

AN ACT

relating to the authority of a person who is licensed to carry a handgun to openly carry a holstered handgun; creating criminal offenses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 11.041(a), Alcoholic Beverage Code, is amended to read as follows:

(a) Each holder of a permit who is not otherwise required to display a sign under Section 411.204, Government Code, shall display in a prominent place on the permit holder's premises a sign giving notice that it is unlawful for a person to carry a weapon on the premises unless the weapon is a ~~concealed~~ handgun the person is licensed to carry under Subchapter H, Chapter 411, Government Code.

SECTION 2. Section 11.61(e), Alcoholic Beverage Code, is amended to read as follows:

(e) Except as provided by Subsection (f) or (i), the commission or administrator shall cancel an original or renewal permit if it is found, after notice and hearing, that the permittee knowingly allowed a person to possess a firearm in a building on the licensed premises. This subsection does not apply to a person:

(1) who holds a security officer commission issued under Chapter 1702, Occupations Code, if:

(A) the person is engaged in the performance of the person's duties as a security officer;

(B) the person is wearing a distinctive uniform;

and

(C) the weapon is in plain view;

(2) who is a peace officer;

(3) who is a permittee or an employee of a permittee if the person is supervising the operation of the premises; or

(4) who possesses a ~~concealed~~ handgun the person is licensed to carry under Subchapter H, Chapter 411, Government Code, unless the person is on the premises of a business described by Section 46.035(b)(1), Penal Code.

SECTION 3. Section 61.11(a), Alcoholic Beverage Code, is amended to read as follows:

(a) Each holder of a license who is not otherwise required to display a sign under Section 411.204, Government Code, shall display in a prominent place on the license holder's premises a sign giving notice that it is unlawful for a person to carry a weapon on the premises unless the weapon is a ~~concealed~~ handgun the person is licensed to carry under Subchapter H, Chapter 411, Government Code.

SECTION 4. Section 61.71(f), Alcoholic Beverage Code, is amended to read as follows:

(f) Except as provided by Subsection (g) or (j), the commission or administrator shall cancel an original or renewal dealer's on-premises or off-premises license if it is found, after notice and hearing, that the licensee knowingly allowed a person to possess a firearm in a building on the licensed premises. This subsection does not apply to a person:

(1) who holds a security officer commission issued under Chapter 1702, Occupations Code, if:

(A) the person is engaged in the performance of the person's duties as a security officer;

(B) the person is wearing a distinctive uniform;

and

(C) the weapon is in plain view;

(2) who is a peace officer;

(3) who is a licensee or an employee of a licensee if the person is supervising the operation of the premises; or

(4) who possesses a ~~concealed~~ handgun the person is licensed to carry under Subchapter H, Chapter 411, Government Code, unless the person is on the premises of a business described by Section 46.035(b)(1), Penal Code.

SECTION 5. Article 7A.05(c), Code of Criminal Procedure, is amended to read as follows:

(c) In a protective order, the court may suspend a license to carry a ~~concealed~~ handgun issued under Section 411.177, Government Code, that is held by the alleged offender.

SECTION 6. Article 17.292(1), Code of Criminal Procedure, is amended to read as follows:

(1) In the order for emergency protection, the magistrate

shall suspend a license to carry a [concealed] handgun issued under Subchapter H, Chapter 411, Government Code, that is held by the defendant.

SECTION 7. Article 17.293, Code of Criminal Procedure, is amended to read as follows:

Art. 17.293. DELIVERY OF ORDER FOR EMERGENCY PROTECTION TO OTHER PERSONS. The magistrate or the clerk of the magistrate's court issuing an order for emergency protection under Article 17.292 that suspends a license to carry a [concealed] handgun shall immediately send a copy of the order to the appropriate division of the Department of Public Safety at its Austin headquarters. On receipt of the order suspending the license, the department shall:

- (1) record the suspension of the license in the records of the department;
- (2) report the suspension to local law enforcement agencies, as appropriate; and
- (3) demand surrender of the suspended license from the license holder.

SECTION 8. Section 37.0811(f), Education Code, is amended to read as follows:

(f) A school district or charter school employee's status as a school marshal becomes inactive on:

- (1) expiration of the employee's school marshal license under Section 1701.260, Occupations Code;
- (2) suspension or revocation of the employee's license to carry a [concealed] handgun issued under Subchapter H, Chapter 411, Government Code;
- (3) termination of the employee's employment with the district or charter school; or
- (4) notice from the board of trustees of the district or the governing body of the charter school that the employee's services as school marshal are no longer required.

SECTION 9. Section 63.0101, Election Code, is amended to read as follows:

Sec. 63.0101. DOCUMENTATION OF PROOF OF IDENTIFICATION. The following documentation is an acceptable form of photo identification under this chapter:

- (1) a driver's license, election identification certificate, or personal identification card issued to the person by the Department of Public Safety that has not expired or that expired no earlier than 60 days before the date of presentation;
- (2) a United States military identification card that contains the person's photograph that has not expired or that expired no earlier than 60 days before the date of presentation;
- (3) a United States citizenship certificate issued to the person that contains the person's photograph;
- (4) a United States passport issued to the person that has not expired or that expired no earlier than 60 days before the date of presentation; or
- (5) a license to carry a [concealed] handgun issued to the person by the Department of Public Safety that has not expired or that expired no earlier than 60 days before the date of presentation.

