

By: Paddie

H.B. No. 1194

A BILL TO BE ENTITLED

AN ACT

1
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~~] handgun of the same
12 category the person is licensed to carry under Subchapter H,
13 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 of the same
8 category the person is licensed to carry under Subchapter H,
9 Chapter 411, Government Code, unless the person is on the premises
10 of a business described by Section 46.035(b)(1), Penal Code.

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

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

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

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

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

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

5 (B) the person is wearing a distinctive uniform;
6 and

7 (C) the weapon is in plain view;

8 (2) who is a peace officer;

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

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

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

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

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

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

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

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

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

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

6 Art. 17.293. DELIVERY OF ORDER FOR EMERGENCY PROTECTION TO
7 OTHER PERSONS. The magistrate or the clerk of the magistrate's
8 court issuing an order for emergency protection under Article
9 17.292 that suspends a license to carry a [~~concealed~~] handgun shall
10 immediately send a copy of the order to the appropriate division of
11 the Department of Public Safety at its Austin headquarters. On
12 receipt of the order suspending the license, the department shall:

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

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

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

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

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

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

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

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

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

9 (5) a license to carry a [~~concealed~~] handgun issued to
10 the person by the Department of Public Safety that has not expired
11 or that expired no earlier than 60 days before the date of
12 presentation.

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

15 (b) The proof must be established by:

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

21 (2) a United States passport;

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

24 (4) an unexpired Certificate of United States
25 Citizenship, Certificate of Naturalization, United States Citizen
26 Identification Card, Permanent Resident Card, Temporary Resident
27 Card, Employment Authorization Card, or other document issued by

1 the federal Department of Homeland Security or the United States
2 Department of State including an identification photograph;

3 (5) an unexpired military identification card for
4 active duty, reserve, or retired personnel with an identification
5 photograph;

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

9 (7) an original or certified copy of a Consular Report
10 of Birth Abroad or Certificate of Birth Abroad issued by the United
11 States Department of State;

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

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

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

18 (11) a motor vehicle certificate of title;

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

21 (13) an unexpired military dependent identification
22 card;

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

25 (15) a voter registration certificate;

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

1 (17) a license to carry a [~~concealed~~] handgun issued
2 under Subchapter H, Chapter 411, Government Code;

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

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

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

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

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

16 (d) In a protective order, the court shall suspend a license
17 to carry a [~~concealed~~] handgun issued under Subchapter H, Chapter
18 411, Government Code, that is held by a person found to have
19 committed family violence.

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

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

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

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

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

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

9 Sec. 411.047. REPORTING RELATED TO CERTAIN [~~CONCEALED~~]
10 HANDGUN INCIDENTS.

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

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

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

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

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

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

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

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

12 (3) establish application and renewal fees in amounts
13 sufficient to cover the cost of administering this section, not to
14 exceed the amounts of similar fees required under Section 411.174
15 for a [~~concealed handgun~~] license to carry a handgun [~~under Section~~
16 ~~411.174~~].

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

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

20 HANDGUN

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

23 (8) "Unconcealed handgun" means a loaded or unloaded
24 handgun carried upon the person:

25 (A) in a shoulder or belt holster that is wholly
26 or partially visible; or

27 (B) in a scabbard or case designed for carrying

1 firearms that is wholly or partially visible.

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

4 (a) A person is eligible for a license to carry a
5 ~~[concealed]~~ handgun, authorizing the person to carry a concealed
6 handgun or an unconcealed handgun, if the person:

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

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

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

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

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

18 (6) is not a chemically dependent person;

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

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

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

27 (10) has not been finally determined to be delinquent

1 in making a child support payment administered or collected by the
2 attorney general;

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

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

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

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

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

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

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

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

27 (1) is a member or veteran of the United States armed

1 forces, including a member or veteran of the reserves or national
2 guard;

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

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

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

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

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

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

3 (a) An applicant for a license to carry a [~~concealed~~
4 handgun must submit to the director's designee described by Section
5 411.176:

