

By: Lavender

H.B. No. 700

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the authority of a person who is licensed to carry a
3 handgun to openly carry the handgun; providing penalties.

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

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

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

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

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

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

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

1 (B) the person is wearing a distinctive uniform;

2 and

3 (C) the weapon is in plain view;

4 (2) who is a peace officer;

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

7 (4) who possesses a [~~concealed~~] handgun, regardless of
8 whether the handgun is carried in a concealed or unconcealed
9 manner, of the same category the person is licensed to carry under
10 Subchapter H, Chapter 411, Government Code, unless the person is on
11 the premises of a business described by Section 46.035(b)(1), Penal
12 Code.

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

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

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

24 (f) Except as provided by Subsection (g) or (j), the
25 commission or administrator shall cancel an original or renewal
26 dealer's on-premises or off-premises license if it is found, after
27 notice and hearing, that the licensee knowingly allowed a person to

1 possess a firearm in a building on the licensed premises. This
2 subsection does not apply to a person:

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

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

7 (B) the person is wearing a distinctive uniform;
8 and

9 (C) the weapon is in plain view;

10 (2) who is a peace officer;

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

13 (4) who possesses a ~~[concealed]~~ handgun, regardless of
14 whether the handgun is carried in a concealed or unconcealed
15 manner, of the same category the person is licensed to carry under
16 Subchapter H, Chapter 411, Government Code, unless the person is on
17 the premises of a business described by Section 46.035(b)(1), Penal
18 Code.

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

21 (c) In a protective order, the court may suspend a license
22 to carry a concealed or unconcealed handgun issued under Section
23 411.177, Government Code, that is held by the alleged offender.

24 SECTION 6. Article 7B.06(c), Code of Criminal Procedure, is
25 amended to read as follows:

26 (c) In a protective order, the court may suspend a license
27 to carry a concealed or unconcealed handgun issued under Section

1 411.177, Government Code, that is held by the offender or alleged
2 offender.

3 SECTION 7. Article 17.292(1), Code of Criminal Procedure,
4 is amended to read as follows:

5 (1) In the order for emergency protection, the magistrate
6 shall suspend a license to carry a concealed or unconcealed handgun
7 issued under Subchapter H, Chapter 411, Government Code, that is
8 held by the defendant.

9 SECTION 8. Article 17.293, Code of Criminal Procedure, is
10 amended to read as follows:

11 Art. 17.293. DELIVERY OF ORDER FOR EMERGENCY PROTECTION TO
12 OTHER PERSONS. The magistrate or the clerk of the magistrate's
13 court issuing an order for emergency protection under Article
14 17.292 that suspends a license to carry a concealed or unconcealed
15 handgun shall immediately send a copy of the order to the
16 appropriate division of the Department of Public Safety at its
17 Austin headquarters. On receipt of the order suspending the
18 license, the department shall:

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

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

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

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

27 Sec. 63.0101. DOCUMENTATION OF PROOF OF

1 IDENTIFICATION. The following documentation is an acceptable form
2 of photo identification under this chapter:

3 (1) a driver's license, election identification
4 certificate, or personal identification card issued to the person
5 by the Department of Public Safety that has not expired or that
6 expired no earlier than 60 days before the date of presentation;

7 (2) a United States military identification card that
8 contains the person's photograph that has not expired or that
9 expired no earlier than 60 days before the date of presentation;

10 (3) a United States citizenship certificate issued to
11 the person that contains the person's photograph;

12 (4) a United States passport issued to the person that
13 has not expired or that expired no earlier than 60 days before the
14 date of presentation; or

15 (5) a license to carry a concealed or unconcealed
16 handgun issued to the person by the Department of Public Safety that
17 has not expired or that expired no earlier than 60 days before the
18 date of presentation.