SECTION 10. Section 2.005(b), Family Code, is amended to read as follows:

- (b) The proof must be established by:
- (1) a driver's license or identification card issued by this state, another state, or a Canadian province that is current or has expired not more than two years preceding the date the identification is submitted to the county clerk in connection with an application for a license;
 - (2) a United States passport;
 - (3) a current passport issued by a foreign country or a consular document issued by a state or national government;
 - (4) an unexpired Certificate of United States Citizenship, Certificate of Naturalization, United States Citizen Identification Card, Permanent Resident Card, Temporary Resident Card, Employment Authorization Card, or other document issued by the federal Department of Homeland Security or the United States Department of State including an identification photograph;
 - (5) an unexpired military identification card for active duty, reserve, or retired personnel with an identification photograph;
 - (6) an original or certified copy of a birth certificate issued by a bureau of vital statistics for a state or a foreign government;
 - (7) an original or certified copy of a Consular Report of Birth Abroad or Certificate of Birth Abroad issued by the United States Department of State;
 - (8) an original or certified copy of a court order relating to the applicant's name change or sex change;

(9) school records from a secondary school or institution of higher education;

(10) an insurance policy continuously valid for the two years preceding the date of the application for a license;

(11) a motor vehicle certificate of title;

(12) military records, including documentation of release or discharge from active duty or a draft record;

(13) an unexpired military dependent identification card;

(14) an original or certified copy of the applicant's marriage license or divorce decree;

(15) a voter registration certificate;

(16) a pilot's license issued by the Federal Aviation Administration or another authorized agency of the United States;

(17) a license to carry a ~~concealed~~ handgun under Subchapter H, Chapter 411, Government Code;

(18) a temporary driving permit or a temporary identification card issued by the Department of Public Safety; or

(19) an offender identification card issued by the Texas Department of Criminal Justice.

SECTION 11. Section 58.003(m), Family Code, is amended to read as follows:

(m) On request of the Department of Public Safety, a juvenile court shall reopen and allow the department to inspect the files and records of the juvenile court relating to an applicant for a license to carry a ~~concealed~~ handgun under Subchapter H, Chapter 411, Government Code.

SECTION 12. Section 85.022(d), Family Code, is amended to read as follows:

(d) In a protective order, the court shall suspend a license to carry a ~~concealed~~ handgun issued under Subchapter H, Chapter 411, Government Code, that is held by a person found to have committed family violence.

SECTION 13. Section 85.042(e), Family Code, is amended to read as follows:

(e) The clerk of the court issuing an original or modified protective order under Section 85.022 that suspends a license to carry a ~~concealed~~ handgun shall send a copy of the order to the appropriate division of the Department of Public Safety at its Austin headquarters. On receipt of the order suspending the license, the department shall:

(1) record the suspension of the license in the records of the department;

(2) report the suspension to local law enforcement agencies, as appropriate; and

(3) demand surrender of the suspended license from the license holder.

SECTION 14. The heading to Section 411.047, Government Code, is amended to read as follows:

Sec. 411.047. REPORTING RELATED TO CERTAIN ~~CONCEALED~~ HANDGUN INCIDENTS INVOLVING LICENSE HOLDERS.

SECTION 15. Section 411.0625, Government Code, is amended to read as follows:

Sec. 411.0625. PASS FOR EXPEDITED ACCESS TO CAPITOL. (a) The department shall allow a person to enter the Capitol and the Capitol Extension, including any public space in the Capitol or Capitol Extension, in the same manner as the department allows entry to a person who presents a ~~concealed handgun~~ license to carry a handgun under Subchapter H if the person:

(1) obtains from the department a Capitol access pass; and

(2) presents the pass to the appropriate law enforcement official when entering the building or a space within the building.

(b) To be eligible for a Capitol access pass, a person must meet the eligibility requirements applicable to a license to carry a ~~concealed~~ handgun under Subchapter H, other than requirements regarding evidence of handgun proficiency.

(c) The department shall adopt rules to establish a procedure by which a resident of the state may apply for and be issued a Capitol access pass. Rules adopted under this section must include provisions for eligibility, application, approval, issuance, and renewal that:

(1) require the department to conduct the same background check on an applicant for a Capitol access pass that is conducted on an applicant for a ~~concealed handgun~~ license to carry a handgun under Subchapter H;

(2) enable the department to conduct the background check described by Subdivision (1); and

(3) establish application and renewal fees in amounts sufficient to cover the cost of administering this section, not to

exceed the amounts of similar fees required under Section 411.174 for a [~~concealed handgun~~] license to carry a handgun [~~under Section 411.174~~].

SECTION 16. The heading to Subchapter H, Chapter 411, Government Code, is amended to read as follows:

SUBCHAPTER H. LICENSE TO CARRY A [~~CONCEALED~~] HANDGUN

SECTION 17. Sections 411.172(a), (b-1), (g), and (h), Government Code, are amended to read as follows:

(a) A person is eligible for a license to carry a [~~concealed~~] handgun if the person:

(1) is a legal resident of this state for the six-month period preceding the date of application under this subchapter or is otherwise eligible for a license under Section 411.173(a);

(2) is at least 21 years of age;

(3) has not been convicted of a felony;

(4) is not charged with the commission of a Class A or Class B misdemeanor or equivalent offense, or of an offense under Section 42.01, Penal Code, or equivalent offense, or of a felony under an information or indictment;

(5) is not a fugitive from justice for a felony or a Class A or Class B misdemeanor or equivalent offense;

(6) is not a chemically dependent person;

(7) is not incapable of exercising sound judgment with respect to the proper use and storage of a handgun;

(8) has not, in the five years preceding the date of application, been convicted of a Class A or Class B misdemeanor or equivalent offense or of an offense under Section 42.01, Penal Code, or equivalent offense;

(9) is fully qualified under applicable federal and state law to purchase a handgun;

(10) has not been finally determined to be delinquent in making a child support payment administered or collected by the attorney general;

(11) has not been finally determined to be delinquent in the payment of a tax or other money collected by the comptroller, the tax collector of a political subdivision of the state, or any agency or subdivision of the state;

(12) is not currently restricted under a court protective order or subject to a restraining order affecting the spousal relationship, other than a restraining order solely affecting property interests;

(13) has not, in the 10 years preceding the date of application, been adjudicated as having engaged in delinquent conduct violating a penal law of the grade of felony; and

(14) has not made any material misrepresentation, or failed to disclose any material fact, in an application submitted pursuant to Section 411.174.