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

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

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

13 (4) proof of residency in this state;

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

20 (6) a nonrefundable application and license fee of
21 \$140 paid to the department;

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

24 (8) an affidavit signed by the applicant stating that
25 the applicant:

26 (A) has read and understands each provision of
27 this subchapter that creates an offense under the laws of this state

1 and each provision of the laws of this state related to use of
2 deadly force; and

3 (B) fulfills all the eligibility requirements
4 listed under Section 411.172; and

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

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

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

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

24 (d) The director by rule shall adopt a procedure by which a
25 license holder who satisfies the eligibility criteria may renew a
26 license by mail. The materials for renewal by mail must include a
27 form to be signed and returned to the department by the applicant

1 that describes state law regarding:

2 (1) the use of deadly force; and

3 (2) the places where it is unlawful for the holder of a
4 license issued under this subchapter to carry a [~~concealed~~]
5 handgun.

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

8 (a) The department shall suspend a license under this
9 section if the license holder:

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

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

16 (3) carries a [~~concealed~~] handgun under the authority
17 of this subchapter of a different category than the license holder
18 is licensed to carry;

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

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

24 (6) is arrested for an offense involving family
25 violence or an offense under Section 42.072, Penal Code, and is the
26 subject of an order for emergency protection issued under Article
27 17.292, Code of Criminal Procedure.

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

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

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

9 (a) Notwithstanding any other provision of this subchapter,
10 a person may not be required to complete the range instruction
11 portion of a handgun proficiency course to obtain or renew a
12 [~~concealed handgun~~] license issued under this subchapter if the
13 person:

14 (1) is currently serving in or is honorably discharged
15 from:

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

19 (B) the state military forces, as defined by
20 Section 431.001; and

21 (2) has, within the five years preceding the date of
22 the person's application for an original or renewed license, as
23 applicable, completed a course of training in handgun proficiency
24 or familiarization as part of the person's service with the armed
25 forces or state military forces.

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

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

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

26 (1) license to carry a [~~concealed~~] handgun if the
27 person is an applicant for or the holder of a license issued under

1 this subchapter; and

2 (2) certification as a qualified handgun instructor.

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

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

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

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

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

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

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

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

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

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

27 (1) a completed application, including all required

1 affidavits, on a form prescribed by the department;

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

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

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

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

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

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

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

25 (2) if the applicant is a retired judicial officer,
26 conduct an appropriate background investigation to determine the
27 applicant's eligibility for the license and, if the applicant is

1 eligible, issue a license to carry a [~~concealed~~] handgun under the
2 authority of this subchapter.

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

12 SECTION 29. Section 411.203, Government Code, is amended to
13 read as follows:

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

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

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

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

26 (2) an applicant for or holder of a license to carry a
27 [~~concealed~~] handgun under the authority of Subchapter H, Chapter

1 411, Government Code, is capable of exercising sound judgment with
2 respect to the proper use and storage of a handgun.

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

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

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

15 (1) authorize a person who holds a license to carry a
16 [~~concealed~~] handgun issued under Subchapter H, Chapter 411,
17 Government Code, who otherwise lawfully possesses a firearm, or who
18 lawfully possesses ammunition to possess a firearm or ammunition on
19 any property where the possession of a firearm or ammunition is
20 prohibited by state or federal law; or

21 (2) apply to:

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

27 (B) a school district;

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

3 (D) a private school, as defined by Section
4 22.081, Education Code;

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

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

- 21 (i) that contains the physical plant;
22 (ii) that is not open to the public; and
23 (iii) the ingress into which is constantly
24 monitored by security personnel.

25 (b) Section 52.061 does not prohibit an employer from
26 prohibiting an employee who holds a license to carry a ~~concealed~~
27 handgun issued under Subchapter H, Chapter 411, Government Code, or

1 who otherwise lawfully possesses a firearm, from possessing a
2 firearm the employee is otherwise authorized by law to possess on
3 the premises of the employer's business. In this subsection,
4 "premises" has the meaning assigned by Section 46.035(f)(3), Penal
5 Code.