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

21 (b) The proof must be established by:

22 (1) a driver's license or identification card issued
23 by this state, another state, or a Canadian province that is current
24 or has expired not more than two years preceding the date the
25 identification is submitted to the county clerk in connection with
26 an application for a license;

27 (2) a United States passport;

1 (3) a current passport issued by a foreign country or a
2 consular document issued by a state or national government;

3 (4) an unexpired Certificate of United States
4 Citizenship, Certificate of Naturalization, United States Citizen
5 Identification Card, Permanent Resident Card, Temporary Resident
6 Card, Employment Authorization Card, or other document issued by
7 the federal Department of Homeland Security or the United States
8 Department of State including an identification photograph;

9 (5) an unexpired military identification card for
10 active duty, reserve, or retired personnel with an identification
11 photograph;

12 (6) an original or certified copy of a birth
13 certificate issued by a bureau of vital statistics for a state or a
14 foreign government;

15 (7) an original or certified copy of a Consular Report
16 of Birth Abroad or Certificate of Birth Abroad issued by the United
17 States Department of State;

18 (8) an original or certified copy of a court order
19 relating to the applicant's name change or sex change;

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

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

24 (11) a motor vehicle certificate of title;

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

27 (13) an unexpired military dependent identification

1 card;

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

4 (15) a voter registration certificate;

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

7 (17) a license to carry a concealed or unconcealed
8 handgun under Subchapter H, Chapter 411, Government Code;

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

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

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

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

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

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

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

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

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

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

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

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

15 Sec. 411.047. REPORTING RELATED TO CERTAIN [~~CONCEALED~~]
16 HANDGUN INCIDENTS.

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

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

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

27 (2) presents the pass to the appropriate law

1 enforcement official when entering the building or a space within
2 the building.

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

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

12 (1) require the department to conduct the same
13 background check on an applicant for a Capitol access pass that is
14 conducted on an applicant for a concealed or unconcealed handgun
15 license under Subchapter H;

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

18 (3) establish application and renewal fees in amounts
19 sufficient to cover the cost of administering this section, not to
20 exceed the amounts of similar fees required for a concealed or
21 unconcealed handgun license under Section 411.174.

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

24 SUBCHAPTER H. LICENSE TO CARRY A CONCEALED
25 OR UNCONCEALED HANDGUN

26 SECTION 17. Section 411.171, Government Code, is amended by
27 adding Subdivision (8) to read as follows:

1 (8) "Unconcealed handgun" means a loaded or unloaded
2 handgun carried upon the person in a shoulder or belt holster with
3 at least dual points of resistance that is wholly or partially
4 visible.

5 SECTION 18. Sections 411.172(a), (b-1), (g), and (h),
6 Government Code, are amended to read as follows:

7 (a) A person is eligible for a license to carry a concealed
8 or unconcealed handgun if the person:

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

12 (2) is at least 21 years of age;

13 (3) has not been convicted of a felony;

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

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

20 (6) is not a chemically dependent person;

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

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

27 (9) is fully qualified under applicable federal and

1 state law to purchase a handgun;

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

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

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

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

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

19 (b-1) An offense is not considered a felony for purposes of
20 Subsection (b) if, at the time of a person's application for a
21 license to carry a concealed or unconcealed handgun, the offense:

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

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

26 (g) Notwithstanding Subsection (a)(2), a person who is at
27 least 18 years of age but not yet 21 years of age is eligible for a

1 license to carry a concealed or unconcealed handgun if the person:

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

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

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

11 (h) The issuance of a license to carry a concealed or
12 unconcealed handgun to a person eligible under Subsection (g) does
13 not affect the person's ability to purchase a handgun or ammunition
14 under federal law.

15 SECTION 19. Section 411.173(b), Government Code, is amended
16 to read as follows:

17 (b) The governor shall negotiate an agreement with any other
18 state that provides for the issuance of a license to carry a
19 concealed or unconcealed handgun under which a license issued by
20 the other state is recognized in this state or shall issue a
21 proclamation that a license issued by the other state is recognized
22 in this state if the attorney general of the State of Texas
23 determines that a background check of each applicant for a license
24 issued by that state is initiated by state or local authorities or
25 an agent of the state or local authorities before the license is
26 issued. For purposes of this subsection, "background check" means
27 a search of the National Crime Information Center database and the

1 Interstate Identification Index maintained by the Federal Bureau of
2 Investigation.

3 SECTION 20. Section 411.174(a), Government Code, is amended
4 to read as follows:

5 (a) An applicant for a license to carry a concealed or
6 unconcealed handgun must submit to the director's designee
7 described by Section 411.176:

8 (1) a completed application on a form provided by the
9 department that requires only the information listed in Subsection
10 (b);