(b-1) An offense is not considered a felony for purposes of Subsection (b) if, at the time of a person's application for a license to carry a [~~concealed~~] handgun, the offense:

(1) is not designated by a law of this state as a felony; and

(2) does not contain all the elements of any offense designated by a law of this state as a felony.

(g) Notwithstanding Subsection (a)(2), a person who is at least 18 years of age but not yet 21 years of age is eligible for a license to carry a [~~concealed~~] handgun if the person:

(1) is a member or veteran of the United States armed forces, including a member or veteran of the reserves or national guard;

(2) was discharged under honorable conditions, if discharged from the United States armed forces, reserves, or national guard; and

(3) meets the other eligibility requirements of Subsection (a) except for the minimum age required by federal law to purchase a handgun.

(h) The issuance of a license to carry a [~~concealed~~] handgun to a person eligible under Subsection (g) does not affect the person's ability to purchase a handgun or ammunition under federal law.

SECTION 18. Section 411.173(b), Government Code, is amended to read as follows:

(b) The governor shall negotiate an agreement with any other state that provides for the issuance of a license to carry a [~~concealed~~] handgun under which a license issued by the other state is recognized in this state or shall issue a proclamation that a license issued by the other state is recognized in this state if the attorney general of the State of Texas determines that a background check of each applicant for a license issued by that state is initiated by state or local authorities or an agent of the state or local authorities before the license is issued. For purposes of

this subsection, "background check" means a search of the National Crime Information Center database and the Interstate Identification Index maintained by the Federal Bureau of Investigation.

SECTION 19. Section 411.174(a), Government Code, is amended to read as follows:

(a) An applicant for a license to carry a [concealed] handgun must submit to the director's designee described by Section 411.176:

- (1) a completed application on a form provided by the department that requires only the information listed in Subsection (b);
- (2) one or more photographs of the applicant that meet the requirements of the department;
- (3) a certified copy of the applicant's birth certificate or certified proof of age;
- (4) proof of residency in this state;
- (5) two complete sets of legible and classifiable fingerprints of the applicant taken by a person appropriately trained in recording fingerprints who is employed by a law enforcement agency or by a private entity designated by a law enforcement agency as an entity qualified to take fingerprints of an applicant for a license under this subchapter;
- (6) a nonrefundable application and license fee of \$140 paid to the department;
- (7) evidence of handgun proficiency, in the form and manner required by the department;
- (8) an affidavit signed by the applicant stating that
 - (A) has read and understands each provision of this subchapter that creates an offense under the laws of this state and each provision of the laws of this state related to use of deadly force; and
 - (B) fulfills all the eligibility requirements listed under Section 411.172; and
- (9) a form executed by the applicant that authorizes the director to make an inquiry into any noncriminal history records that are necessary to determine the applicant's eligibility for a license under Section 411.172(a).

SECTION 20. Section 411.177(a), Government Code, is amended to read as follows:

(a) The department shall issue a license to carry a [concealed] handgun to an applicant if the applicant meets all the eligibility requirements and submits all the application materials. The department shall administer the licensing procedures in good faith so that any applicant who meets all the eligibility requirements and submits all the application materials shall receive a license. The department may not deny an application on the basis of a capricious or arbitrary decision by the department.

SECTION 21. Section 411.185(c), Government Code, is amended to read as follows:

(c) The director by rule shall adopt an informational form that describes state law regarding the use of deadly force and the places where it is unlawful for the holder of a license issued under this subchapter to carry a [concealed] handgun. An applicant for a renewed license must sign and return the informational form to the department by mail or acknowledge the form electronically on the Internet according to the procedure adopted under Subsection (f).

SECTION 22. Sections 411.188(b) and (g), Government Code, are amended to read as follows:

- (b) Only qualified handgun instructors may administer the classroom instruction part or the range instruction part of the handgun proficiency course. The classroom instruction part of the course must include not less than four hours and not more than six hours of instruction on:
- (1) the laws that relate to weapons and to the use of deadly force;
 - (2) handgun use and safety, including use of restraint holsters and methods to ensure the secure carrying of openly carried handguns;
 - (3) nonviolent dispute resolution; and
 - (4) proper storage practices for handguns with an emphasis on storage practices that eliminate the possibility of accidental injury to a child.

(g) A person who wishes to obtain a license to carry a [concealed] handgun must apply in person to a qualified handgun instructor to take the appropriate course in handgun proficiency and demonstrate handgun proficiency as required by the department.

SECTION 23. Sections 411.190(b), (c), and (f), Government Code, are amended to read as follows:

(b) In addition to the qualifications described by Subsection (a), a qualified handgun instructor must be qualified to instruct persons in:

(1) the laws that relate to weapons and to the use of deadly force;

(2) handgun use, proficiency, and safety, including use of restraint holsters and methods to ensure the secure carrying of openly carried handguns;

(3) nonviolent dispute resolution; and

(4) proper storage practices for handguns, including storage practices that eliminate the possibility of accidental injury to a child.