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

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

- 10 (1) Returned Check (Sec. 118.0215)
- 11 not less than \$15 or more than \$30
- 12 (2) Records Management and Preservation Fee (Sec.
- 13 118.0216) not more than \$5
- 14 (3) Mental Health Background Check for License to
- 15 Carry a Handgun [~~Concealed Weapon~~] (Sec. 118.0217)
- 16 not more than \$2

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

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

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

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

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

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

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

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

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

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

26 (A) public park;

27 (B) public meeting of a municipality, county, or

1 other governmental body;

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

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

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

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

14 (d) Section 62.081 does not apply to:

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

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

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

19 (4) a person who:

20 (A) possesses a ~~concealed~~ handgun and a license
21 issued under Subchapter H, Chapter 411, Government Code, to carry a
22 ~~concealed~~ handgun of the same category as a handgun the person is
23 carrying; or

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

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

7 (1) possessing a [~~concealed~~] handgun of the same
8 category as a handgun the person is licensed to carry; or

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

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

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

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

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

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

24 (2) the person was carrying a [~~concealed~~] handgun and
25 a license issued under Subchapter H, Chapter 411, Government Code,
26 to carry a [~~concealed~~] handgun of the same category the person was
27 carrying.

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

3 Sec. 30.06. TRESPASS BY HOLDER OF LICENSE TO CARRY
4 [~~CONCEALED~~] HANDGUN.

5 SECTION 39. Section 30.06(a), Penal Code, is amended to
6 read as follows:

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

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

12 (2) received notice that:

13 (A) entry on the property by a license holder
14 with a [~~concealed~~] handgun was forbidden; or

15 (B) remaining on the property with a [~~concealed~~]
16 handgun was forbidden and failed to depart.

17 SECTION 40. Section 30.06(c)(3), Penal Code, is amended to
18 read as follows:

19 (3) "Written communication" means:

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

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

27 (i) includes the language described by

1 Paragraph (A) in both English and Spanish;

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

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

6 SECTION 41. Section 46.02(a-1), Penal Code, is amended to
7 read as follows:

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

12 (1) the handgun is in plain view, unless the person is
13 carrying an unconcealed handgun, as defined by Section 411.171,
14 Government Code, and a valid license issued under Subchapter H,
15 Chapter 411, Government Code, to carry a handgun of the same
16 category as the handgun the person is carrying; or

17 (2) the person is:

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

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

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

25 SECTION 42. Section 46.03(f), Penal Code, is amended to
26 read as follows:

27 (f) It is not a defense to prosecution under this section

1 that the actor possessed a handgun and was licensed to carry a
2 [~~concealed~~] handgun under Subchapter H, Chapter 411, Government
3 Code.

4 SECTION 43. Sections 46.035(a), (b), (c), and (d), Penal
5 Code, are amended to read as follows:

6 (a) A license holder commits an offense if the license
7 holder carries a handgun on or about the license holder's person
8 under the authority of Subchapter H, Chapter 411, Government Code,
9 and intentionally displays [~~fails to conceal~~] the handgun in a
10 manner that:

- 11 (1) threatens another person;
12 (2) places another person in fear of imminent bodily
13 injury; or
14 (3) is calculated to cause alarm.

15 (b) A license holder commits an offense if the license
16 holder intentionally, knowingly, or recklessly carries a handgun
17 under the authority of Subchapter H, Chapter 411, Government Code,
18 [~~regardless of whether the handgun is concealed,~~] on or about the
19 license holder's person:

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

26 (2) on the premises where a high school, collegiate,
27 or professional sporting event or interscholastic event is taking

1 place, unless the license holder is a participant in the event and a
2 handgun is used in the event;

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

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

9 (5) in an amusement park; or

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

12 (c) A license holder commits an offense if the license
13 holder intentionally, knowingly, or recklessly carries a handgun
14 under the authority of Subchapter H, Chapter 411, Government Code,
15 ~~[regardless of whether the handgun is concealed]~~ at any meeting of
16 a governmental entity.

