



# Gun Owners of America

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## HB 2967 by Cason: Firearm Carry Clarification — SUPPORT

### Current law & background:

- Individuals who are merely alleged to be in a “criminal street gang” are prohibited from carrying handguns in their vehicles. (See TX Penal Code 46.02(a-1)).
- However, the current definition of “criminal street gang” is extremely loose and susceptible to misapplication.
  - TX Penal Code 71.01 defines “members of criminal street gang” as “three or more persons having a common identifying sign or symbol or an identifiable leadership who continuously or regularly associate in the commission of criminal activities.”
- Some law enforcement officers are abusing current law to **pull over motorcyclists** who are members of motorcycle enthusiast associations that do not “continuously or regularly associate in the commission of criminal activities,” **record their identities, strip them down, and photograph their tattoos**—or even to **arrest them**.
- Individuals can be put on the Texas DPS's criminal street gangs database **without notification or an opportunity to contest inclusion**, based on very scanty evidence.
  - For example, if an individual simply wears a leather vest with the colors or emblems of a Christian motorcycle club, and visits a relative who happens to live in an area of documented gang activity, that could be sufficient evidence for inclusion in the database.
- Someone who is in the criminal street gangs database and carries a handgun in his car (or while riding a motorcycle) **can be arrested for unlawful carry**.
- Many individuals who are on the Texas DPS criminal street gang database also hold a Texas License To Carry a handgun (LTC); some have been arrested for violating Texas Penal Code 46.02, although it is inapplicable to them.
- This database essentially functions as a “no-fly” list in its secrecy, lack of due process, and exposure to arrest for individuals who have committed no crime.

**Texas must stop allowing overzealous law enforcement officers to abuse current law by detaining motorcyclists from perfectly law-abiding clubs for the purpose of including them on the Texas DPS criminal street gang database without due process or criminal conviction.**

*This change in the law will protect against an injustice similar to when a **veteran of the United States military was put into the criminal street gangs membership database** because he joined a lawful veterans' biker club that served the community by raising awareness of breast cancer and honoring veterans.*

### What HB 2967 does:

- **Clearly defines** who is a member of a criminal street gang for purposes lawfully carrying a handgun in a motor vehicle
- **Requires a judicial finding** of that person's participation with criminal street gangs instead of allowing law enforcement to act in an arbitrary and capricious manner in the use of scanty, vague evidence of for the purpose of assuming affiliation with an alleged criminal street gang to justify their detention, search, or arrest.
- Someone who has been **convicted** of a criminal offense in which a **judicial determination**, with its due process protections, has been made that the person's criminal activities were engaged in as part of the activities of a criminal street gang **will still be prohibited from carry**.

**Support HB 2967 to end unjust criminalization of a motorcyclist's right to carry a handgun!**

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