



Written by [James Heiser](#) on November 16, 2010

Texas Legislature to Consider Firearms Freedom Act

As Texas prepares for the convening of the 82nd Legislature on January 11, several important bills pertaining to the right of Texans to keep and bear arms will come under consideration. Among the gun rights-related bills is HB 145, which was introduced by Rep. Jodie Laubenberg (R-Dist. 89). If HB 145 becomes law, Texas would become the latest state to join the ranks of those which have adopted a Firearms Freedom Act.



As reported [previously](#) for *The New American*, Texas has considered similar legislation in the past. The 81st Legislature considered [HB 1863](#), "Relating to exempting the intrastate manufacture of a firearm, a firearm accessory, or ammunition from federal regulation." As Alex Newman wrote for *The New American*:

Following Montana's lead, the Lone Star State has introduced a bill in the legislature challenging federal authority to regulate guns under the interstate commerce clause of the U.S. Constitution. Under the proposed legislation, firearms and ammunition produced in Texas for use in the state would be exempt from federal laws and regulation.

The bill's sponsors say it is more about defending states' rights and sovereignty from an over-reaching federal government than about guns. "I think states have got to stand up or else most of their rights are going to be buffaloeed by the administration and by Congress," said Republican Texas state Rep. Leo Berman, one of the bill's chief sponsors. "It deals with firearms and ammunition, which raises eyebrows, but it's more of a 10th Amendment bill than a Second Amendment bill," added Andy Kuchera, his legislative director. "Sovereignty is a big issue right now."

However, HB 1863 quietly died after having been approved by the Public Safety committee. Laubenberg's new bill is an attempt to press the measure through to adoption during this legislative session. [The Tenth Amendment Center supports the bill](#) as part of a significant trend, upholding states' rights against encroaching federal power:

Since 2009, 8 states have passed similar legislation as law — Montana, Tennessee, Utah, Wyoming, South Dakota, Idaho, Alaska and Arizona. And, here at the Tenth Amendment Center we expect to see at least a dozen other states consider Firearms Freedom Acts in 2011.

The United States Constitution gives Congress the authority to regulate Interstate Commerce between the states and 18 USC 922 makes it unlawful for any person not licensed as a manufacturer or dealer in firearms to engage in the business of manufacturing or dealing in firearms. Collectively, the Interstate Commerce Clause and 18 USC 922 are used by the federal



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governement [sic] as a means to regulate firearms.

The Texas Firearms Freedom Act addresses this by exempting firearms, firearm accessories, and ammunition manufactured and retained in the state from all federal firearm control laws including registration, as firearms that meet these criteria cannot be regulated by the federal government because they have not traveled in interstate commerce.

According to the Texas Concealed Handgun Association ([TCHA](#)), [seven bills](#) have been introduced thus far that would have an impact on Americans exercising their Second Amendment rights in the Lone Star State. In addition to Laubenberg's HB 145, Reps. Ryan Guillen (D-Dist. 31) and Dan Flynn (R-Dist. 2) have introduced HB 25 and HB 77, respectively, both of which expand "car carry" to watercraft. ("Car carry" is the right of citizens to carry a loaded firearm in their cars, without a permit, with the car being seen as an extension of the citizen's right to self-defense in his own home.)

HB 86, introduced by Rep. David Simpson (R-Dist. 7) may prove to be the most controversial of the firearm-related bills, which will allow for concealed carry permit holders to carry while on university and college campuses. According to a [press release](#) issued by Simpson's reelection committee:

Rep.-elect Simpson filed HB 86 to allow the carrying of concealed handguns on campuses of higher education. "An individual should not have to chose between the personal right of self-protection and obtaining an education," said Rep.-elect Simpson. "In light of the recent incidence of gunfire on the University of Texas Campus, this legislation is overdue."

Bill Holda, president of Kilgore College, is already vowing to fight HB 86 — just as he fought a similar measure in the last legislative session. [An article in the Kilgore News Herald](#) captures the logic and consideration which Holda and other opponents present when opposing the Second Amendment rights of students:

Holda hasn't yet read Simpson's HB- 86 but after a long fight in Austin last session, he's all-too-familiar with its predecessor, HB-1983, filed by Rep. Joe Driver (R-Garland).

"This is the second go-round," Holda said. "First of all, it's unfortunate and ill-advised. What we want is for representatives to file legislation based on a good body of information."

The public universities of Simpson's District 7 are the University of Texas at Tyler Longview campus, a portion of Tyler Junior College and Kilgore College. Holda said to his knowledge none of those public universities' administrators were contacted about the proposed bill.

"So, the first question I would ask is, which college personnel did Rep. Simpson have a meaningful dialogue with before pre-filing the bill? He certainly hasn't with us, as a college in his district," Holda said. "Who is he representing?"

Since he had no chance to preview the legislation, Holda said he has to assume this bill is similar to the legislation filed two years ago and falls back on his previous arguments — he and his colleagues in higher education still "oppose that legislation for many, many reasons."

However, Holda's avowed ignorance of the actual text of HB 86 aside, the limitation of civil rights guaranteed by the U.S. Constitution are not something that exist at the whim of educational bureaucrats. Simpson's responsibility to represent his district is not limited to the views of college presidents; but Holda might do well to note that Kilgore's prospective students are divided on the issue. [As KLTU reports:](#)

Tashonna Wicks wants to attend Kilgore College next semester. She was surprised by the notion



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[of concealed carry on campus], "Not everyone is responsible enough," she said.

"If [someone] gets his concealed handgun permit, he should have the right to carry where he wants to," said Samuel Jamison, another prospective student. "He should have a right to defend himself."

"The real question is, should we take away some individuals' rights to protect themselves, and I say, no," said Simpson.

In short, HB 86 and HB 145 are ultimately about the constitutional rights of Texans. The arguments thus far raised in opposition to such legislation appear to studiously ignore this fundamental point.



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