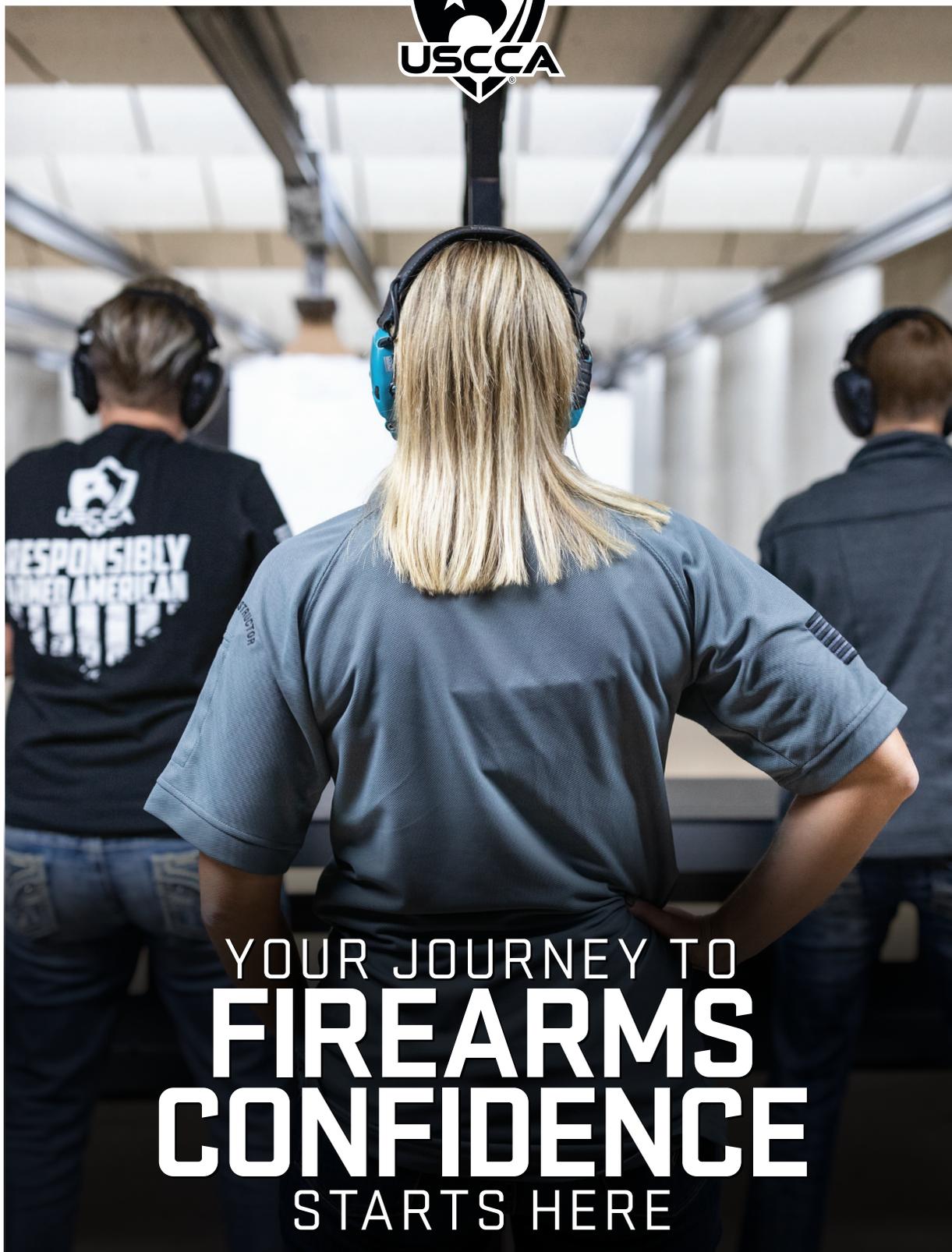
■ **Are there any restrictions on firearms or ammunition?**

Armor-piercing ammunition is prohibited in Texas. There are no state laws prohibiting firearms, and there are no limits on handgun magazine capacity.

■ **Does Texas have any laws on how I must store my handgun?**

Yes. If a child under 17 years of age gains access to a readily dischargeable firearm, a person may be criminally liable if he or she, "with criminal negligence":

- Failed to secure the firearm (i.e. failed to take steps a reasonable person would take to prevent access to a readily dischargeable firearm by a child, including but not limited to placing a firearm in a locked container or temporarily rendering the firearm inoperable by a trigger lock or other means); or
- Left the firearm in a place to which the person knew or should have known the child would gain access [[Texas Penal Code 46.13](#)].



YOUR JOURNEY TO  
**FIREARMS**  
**CONFIDENCE**  
STARTS HERE

**FIND A CLASS NEAR YOU | Text "CLASS" to 87222**

**[www.USCCA.com/class](http://www.USCCA.com/class)**

Message and data rates apply.