(c) In the manner applicable to a person who applies for a license to carry a ~~concealed~~ handgun, the department shall conduct a background check of a person who applies for certification as a qualified handgun instructor. If the background check indicates that the applicant for certification would not qualify to receive a handgun license, the department may not certify the applicant as a qualified handgun instructor. If the background check indicates that the applicant for certification would qualify to receive a handgun license, the department shall provide handgun instructor training to the applicant. The applicant shall pay a fee of \$100 to the department for the training. The applicant must take and successfully complete the training offered by the department and pay the training fee before the department may certify the applicant as a qualified handgun instructor. The department shall issue a license to carry a ~~concealed~~ handgun under the authority of this subchapter to any person who is certified as a qualified handgun instructor and who pays to the department a fee of \$100 in addition to the training fee. The department by rule may prorate or waive the training fee for an employee of another governmental entity.

(f) If the department determines that a reason exists to revoke, suspend, or deny a license to carry a ~~concealed~~ handgun with respect to a person who is a qualified handgun instructor or an applicant for certification as a qualified handgun instructor, the department shall take that action against the person's:

(1) license to carry a ~~concealed~~ handgun if the person is an applicant for or the holder of a license issued under this subchapter; and

(2) certification as a qualified handgun instructor.

SECTION 24. Section 411.1901(c), Government Code, is amended to read as follows:

(c) A qualified handgun instructor certified in school safety under this section may provide school safety training, including instruction in the subjects listed under Subsection (a), to employees of a school district or an open-enrollment charter school who hold a license to carry a ~~concealed~~ handgun issued under this subchapter.

SECTION 25. Section 411.198(a), Government Code, is amended to read as follows:

(a) On written approval of the director, the department may issue to a law enforcement officer an alias license to carry a ~~concealed~~ handgun to be used in supervised activities involving criminal investigations.

SECTION 26. Sections 411.201(c), (d), (e), and (h), Government Code, are amended to read as follows:

(c) An active judicial officer is eligible for a license to carry a ~~concealed~~ handgun under the authority of this subchapter. A retired judicial officer is eligible for a license to carry a ~~concealed~~ handgun under the authority of this subchapter if the officer:

(1) has not been convicted of a felony;

(2) has not, in the five years preceding the date of application, been convicted of a Class A or Class B misdemeanor or equivalent offense;

(3) is not charged with the commission of a Class A or Class B misdemeanor or equivalent offense or of a felony under an information or indictment;

(4) is not a chemically dependent person; and

(5) is not a person of unsound mind.

(d) An applicant for a license who is an active or retired judicial officer must submit to the department:

(1) a completed application, including all required affidavits, on a form prescribed by the department;

(2) one or more photographs of the applicant that meet the requirements of the department;

(3) two complete sets of legible and classifiable fingerprints of the applicant, including one set taken by a person employed by a law enforcement agency who is appropriately trained in recording fingerprints;

(4) evidence of handgun proficiency, in the form and manner required by the department for an applicant under this section;

(5) a nonrefundable application and license fee set by the department in an amount reasonably designed to cover the administrative costs associated with issuance of a license to carry a [concealed] handgun under this subchapter; and

(6) if the applicant is a retired judicial officer, a form executed by the applicant that authorizes the department to make an inquiry into any noncriminal history records that are necessary to determine the applicant's eligibility for a license under this subchapter.

(e) On receipt of all the application materials required by this section, the department shall:

(1) if the applicant is an active judicial officer, issue a license to carry a [concealed] handgun under the authority of this subchapter; or

(2) if the applicant is a retired judicial officer, conduct an appropriate background investigation to determine the applicant's eligibility for the license and, if the applicant is eligible, issue a license to carry a [concealed] handgun under the authority of this subchapter.

(h) The department shall issue a license to carry a [concealed] handgun under the authority of this subchapter to an elected attorney representing the state in the prosecution of felony cases who meets the requirements of this section for an active judicial officer. The department shall waive any fee required for the issuance of an original, duplicate, or renewed license under this subchapter for an applicant who is an attorney elected or employed to represent the state in the prosecution of felony cases.

SECTION 27. Section 411.203, Government Code, is amended to read as follows:

Sec. 411.203. RIGHTS OF EMPLOYERS. This subchapter does not prevent or otherwise limit the right of a public or private employer to prohibit persons who are licensed under this subchapter from carrying a [concealed] handgun on the premises of the business. In this section, "premises" has the meaning assigned by Section 46.035(f)(3), Penal Code.

SECTION 28. Section 411.2032(b), Government Code, is amended to read as follows:

(b) An institution of higher education or private or independent institution of higher education in this state may not adopt or enforce any rule, regulation, or other provision or take any other action, including posting notice under Section 30.06 or 30.07, Penal Code, prohibiting or placing restrictions on the storage or transportation of a firearm or ammunition in a locked, privately owned or leased motor vehicle by a person, including a student enrolled at that institution, who holds a license to carry a [concealed] handgun under this subchapter and lawfully possesses the firearm or ammunition:

(1) on a street or driveway located on the campus of the institution; or

(2) in a parking lot, parking garage, or other parking area located on the campus of the institution.

SECTION 29. Section 12.092(b), Health and Safety Code, is amended to read as follows:

(b) The medical advisory board shall assist the Department of Public Safety of the State of Texas in determining whether:

(1) an applicant for a driver's license or a license holder is capable of safely operating a motor vehicle; or

(2) an applicant for or holder of a license to carry a [concealed] handgun under the authority of Subchapter H, Chapter 411, Government Code, or an applicant for or holder of a commission as a security officer under Chapter 1702, Occupations Code, is capable of exercising sound judgment with respect to the proper use and storage of a handgun.

SECTION 30. Sections 52.061 and 52.062, Labor Code, are amended to read as follows:

Sec. 52.061. RESTRICTION ON PROHIBITING EMPLOYEE ACCESS TO OR STORAGE OF FIREARM OR AMMUNITION. A public or private employer may not prohibit an employee who holds a license to carry a [concealed] handgun under Subchapter H, Chapter 411, Government Code, who otherwise lawfully possesses a firearm, or who lawfully possesses ammunition 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 lot, parking garage, or other parking area the employer provides for employees.