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

13 (3) a certified copy of the applicant's birth
14 certificate or certified proof of age;

15 (4) proof of residency in this state;

16 (5) two complete sets of legible and classifiable
17 fingerprints of the applicant taken by a person appropriately
18 trained in recording fingerprints who is employed by a law
19 enforcement agency or by a private entity designated by a law
20 enforcement agency as an entity qualified to take fingerprints of
21 an applicant for a license under this subchapter;

22 (6) a nonrefundable application and license fee of
23 \$140 paid to the department;

24 (7) evidence of handgun proficiency, in the form and
25 manner required by the department;

26 (8) an affidavit signed by the applicant stating that
27 the applicant:

1 (A) has read and understands each provision of
2 this subchapter that creates an offense under the laws of this state
3 and each provision of the laws of this state related to use of
4 deadly force; and

5 (B) fulfills all the eligibility requirements
6 listed under Section 411.172; and

7 (9) a form executed by the applicant that authorizes
8 the director to make an inquiry into any noncriminal history
9 records that are necessary to determine the applicant's eligibility
10 for a license under Section 411.172(a).

11 SECTION 21. Section 411.177(a), Government Code, is amended
12 to read as follows:

13 (a) The department shall issue a license to carry a
14 concealed or unconcealed handgun to an applicant if the applicant
15 meets all the eligibility requirements and submits all the
16 application materials. The department may issue a license to carry
17 handguns only of the categories for which the applicant has
18 demonstrated proficiency in the form and manner required by the
19 department. The department shall administer the licensing
20 procedures in good faith so that any applicant who meets all the
21 eligibility requirements and submits all the application materials
22 shall receive a license. The department may not deny an application
23 on the basis of a capricious or arbitrary decision by the
24 department.

25 SECTION 22. Section 411.185(d), Government Code, is amended
26 to read as follows:

27 (d) The director by rule shall adopt a procedure by which a

1 license holder who satisfies the eligibility criteria may renew a
2 license by mail. The materials for renewal by mail must include a
3 form to be signed and returned to the department by the applicant
4 that describes state law regarding:

- 5 (1) the use of deadly force; and
- 6 (2) the places where it is unlawful for the holder of a
7 license issued under this subchapter to carry a concealed or
8 unconcealed handgun.

9 SECTION 23. Section 411.187(a), Government Code, is amended
10 to read as follows:

11 (a) The department shall suspend a license under this
12 section if the license holder:

13 (1) is charged with the commission of a Class A or
14 Class B misdemeanor or equivalent offense, or of an offense under
15 Section 42.01, Penal Code, or equivalent offense, or of a felony
16 under an information or indictment;

17 (2) fails to notify the department of a change of
18 address, name, or status as required by Section 411.181;

19 (3) carries a concealed or unconcealed handgun under
20 the authority of this subchapter of a different category than the
21 license holder is licensed to carry;

22 (4) fails to return a previously issued license after
23 a license is modified as required by Section 411.184(d);

24 (5) commits an act of family violence and is the
25 subject of an active protective order rendered under Title 4,
26 Family Code; or

27 (6) is arrested for an offense involving family

1 violence or an offense under Section 42.072, Penal Code, and is the
2 subject of an order for emergency protection issued under Article
3 17.292, Code of Criminal Procedure.

4 SECTION 24. Section 411.188(g), Government Code, is amended
5 to read as follows:

6 (g) A person who wishes to obtain or renew a license to carry
7 a concealed or unconcealed handgun must apply in person to a
8 qualified handgun instructor to take the appropriate course in
9 handgun proficiency and demonstrate handgun proficiency as
10 required by the department.

11 SECTION 25. Section 411.1881(a), Government Code, is
12 amended to read as follows:

13 (a) Notwithstanding any other provision of this subchapter,
14 a person may not be required to complete the range instruction
15 portion of a handgun proficiency course to obtain or renew a
16 concealed or unconcealed handgun license issued under this
17 subchapter if the person:

18 (1) is currently serving in or is honorably discharged
19 from:

20 (A) the army, navy, air force, coast guard, or
21 marine corps of the United States or an auxiliary service or reserve
22 unit of one of those branches of the armed forces; or

23 (B) the state military forces, as defined by
24 Section 431.001; and

25 (2) has, within the five years preceding the date of
26 the person's application for an original or renewed license, as
27 applicable, completed a course of training in handgun proficiency

1 or familiarization as part of the person's service with the armed
2 forces or state military forces.

