

UCW or Possession of Prohibited Weapon



Although Texas is considered a gun friendly state, it is unlawful to possess or carry many types of weapons in the Lone Star State. The laws concerning carrying a weapon can often be confusing and puzzling. This article is to help clarify those laws by explaining what it means to be charged with possession of a prohibited weapon or unlawfully carrying a weapon as we frequently handle these types of cases in Williamson, Travis, Hays, Collin, Tarrant, and Dallas Counties. Under Texas Penal Code § 46.02, it is a Class A misdemeanor for someone to intentionally, knowingly, or recklessly carry on or about his person a handgun, illegal knife or a club.

Examples of illegal knives and clubs include:

- a single-edged knife with a blade length in excess of 5 ½ inches
- a double-edged knife, a sword, or a spear
- a club or anything made or adapted to strike someone and cause serious injury.

A weapon must be found on or about your person in order for you to be charged with Unlawfully Carrying a Weapon. The weapon must be within your reach without physically having to change your position. What this means is that you cannot be charged if a weapon was simply found somewhere in your vehicle, such as your trunk, if you are sitting in or driving your car. This only applies to weapons that are legal to carry in Texas. On the other hand, some weapons are illegal to own or have in your possession at all.

Some weapons that are illegal to own in Texas are:

- switchblade knives (including butterfly knives),
- brass knuckles
- sawed-off firearms
- short-barreled firearms,
- explosive devices and
- machine guns

If you are arrested for unlawfully carrying a weapon or possession of a prohibited weapon, your weapon will most likely be taken from you and placed into evidence. If your case is dismissed or you are acquitted of the charge, it is possible to get your weapon back. As long as the weapon is not illegal, the judge may order the return of the weapon to you once it is released from evidence. However, depending on the outcome of the case it is also possible that the judge may order that the weapon be destroyed.

Possible punishments for unlawfully carrying a weapon or being found in possession of a prohibited weapon include:

- up to one year in county jail
- a fine of up to \$4,000
- and possibly two years of post-conviction community supervision or
- deferred adjudication with the requirement to complete up to 200 community service hours

If the charge is unlawfully carrying a weapon in a weapon-free zone, the offense is treated as a state-jail felony. If the offense is committed on any premise that is licensed or issued a permit for the sale of alcoholic beverages, the offense is then considered a third degree felony.

It is always under unfortunate circumstances that people must contact a criminal defense attorney but if you find yourself in that position, make sure you find an attorney that you can trust to do everything possible to help fight for you and win your case. If you have any questions about what constitutes unlawfully carrying a weapon or have been charged with unlawfully carrying a weapon, please visit MoralesAssociates on Facebook and fill out a free case evaluation form with no obligation.