Sec. 52.062. EXCEPTIONS. (a) Section 52.061 does not:

(1) authorize a person who holds a license to carry a [concealed] handgun under Subchapter H, Chapter 411, Government

Code, who otherwise lawfully possesses a firearm, or who lawfully possesses ammunition to possess a firearm or ammunition on any property where the possession of a firearm or ammunition is prohibited by state or federal law; or

(2) apply to:

(A) a vehicle owned or leased by a public or private employer and used by an employee in the course and scope of the employee's employment, unless the employee is required to transport or store a firearm in the official discharge of the employee's duties;

(B) a school district;

(C) an open-enrollment charter school, as defined by Section 5.001, Education Code;

(D) a private school, as defined by Section 22.081, Education Code;

(E) property owned or controlled by a person, other than the employer, that is subject to a valid, unexpired oil, gas, or other mineral lease that contains a provision prohibiting the possession of firearms on the property; or

(F) property owned or leased by a chemical manufacturer or oil and gas refiner with an air authorization under Chapter 382, Health and Safety Code, and on which the primary business conducted is the manufacture, use, storage, or transportation of hazardous, combustible, or explosive materials, except in regard to an employee who holds a license to carry a ~~concealed~~ handgun under Subchapter H, Chapter 411, Government Code, and who stores a firearm or ammunition the employee is authorized by law to possess in a locked, privately owned motor vehicle in a parking lot, parking garage, or other parking area the employer provides for employees that is outside of a secured and restricted area:

(i) that contains the physical plant;

(ii) that is not open to the public; and

(iii) the ingress into which is constantly

monitored by security personnel.

(b) Section 52.061 does not prohibit an employer from prohibiting an employee who holds a license to carry a ~~concealed~~ handgun under Subchapter H, Chapter 411, Government Code, or who otherwise lawfully possesses a firearm, from possessing a firearm the employee is otherwise authorized by law to possess on the premises of the employer's business. In this subsection, "premises" has the meaning assigned by Section 46.035(f)(3), Penal Code.

SECTION 31. (a) Section 118.011(b), Local Government Code, as effective until September 1, 2019, is amended to read as follows:

(b) The county clerk may set and collect the following fee from any person:

(1) Returned Check (Sec. 118.0215) not less than \$15 or more than \$30

(2) Records Management and Preservation Fee (Sec. 118.0216) not more than \$10

(3) Mental Health Background Check for License to Carry a Handgun ~~[Concealed Weapon]~~ (Sec. 118.0217) not more than \$2

(b) This section takes effect September 1, 2015.

SECTION 32. (a) Section 118.011(b), Local Government Code, as effective September 1, 2019, is amended to read as follows:

(b) The county clerk may set and collect the following fee from any person:

(1) Returned Check (Sec. 118.0215) not less than \$15 or more than \$30

(2) Records Management and Preservation Fee (Sec. 118.0216) not more than \$5

(3) Mental Health Background Check for License to Carry a Handgun ~~[Concealed Weapon]~~ (Sec. 118.0217) not more than \$2

(b) This section takes effect September 1, 2019.

SECTION 33. Section 118.0217(a), Local Government Code, is amended to read as follows:

(a) The fee for a "mental health background check for license to carry a handgun ~~[concealed weapon]~~" is for a check, conducted by the county clerk at the request of the Texas Department of Public Safety, of the county records involving the mental condition of a person who applies for a license to carry a ~~concealed~~ handgun under Subchapter H, Chapter 411, Government Code. The fee, not to exceed \$2, will be paid from the application fee submitted to the Department of Public Safety according to Section 411.174(a)(6), Government Code.

SECTION 34. Section 229.001(b), Local Government Code, is

amended to read as follows:

(b) Subsection (a) does not affect the authority a municipality has under another law to:

(1) require residents or public employees to be armed for personal or national defense, law enforcement, or another lawful purpose;

(2) regulate the discharge of firearms or air guns within the limits of the municipality, other than at a sport shooting range;

(3) regulate the use of property, the location of a business, or uses at a business under the municipality's fire code, zoning ordinance, or land-use regulations as long as the code, ordinance, or regulations are not used to circumvent the intent of Subsection (a) or Subdivision (5) of this subsection;

(4) regulate the use of firearms or air guns in the case of an insurrection, riot, or natural disaster if the municipality finds the regulations necessary to protect public health and safety;

(5) regulate the storage or transportation of explosives to protect public health and safety, except that 25 pounds or less of black powder for each private residence and 50 pounds or less of black powder for each retail dealer are not subject to regulation;

(6) regulate the carrying of a firearm or air gun by a person other than a person licensed to carry a ~~concealed~~ handgun under Subchapter H, Chapter 411, Government Code, at a:

(A) public park;

(B) public meeting of a municipality, county, or other governmental body;

(C) political rally, parade, or official political meeting; or

(D) nonfirearms-related school, college, or professional athletic event;

(7) regulate the hours of operation of a sport shooting range, except that the hours of operation may not be more limited than the least limited hours of operation of any other business in the municipality other than a business permitted or licensed to sell or serve alcoholic beverages for on-premises consumption; or

(8) regulate the carrying of an air gun by a minor on:

(A) public property; or

(B) private property without consent of the property owner.

SECTION 35. The heading to Section 1701.260, Occupations Code, is amended to read as follows:

Sec. 1701.260. TRAINING FOR HOLDERS OF LICENSE TO CARRY A ~~CONCEALED~~ HANDGUN; CERTIFICATION OF ELIGIBILITY FOR APPOINTMENT AS SCHOOL MARSHAL.