3 SECTION 26. Sections 411.190(c) and (f), Government Code,
4 are amended to read as follows:

5 (c) In the manner applicable to a person who applies for a
6 license to carry a concealed or unconcealed handgun, the department
7 shall conduct a background check of a person who applies for
8 certification as a qualified handgun instructor. If the background
9 check indicates that the applicant for certification would not
10 qualify to receive a handgun license, the department may not
11 certify the applicant as a qualified handgun instructor. If the
12 background check indicates that the applicant for certification
13 would qualify to receive a handgun license, the department shall
14 provide handgun instructor training to the applicant. The
15 applicant shall pay a fee of \$100 to the department for the
16 training. The applicant must take and successfully complete the
17 training offered by the department and pay the training fee before
18 the department may certify the applicant as a qualified handgun
19 instructor. The department shall issue a license to carry a
20 concealed or unconcealed handgun under the authority of this
21 subchapter to any person who is certified as a qualified handgun
22 instructor and who pays to the department a fee of \$100 in addition
23 to the training fee. The department by rule may prorate or waive
24 the training fee for an employee of another governmental entity.

25 (f) If the department determines that a reason exists to
26 revoke, suspend, or deny a license to carry a concealed or
27 unconcealed handgun with respect to a person who is a qualified

1 handgun instructor or an applicant for certification as a qualified
2 handgun instructor, the department shall take that action against
3 the person's:

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

7 (2) certification as a qualified handgun instructor.

8 SECTION 27. Section 411.198(a), Government Code, is amended
9 to read as follows:

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

14 SECTION 28. Sections 411.201(c), (d), (e), and (h),
15 Government Code, are amended to read as follows:

16 (c) An active judicial officer is eligible for a license to
17 carry a concealed or unconcealed handgun under the authority of
18 this subchapter. A retired judicial officer is eligible for a
19 license to carry a concealed or unconcealed handgun under the
20 authority of this subchapter if the officer:

21 (1) has not been convicted of a felony;

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

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

1 (4) is not a chemically dependent person; and

2 (5) is not a person of unsound mind.

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

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

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

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

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

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

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

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

27 (1) if the applicant is an active judicial officer,

1 issue a license to carry a concealed or unconcealed handgun under
2 the authority of this subchapter; or

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

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

17 SECTION 29. Section 411.203, Government Code, is amended to
18 read as follows:

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

25 SECTION 30. Section 12.092(b), Health and Safety Code, is
26 amended to read as follows:

27 (b) The medical advisory board shall assist the Department

1 of Public Safety of the State of Texas in determining whether:

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

4 (2) an applicant for or holder of a license to carry a
5 concealed or unconcealed handgun under the authority of Subchapter
6 H, Chapter 411, Government Code, is capable of exercising sound
7 judgment with respect to the proper use and storage of a handgun.

8 SECTION 31. Sections 52.061 and 52.062, Labor Code, are
9 amended to read as follows:

10 Sec. 52.061. RESTRICTION ON PROHIBITING EMPLOYEE ACCESS TO
11 OR STORAGE OF FIREARM OR AMMUNITION. A public or private employer
12 may not prohibit an employee who holds a license to carry a
13 concealed or unconcealed handgun under Subchapter H, Chapter 411,
14 Government Code, who otherwise lawfully possesses a firearm, or who
15 lawfully possesses ammunition from transporting or storing a
16 firearm or ammunition the employee is authorized by law to possess
17 in a locked, privately owned motor vehicle in a parking lot, parking
18 garage, or other parking area the employer provides for employees.