17 (d) A license holder commits an offense if, while
18 intoxicated, the license holder carries a handgun under the
19 authority of Subchapter H, Chapter 411, Government Code~~[~~
20 ~~regardless of whether the handgun is concealed]~~.

21 SECTION 44. Sections 46.15(a) and (b), Penal Code, are
22 amended to read as follows:

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

24 (1) peace officers or special investigators under
25 Article 2.122, Code of Criminal Procedure, and neither section
26 prohibits a peace officer or special investigator from carrying a
27 weapon in this state, including in an establishment in this state

1 serving the public, regardless of whether the peace officer or
2 special investigator is engaged in the actual discharge of the
3 officer's or investigator's duties while carrying the weapon;

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

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

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

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

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

17 (B) authorized to carry a weapon under Section
18 76.0051, Government Code;

19 (4) an active judicial officer as defined by Section
20 411.201, Government Code, who is licensed to carry a ~~concealed~~
21 handgun under Subchapter H, Chapter 411, Government Code;

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

26 (A) verifies that the officer honorably retired
27 after not less than 15 years of service as a commissioned officer;

1 and

2 (B) is issued by a state or local law enforcement
3 agency;

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

8 (7) an assistant district attorney, assistant
9 criminal district attorney, or assistant county attorney who is
10 licensed to carry a ~~concealed~~ handgun under Subchapter H, Chapter
11 411, Government Code;

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

14 (A) licensed to carry a ~~concealed~~ handgun under
15 Chapter 411, Government Code; and

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

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

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

20 (1) is in the actual discharge of official duties as a
21 member of the armed forces or state military forces as defined by
22 Section 431.001, Government Code, or as a guard employed by a penal
23 institution;

24 (2) is traveling;

25 (3) is engaging in lawful hunting, fishing, or other
26 sporting activity on the immediate premises where the activity is
27 conducted, or is en route between the premises and the actor's

1 residence, motor vehicle, or watercraft, if the weapon is a type
2 commonly used in the activity;

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

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

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

16 (B) is either:

17 (i) wearing the uniform of a security
18 officer, including any uniform or apparel described by Section
19 1702.323(d), Occupations Code, and carrying the officer's weapon in
20 plain view; or

21 (ii) not wearing the uniform of a security
22 officer and carrying [~~the officer's weapon in~~] a concealed handgun
23 or an unconcealed handgun, as defined by Section 411.171,
24 Government Code [~~manner~~];

25 (6) is carrying a [~~concealed~~] handgun and a valid
26 license issued under Subchapter H, Chapter 411, Government Code, to
27 carry a [~~concealed~~] handgun of the same category as the handgun the

1 person is carrying, unless the person is a person described by
2 Section 46.02(a-1)(2);

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

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

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

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

14 SECTION 45. The change in law made by this Act relating to
15 the authority of a license holder to carry an unconcealed handgun
16 applies to the carrying of a handgun on or after the effective date
17 of this Act by any person who:

18 (1) holds a license issued under Subchapter H, Chapter
19 411, Government Code, regardless of whether the person's license
20 was issued before, on, or after the effective date of this Act; or

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

24 SECTION 46. The changes in law made by this Act to Sections
25 30.05, 30.06, 46.02, 46.03, 46.035, and 46.15, Penal Code, apply
26 only to an offense committed on or after the effective date of this
27 Act. An offense committed before the effective date of this Act is

1 governed by the law in effect when the offense was committed, and
2 the former law is continued in effect for that purpose. For
3 purposes of this section, an offense was committed before the
4 effective date of this Act if any element of the offense occurred
5 before that date.

6 SECTION 47. This Act takes effect September 1, 2013.