SECTION 36. Sections 1701.260(a) and (i), Occupations Code, are amended to read as follows:

(a) The commission shall establish and maintain a training program open to any employee of a school district or open-enrollment charter school who holds a license to carry a ~~concealed~~ handgun issued under Subchapter H, Chapter 411, Government Code. The training may be conducted only by the commission staff or a provider approved by the commission.

(i) The commission shall revoke a person's school marshal license if the commission is notified by the Department of Public Safety that the person's license to carry a ~~concealed~~ handgun issued under Subchapter H, Chapter 411, Government Code, has been suspended or revoked. A person whose school marshal license is revoked may obtain recertification by:

(1) furnishing proof to the commission that the person's ~~concealed~~ handgun license has been reinstated; and

(2) completing the initial training under Subsection (c) to the satisfaction of the commission staff, paying the fee for the training, and demonstrating psychological fitness on the psychological examination described in Subsection (d).

SECTION 37. Section 1702.206(b), Occupations Code, is amended to read as follows:

(b) An individual who is acting as a personal protection officer and is wearing the uniform of a security officer, including any uniform or apparel described by Section 1702.323(d), may not conceal any firearm the individual is carrying and shall carry the firearm in plain view. An individual who is acting as a personal protection officer and is not wearing the uniform of a security officer shall conceal the firearm, regardless of whether the individual is authorized to openly carry the firearm under any other law.

SECTION 38. Sections 62.082(d) and (e), Parks and Wildlife Code, are amended to read as follows:

(d) Section 62.081 does not apply to:

- (1) an employee of the Lower Colorado River Authority;
- (2) a person authorized to hunt under Subsection (c);
- (3) a peace officer as defined by Article 2.12, Code of Criminal Procedure; or
- (4) a person who:
 - (A) possesses a ~~[concealed]~~ handgun and a license issued under Subchapter H, Chapter 411, Government Code, to carry a ~~[concealed]~~ handgun; or
 - (B) under circumstances in which the person would be justified in the use of deadly force under Chapter 9, Penal Code, shoots a handgun the person is licensed to carry under Subchapter H, Chapter 411, Government Code.

(e) A state agency, including the department, the Department of Public Safety, and the Lower Colorado River Authority, may not adopt a rule that prohibits a person who possesses a license issued under Subchapter H, Chapter 411, Government Code, from entering or crossing the land of the Lower Colorado River Authority while:

- (1) possessing a ~~[concealed]~~ handgun; or
- (2) under circumstances in which the person would be justified in the use of deadly force under Chapter 9, Penal Code, shooting a handgun.

SECTION 39. Section 284.001(e), Parks and Wildlife Code, is amended to read as follows:

(e) This section does not limit the ability of a license holder to carry a ~~[concealed]~~ handgun under the authority of Subchapter H, Chapter 411, Government Code.

SECTION 40. Section 30.05(f), Penal Code, is amended to read as follows:

(f) It is a defense to prosecution under this section that:

- (1) the basis on which entry on the property or land or in the building was forbidden is that entry with a handgun was forbidden; and

- (2) the person was carrying:
 - (A) a ~~[concealed handgun and a]~~ license issued under Subchapter H, Chapter 411, Government Code, to carry a ~~[concealed]~~ handgun; and

(B) a handgun:

- (i) in a concealed manner; or
- (ii) in a shoulder or belt holster.

SECTION 41. The heading to Section 30.06, Penal Code, is amended to read as follows:

Sec. 30.06. TRESPASS BY LICENSE HOLDER WITH A ~~[OF LICENSE TO CARRY]~~ CONCEALED HANDGUN.

SECTION 42. Sections 30.06(a) and (d), Penal Code, are amended to read as follows:

(a) A license holder commits an offense if the license holder:

- (1) carries a concealed handgun under the authority of Subchapter H, Chapter 411, Government Code, on property of another without effective consent; and

- (2) received notice that~~+~~ ~~[(A)]~~ entry on the property by a license holder with a concealed handgun was forbidden~~[- or~~ ~~[(B) - - remaining on the property with a concealed handgun was forbidden and failed to depart].~~

(d) An offense under this section is a Class C misdemeanor punishable by a fine not to exceed \$200, except that the offense is a Class A misdemeanor if it is shown on the trial of the offense that, after entering the property, the license holder was personally given the notice by oral communication described by Subsection (b) and subsequently failed to depart.

SECTION 43. Section 30.06(c)(3), Penal Code, is amended to read as follows:

(3) "Written communication" means:

- (A) a card or other document on which is written language identical to the following: "Pursuant to Section 30.06, Penal Code (trespass by license holder with ~~[of license to carry]~~ a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (~~[concealed]~~ handgun licensing law), may not enter this property with a concealed handgun"; or

- (B) a sign posted on the property that:
 - (i) includes the language described by Paragraph (A) in both English and Spanish;
 - (ii) appears in contrasting colors with block letters at least one inch in height; and
 - (iii) is displayed in a conspicuous manner clearly visible to the public.

SECTION 44. Chapter 30, Penal Code, is amended by adding Section 30.07 to read as follows:

Sec. 30.07. TRESPASS BY LICENSE HOLDER WITH AN OPENLY CARRIED HANDGUN. (a) A license holder commits an offense if the license holder:

(1) openly carries a handgun under the authority of Subchapter H, Chapter 411, Government Code, on property of another without effective consent; and

(2) received notice that entry on the property by a license holder openly carrying a handgun was forbidden.

(b) For purposes of this section, a person receives notice if the owner of the property or someone with apparent authority to act for the owner provides notice to the person by oral or written communication.

(c) In this section:

(1) "Entry" has the meaning assigned by Section 30.05(b).