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

20 (1) authorize a person who holds a license to carry a
21 concealed or unconcealed handgun under Subchapter H, Chapter 411,
22 Government Code, who otherwise lawfully possesses a firearm, or who
23 lawfully possesses ammunition to possess a firearm or ammunition on
24 any property where the possession of a firearm or ammunition is
25 prohibited by state or federal law; or

26 (2) apply to:

27 (A) a vehicle owned or leased by a public or

1 private employer and used by an employee in the course and scope of
2 the employee's employment, unless the employee is required to
3 transport or store a firearm in the official discharge of the
4 employee's duties;

5 (B) a school district;

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

8 (D) a private school, as defined by Section
9 22.081, Education Code;

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

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

26 (i) that contains the physical plant;

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

1 (iii) the ingress into which is constantly
2 monitored by security personnel.

3 (b) Section 52.061 does not prohibit an employer from
4 prohibiting an employee who holds a license to carry a concealed or
5 unconcealed handgun under Subchapter H, Chapter 411, Government
6 Code, or who otherwise lawfully possesses a firearm, from
7 possessing a firearm the employee is otherwise authorized by law to
8 possess on the premises of the employer's business. In this
9 subsection, "premises" has the meaning assigned by Section
10 46.035(f)(3), Penal Code.

11 SECTION 32. Section 118.011(b), Local Government Code, is
12 amended to read as follows:

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

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

17 (2) Records Management and Preservation Fee (Sec.
18 118.0216) not more than \$5

19 (3) Mental Health Background Check for License to
20 Carry a Concealed or Unconcealed Handgun [~~Weapon~~] (Sec.
21 118.0217) not more than \$2

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

24 (a) The fee for a "mental health background check for
25 license to carry a concealed or unconcealed handgun [~~weapon~~]" is
26 for a check, conducted by the county clerk at the request of the
27 Texas Department of Public Safety, of the county records involving

1 the mental condition of a person who applies for a license to carry
2 a concealed or unconcealed handgun under Subchapter H, Chapter 411,
3 Government Code. The fee, not to exceed \$2, will be paid from the
4 application fee submitted to the Department of Public Safety
5 according to Section 411.174(a)(6), Government Code.

6 SECTION 34. Section 229.001(b), Local Government Code, is
7 amended to read as follows:

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

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

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

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

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

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

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

4 (A) public park;

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

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

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

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

17 SECTION 35. Sections 62.082(d) and (e), Parks and Wildlife
18 Code, are amended to read as follows:

19 (d) Section 62.081 does not apply to:

20 (1) an employee of the Lower Colorado River Authority;

21 (2) a person authorized to hunt under Subsection (c);

22 (3) a peace officer as defined by Article 2.12, Code of
23 Criminal Procedure; or

24 (4) a person who:

25 (A) possesses a [~~concealed~~] handgun, regardless
26 of whether the handgun is carried in a concealed or unconcealed
27 manner, and a license issued under Subchapter H, Chapter 411,

1 Government Code, to carry a concealed or unconcealed handgun of the
2 same category as a handgun the person is carrying; or

3 (B) under circumstances in which the person would
4 be justified in the use of deadly force under Chapter 9, Penal Code,
5 shoots a handgun of the same category as a handgun the person is
6 licensed to carry under Subchapter H, Chapter 411, Government Code.

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

13 (1) possessing a [~~concealed~~] handgun, regardless of
14 whether the handgun is carried in a concealed or unconcealed
15 manner, of the same category as a handgun the person is licensed to
16 carry; or

17 (2) under circumstances in which the person would be
18 justified in the use of deadly force under Chapter 9, Penal Code,
19 shooting a handgun of the same category as a handgun the person is
20 licensed to carry.

21 SECTION 36. Section 284.001(e), Parks and Wildlife Code, is
22 amended to read as follows:

23 (e) This section does not limit the ability of a license
24 holder to carry a concealed or unconcealed handgun under the
25 authority of Subchapter H, Chapter 411, Government Code.

26 SECTION 37. Section 30.05(f), Penal Code, is amended to
27 read as follows:

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

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

5 (2) the person was carrying a [~~concealed~~] handgun,
6 regardless of whether the handgun was carried in a concealed or
7 unconcealed manner, and a license issued under Subchapter H,
8 Chapter 411, Government Code, to carry a concealed or unconcealed
9 handgun of the same category the person was carrying.

