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**New Law on Carrying Firearm while “Traveling”  
(House Bill 823, 79<sup>th</sup> Regular Legislative Session, amending Penal Code  
Sections 2.05 and 46.15)**

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In Texas, it is generally unlawful to carry a handgun in public, including within a private vehicle. However, Texas also recognizes several exceptions. One such exception is applicable when the citizen is “traveling.”

“Traveling” has never been defined by the legislature. Texas courts have said that in general, the determination of whether a citizen is traveling is to be determined on a case by case basis, depending on the specific circumstances. Texas courts have generally considered the distance, time, and mode of travel in determining whether the citizen is traveling and have found “traveling” to generally encompass overnight travel, through multiple counties.

The change in the law, effective September 1, 2005, places the burden of proof on the State rather than the citizen as to whether or not the citizen was traveling. In other words, the State must prove beyond a reasonable doubt that the citizen was NOT traveling, rather than the citizen having to prove that he or she WAS traveling. The new law also describes the circumstances under which a citizen will be presumed by a jury to be traveling.

Some local law enforcement and prosecuting agencies have indicated that they will continue to make arrests and file charges when they encounter citizens carrying handguns in motor vehicles and will allow juries to determine whether citizens were traveling. DPS has no authority to determine or to comment on how this law will be enforced by the various local law enforcement and prosecuting agencies in the State of Texas.