(2) "License holder" has the meaning assigned by Section 46.035(f).

(3) "Written communication" means:

(A) a card or other document on which is written language identical to the following: "Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly"; or

(B) a sign posted on the property that:

(i) includes the language described by Paragraph (A) in both English and Spanish;

(ii) appears in contrasting colors with block letters at least one inch in height; and

(iii) is displayed in a conspicuous manner clearly visible to the public at each entrance to the property.

(d) An offense under this section is a Class C misdemeanor punishable by a fine not to exceed \$200, except that the offense is a Class A misdemeanor if it is shown on the trial of the offense that, after entering the property, the license holder was personally given the notice by oral communication described by Subsection (b) and subsequently failed to depart.

(e) It is an exception to the application of this section that the property on which the license holder openly carries the handgun is owned or leased by a governmental entity and is not a premises or other place on which the license holder is prohibited from carrying the handgun under Section 46.03 or 46.035.

(f) It is not a defense to prosecution under this section that the handgun was carried in a shoulder or belt holster.

SECTION 45. Section 46.02(a-1), Penal Code, is amended to read as follows:

(a-1) A person commits an offense if the person intentionally, knowingly, or recklessly carries on or about his or her person a handgun in a motor vehicle or watercraft that is owned by the person or under the person's control at any time in which:

(1) the handgun is in plain view, unless the person is licensed to carry a handgun under Subchapter H, Chapter 411, Government Code, and the handgun is carried in a shoulder or belt holster; or

(2) the person is:

(A) engaged in criminal activity, other than a Class C misdemeanor that is a violation of a law or ordinance regulating traffic or boating;

(B) prohibited by law from possessing a firearm;
or

(C) a member of a criminal street gang, as defined by Section 71.01.

SECTION 46. Section 46.03(f), Penal Code, is amended to read as follows:

(f) It is not a defense to prosecution under this section that the actor possessed a handgun and was licensed to carry a [concealed] handgun under Subchapter H, Chapter 411, Government Code.

SECTION 47. Section 46.035, Penal Code, is amended by amending Subsections (a), (b), (c), (d), (g), (h), (i), and (j) and adding Subsection (a-1) to read as follows:

(a) A license holder commits an offense if the license holder carries a handgun on or about the license holder's person under the authority of Subchapter H, Chapter 411, Government Code, and intentionally displays the handgun in plain view of another person in a public place. It is an exception to the application of this subsection that the handgun was partially or wholly visible but was carried in a shoulder or belt holster by the license holder.

(a-1) Notwithstanding Subsection (a), a license holder commits an offense if the license holder carries a partially or wholly visible handgun, regardless of whether the handgun is

holstered, on or about the license holder's person under the authority of Subchapter H, Chapter 411, Government Code, and intentionally displays the handgun in plain view of another person:

(1) on the premises of an institution of higher education or private or independent institution of higher education; or

(2) on any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area of an institution of higher education or private or independent institution of higher education.

(b) A license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun under the authority of Subchapter H, Chapter 411, Government Code, regardless of whether the handgun is concealed or carried in a shoulder or belt holster, on or about the license holder's person:

(1) on the premises of a business that has a permit or license issued under Chapter 25, 28, 32, 69, or 74, Alcoholic Beverage Code, if the business derives 51 percent or more of its income from the sale or service of alcoholic beverages for on-premises consumption, as determined by the Texas Alcoholic Beverage Commission under Section 104.06, Alcoholic Beverage Code;

(2) on the premises where a high school, collegiate, or professional sporting event or interscholastic event is taking place, unless the license holder is a participant in the event and a handgun is used in the event;

(3) on the premises of a correctional facility;

(4) on the premises of a hospital licensed under Chapter 241, Health and Safety Code, or on the premises of a nursing facility ~~[home]~~ licensed under Chapter 242, Health and Safety Code, unless the license holder has written authorization of the hospital or nursing ~~facility [home]~~ administration, as appropriate;

(5) in an amusement park; or

(6) on the premises of a church, synagogue, or other established place of religious worship.

(c) A license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun under the authority of Subchapter H, Chapter 411, Government Code, regardless of whether the handgun is concealed or carried in a shoulder or belt holster, at any meeting of a governmental entity.

(d) A license holder commits an offense if, while intoxicated, the license holder carries a handgun under the authority of Subchapter H, Chapter 411, Government Code, regardless of whether the handgun is concealed or carried in a shoulder or belt holster.

(g) An offense under this section [~~Subsection (a), (b), (c), (d), or (e)~~] is a Class A misdemeanor, unless the offense is committed under Subsection (b)(1) or (b)(3), in which event the offense is a felony of the third degree.

(h) It is a defense to prosecution under Subsection (a) or (a-1) that the actor, at the time of the commission of the offense, displayed the handgun under circumstances in which the actor would have been justified in the use of force or deadly force under Chapter 9.

(i) Subsections (b)(4), (b)(5), (b)(6), and (c) do not apply if the actor was not given effective notice under Section 30.06 or 30.07.

(j) Subsections (a), (a-1), and (b)(1) do not apply to a historical reenactment performed in compliance with the rules of the Texas Alcoholic Beverage Commission.

SECTION 48. Section 46.035(f), Penal Code, is amended by adding Subdivision (1-a) to read as follows:

(1-a) "Institution of higher education" and "private or independent institution of higher education" have the meanings assigned by Section 61.003, Education Code.

