

BILL ANALYSIS

S.B. 745
By: Seliger
Law Enforcement
Committee Report (Unamended)

BACKGROUND AND PURPOSE

H.B. 1704, enacted by the 78th Legislature, Regular Session, 2003, added a provision to the Government Code that required the Texas Department of Public Safety (DPS) to consider a concealed handgun license (license) applicant's offenses as they were classified in Texas law at the time of application for the license. Prior to this bill, DPS considered the offenses on a person's record as they were classified at the time of conviction, and the bill's intent was to allow persons convicted of non-violent crimes once classified as felonies but classified by current law as misdemeanors to qualify for a license. However, a person who qualified and obtained a license prior to the bill's enactment and who is not a convicted felon but was convicted of an offense that has been reclassified as a felony cannot renew the person's license.

S.B. 745 provides that certain persons convicted of certain offenses are eligible to possess or carry concealed handguns.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Section 411.171(4), Government Code, to redefine "convicted" to provide that the term does not include an adjudication of guilt or an order of deferred adjudication that has been subsequently vacated, set aside, annulled, invalidated, discharged, voided, or sealed under any state or federal law.

SECTION 2. Amends Section 411.172, Government Code, by amending Subsection (b) and adding Subsection (b-1), as follows:

(b) Provides that, for the purposes of this section (Eligibility), an offense under the laws of this state, another state, or the United States is a felony if, at the time it is committed, the offense meets certain conditions, except as provided by Subsection (b-1).

(b-1) Provides that an offense is not considered to be a felony for the purposes of Subsection (b)(1) if, at the time of the person's application for a concealed handgun license, the offense is designated by a law of this state as a misdemeanor or does not contain all the elements of any offense designated by a law of this state as a felony.

SECTION 3. Amends Section 46.04, Penal Code, by amending Subsection (d) and adding Subsections (f) and (g), as follows:

(d) Defines "convicted." Makes a conforming change.

(f) Provides that, for the purposes of this section (Unlawful Possession of Firearm), an offense under the laws of this state, another state, or the United States is a felony if, at the time it is committed, the offense meets certain conditions, except as provided by Subsection (g).

(g) Provides that an offense is not considered to be a felony for the purposes of Subsection (f) if, at the time the person possesses a firearm, the offense is designated by a

law of this state as a misdemeanor or does not contain all the elements of any offense designated by a law of this state as a felony.

SECTION 4. Effective date: Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

EFFECTIVE DATE

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