10 SECTION 38. The heading to Section 30.06, Penal Code, is
11 amended to read as follows:

12 Sec. 30.06. TRESPASS BY HOLDER OF LICENSE TO CARRY
13 CONCEALED OR UNCONCEALED HANDGUN.

14 SECTION 39. Section 30.06, Penal Code, is amended by
15 amending Subsections (a), (b), and (c) and adding Subsections (a-1)
16 and (b-1) to read as follows:

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

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

22 (2) received notice that:

23 (A) entry on the property by a license holder
24 with a concealed handgun or with any handgun, regardless of whether
25 concealed or not, was forbidden; or

26 (B) remaining on the property with a concealed
27 handgun or with any handgun, regardless of whether concealed or

1 not, was forbidden and failed to depart.

2 (a-1) A license holder commits an offense if the license
3 holder:

4 (1) carries a handgun in an unconcealed manner under
5 the authority of Subchapter H, Chapter 411, Government Code, on
6 property of another without effective consent; and

7 (2) received notice that:

8 (A) entry on the property by a license holder
9 with an unconcealed handgun or with any handgun, regardless of
10 whether concealed or not, was forbidden; or

11 (B) remaining on the property with an unconcealed
12 handgun or with any handgun, regardless of whether concealed or
13 not, was forbidden and failed to depart.

14 (b) For purposes of Subsection (a) [~~this section~~], a person
15 receives notice if the owner of the property or someone with
16 apparent authority to act for the owner provides notice to the
17 person by oral communication or written communication that must
18 consist of:

19 (1) a card or other document on which is written
20 language indicating that pursuant to Section 30.06, Penal Code
21 (trespass by holder of license to carry a concealed or unconcealed
22 handgun), a person licensed under Subchapter H, Chapter 411,
23 Government Code, may not enter the property with a concealed
24 handgun or with any handgun, whether concealed or not, as
25 applicable; or

26 (2) a sign posted on the property that:

27 (A) includes the language described by

1 Subdivision (1) of this subsection in both English and Spanish;

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

4 (C) is displayed in a conspicuous manner clearly
5 visible to the public.

6 (b-1) For purposes of Subsection (a-1), a person receives
7 notice if the owner of the property or someone with apparent
8 authority to act for the owner provides notice to the person by oral
9 communication or written communication that must consist of:

10 (1) the written communication described by Subsection
11 (b)(1), except that the communication must indicate that a license
12 holder may not enter the property with an unconcealed handgun or
13 with any handgun, whether concealed or not, as applicable; or

14 (2) a sign described by Subsection (b)(2), except that
15 the sign must include the language described by Subdivision (1) of
16 this subsection.

17 (c) In this section:

18 (1) "Entry" has the meaning assigned by Section
19 30.05(b).

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

22 ~~[(3) "Written communication" means:~~

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

1 ~~property with a concealed handgun"; or~~
2 ~~[(B) a sign posted on the property that:~~
3 ~~[(i) includes the language described by~~
4 ~~Paragraph (A) in both English and Spanish;~~
5 ~~[(ii) appears in contrasting colors with~~
6 ~~block letters at least one inch in height; and~~
7 ~~[(iii) is displayed in a conspicuous manner~~
8 ~~clearly visible to the public.]~~

9 SECTION 40. Section 46.03(f), Penal Code, is amended to
10 read as follows:

11 (f) It is not a defense to prosecution under this section
12 that the actor possessed a handgun, regardless of whether the
13 handgun was carried in a concealed or unconcealed manner, and was
14 licensed to carry a concealed or unconcealed handgun under
15 Subchapter H, Chapter 411, Government Code.

16 SECTION 41. Sections 46.035(a), (b), (c), and (d), Penal
17 Code, are amended to read as follows:

18 (a) A license holder commits an offense if the license
19 holder carries a handgun on or about the license holder's person
20 under the authority of Subchapter H, Chapter 411, Government Code,
21 and intentionally fails to conceal the handgun, unless the license
22 holder is carrying the handgun in a shoulder or belt holster with at
23 least dual points of resistance.