SECTION 49. Sections 46.15(a) and (b), Penal Code, are amended to read as follows:

(a) Sections 46.02 and 46.03 do not apply to:

(1) peace officers or special investigators under Article 2.122, Code of Criminal Procedure, and neither section prohibits a peace officer or special investigator from carrying a weapon in this state, including in an establishment in this state serving the public, regardless of whether the peace officer or special investigator is engaged in the actual discharge of the officer's or investigator's duties while carrying the weapon;

(2) parole officers and neither section prohibits an officer from carrying a weapon in this state if the officer is:

(A) engaged in the actual discharge of the officer's duties while carrying the weapon; and

(B) in compliance with policies and procedures adopted by the Texas Department of Criminal Justice regarding the possession of a weapon by an officer while on duty;

(3) community supervision and corrections department officers appointed or employed under Section 76.004, Government Code, and neither section prohibits an officer from carrying a weapon in this state if the officer is:

(A) engaged in the actual discharge of the officer's duties while carrying the weapon; and

(B) authorized to carry a weapon under Section 76.0051, Government Code;

(4) an active judicial officer as defined by Section 411.201, Government Code, who is licensed to carry a ~~[concealed]~~ handgun under Subchapter H, Chapter 411, Government Code;

(5) an honorably retired peace officer, qualified retired law enforcement officer, federal criminal investigator, or former reserve law enforcement officer who holds a certificate of proficiency issued under Section 1701.357, Occupations Code, and is carrying a photo identification that is issued by a federal, state, or local law enforcement agency, as applicable, and that verifies that the officer is:

(A) an honorably retired peace officer;

(B) a qualified retired law enforcement officer;

(C) a federal criminal investigator; or

(D) a former reserve law enforcement officer who

has served in that capacity not less than a total of 15 years with one or more state or local law enforcement agencies;

(6) a district attorney, criminal district attorney, county attorney, or municipal attorney who is licensed to carry a ~~[concealed]~~ handgun under Subchapter H, Chapter 411, Government Code;

(7) an assistant district attorney, assistant criminal district attorney, or assistant county attorney who is licensed to carry a ~~[concealed]~~ handgun under Subchapter H, Chapter 411, Government Code;

(8) a bailiff designated by an active judicial officer as defined by Section 411.201, Government Code, who is:

(A) licensed to carry a ~~[concealed]~~ handgun under Subchapter H, Chapter 411, Government Code; and

(B) engaged in escorting the judicial officer; or

(9) a juvenile probation officer who is authorized to carry a firearm under Section 142.006, Human Resources Code.

(b) Section 46.02 does not apply to a person who:

(1) is in the actual discharge of official duties as a member of the armed forces or state military forces as defined by Section 437.001, Government Code, or as a guard employed by a penal institution;

(2) is traveling;

(3) is engaging in lawful hunting, fishing, or other sporting activity on the immediate premises where the activity is conducted, or is en route between the premises and the actor's residence, motor vehicle, or watercraft, if the weapon is a type commonly used in the activity;

(4) holds a security officer commission issued by the Texas Private Security Board, if the person is engaged in the performance of the person's duties as an officer commissioned under Chapter 1702, Occupations Code, or is traveling to or from the person's place of assignment and is wearing the officer's uniform and carrying the officer's weapon in plain view;

(5) acts as a personal protection officer and carries the person's security officer commission and personal protection officer authorization, if the person:

(A) is engaged in the performance of the person's duties as a personal protection officer under Chapter 1702, Occupations Code, or is traveling to or from the person's place of assignment; and

(B) is either:

(i) wearing the uniform of a security officer, including any uniform or apparel described by Section 1702.323(d), Occupations Code, and carrying the officer's weapon in plain view; or

(ii) not wearing the uniform of a security officer and carrying the officer's weapon in a concealed manner;

(6) is carrying:

(A) a ~~[concealed handgun and a valid]~~ license issued under Subchapter H, Chapter 411, Government Code, to carry a ~~[concealed]~~ handgun; and

(B) a handgun:

(i) in a concealed manner; or

(ii) in a shoulder or belt holster;

(7) holds an alcoholic beverage permit or license or is an employee of a holder of an alcoholic beverage permit or license if the person is supervising the operation of the permitted or licensed premises; or

(8) is a student in a law enforcement class engaging in an activity required as part of the class, if the weapon is a type commonly used in the activity and the person is:

(A) on the immediate premises where the activity is conducted; or

(B) en route between those premises and the person's residence and is carrying the weapon unloaded.

SECTION 50. Section 411.171(3), Government Code, is repealed.

SECTION 51. The change in law made by this Act relating to the authority of a license holder to openly carry a holstered handgun applies to the carrying of a handgun on or after the effective date of this Act by any person who:

(1) holds a license issued under Subchapter H, Chapter 411, Government Code, regardless of whether the person's license was issued before, on, or after the effective date of this Act; or

(2) applies for the issuance of a license under that subchapter, regardless of whether the person applied for the license before, on, or after the effective date of this Act.

SECTION 52. The changes in law made by this Act to Sections 62.082 and 284.001, Parks and Wildlife Code, and to Sections 30.05, 30.06, 46.02, 46.03, 46.035, and 46.15, Penal Code, apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 53. Except as otherwise provided by this Act, this Act takes effect January 1, 2016.

President of the Senate

Speaker of the House

I certify that H.B. No. 910 was passed by the House on April 20, 2015, by the following vote: Yeas 101, Nays 42, 1 present, not voting; that the motion to concur in Senate amendments to H.B. No. 910 failed on May 27, 2015, by the following vote: Yeas 63, Nays 79, 2 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 910 on May 27, 2015, by a non-record vote and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 910 on May 29, 2015, by the following vote: Yeas 102, Nays 43, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 910 was passed by the Senate, with amendments, on May 22, 2015, by the following vote: Yeas 19, Nays 12; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 910 on May 29, 2015, by the following vote: Yeas 20, Nays 11.

Secretary of the Senate

APPROVED: _____
Date

Governor