24 (b) A license holder commits an offense if the license
25 holder intentionally, knowingly, or recklessly carries a handgun
26 under the authority of Subchapter H, Chapter 411, Government Code,
27 regardless of whether the handgun is concealed or carried in a

1 shoulder or belt holster with at least dual points of resistance, on
2 or about the license holder's person:

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

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

13 (3) on the premises of a correctional facility;

14 (4) on the premises of a hospital licensed under
15 Chapter 241, Health and Safety Code, or on the premises of a nursing
16 home licensed under Chapter 242, Health and Safety Code, unless the
17 license holder has written authorization of the hospital or nursing
18 home administration, as appropriate;

19 (5) in an amusement park; or

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

22 (c) A license holder commits an offense if the license
23 holder intentionally, knowingly, or recklessly carries a handgun
24 under the authority of Subchapter H, Chapter 411, Government Code,
25 regardless of whether the handgun is concealed or carried in a
26 shoulder or belt holster with at least dual points of resistance, at
27 any meeting of a governmental entity.

1 (d) A license holder commits an offense if, while
2 intoxicated, the license holder carries a handgun under the
3 authority of Subchapter H, Chapter 411, Government Code, regardless
4 of whether the handgun is concealed or carried in a shoulder or belt
5 holster with at least dual points of resistance.

6 SECTION 42. Sections 46.15(a) and (b), Penal Code, are
7 amended to read as follows:

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

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

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

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

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

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

27 (A) engaged in the actual discharge of the

1 officer's duties while carrying the weapon; and

2 (B) authorized to carry a weapon under Section
3 76.0051, Government Code;

4 (4) an active judicial officer as defined by Section
5 411.201, Government Code, who is licensed to carry a concealed or
6 unconcealed handgun under Subchapter H, Chapter 411, Government
7 Code;

8 (5) an honorably retired peace officer or federal
9 criminal investigator who holds a certificate of proficiency issued
10 under Section 1701.357, Occupations Code, and is carrying a photo
11 identification that:

12 (A) verifies that the officer honorably retired
13 after not less than 15 years of service as a commissioned officer;
14 and

15 (B) is issued by a state or local law enforcement
16 agency;

17 (6) a district attorney, criminal district attorney,
18 county attorney, or municipal attorney who is licensed to carry a
19 concealed or unconcealed handgun under Subchapter H, Chapter 411,
20 Government Code;

21 (7) an assistant district attorney, assistant
22 criminal district attorney, or assistant county attorney who is
23 licensed to carry a concealed or unconcealed handgun under
24 Subchapter H, Chapter 411, Government Code;

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

27 (A) licensed to carry a concealed or unconcealed

1 handgun under Chapter 411, Government Code; and

2 (B) engaged in escorting the judicial officer; or

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

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

6 (1) is in the actual discharge of official duties as a
7 member of the armed forces or state military forces as defined by
8 Section 431.001, Government Code, or as a guard employed by a penal
9 institution;

10 (2) is traveling;

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

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

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

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

1 assignment; and

2 (B) is either:

3 (i) wearing the uniform of a security
4 officer, including any uniform or apparel described by Section
5 1702.323(d), Occupations Code, and carrying the officer's weapon in
6 plain view; or

7 (ii) not wearing the uniform of a security
8 officer and carrying the officer's weapon in a concealed manner or
9 in an unconcealed manner but in a shoulder or belt holster with at
10 least dual points of resistance;

11 (6) is carrying a [~~concealed~~] handgun, regardless of
12 whether the handgun is carried in a concealed or unconcealed
13 manner, and a valid license issued under Subchapter H, Chapter 411,
14 Government Code, to carry a concealed or unconcealed handgun of the
15 same category as the handgun the person is carrying;

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

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

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

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

27 SECTION 43. The change in law made by this Act relating to

1 the authority of a license holder to carry an unconcealed handgun
2 applies to the carrying of a handgun on or after the effective date
3 of this Act by any person who:

4 (1) holds a license issued under Subchapter H, Chapter
5 411, Government Code, regardless of whether the person's license
6 was issued before, on, or after the effective date of this Act; or

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

10 SECTION 44. The changes in law made by this Act to Sections
11 30.05, 30.06, 46.03, 46.035, and 46.15, Penal Code, apply only to an
12 offense committed on or after the effective date of this Act. An
13 offense committed before the effective date of this Act is governed
14 by the law in effect when the offense was committed, and the former
15 law is continued in effect for that purpose. For purposes of this
16 section, an offense was committed before the effective date of this
17 Act if any element of the offense occurred before that date.

18 SECTION 45. This Act takes effect September 1, 2013.