

By: Kolkhorst, Merritt, Driver

H.B. No. 2730

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the continuation and functions of the Department of  
3 Public Safety of the State of Texas and the Texas Private Security  
4 Board; providing a penalty.

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

6 ARTICLE 1. CHANGES TO VEHICLE INSPECTION PROGRAM

7 SECTION 1.01. Section 548.006(i), Transportation Code, is  
8 amended to read as follows:

9 (i) The committee shall hold a meeting at least once [~~at~~  
10 ~~least two meetings~~] each quarter [~~year~~].

11 SECTION 1.02. Subchapter A, Chapter 548, Transportation  
12 Code, is amended by adding Section 548.008 to read as follows:

13 Sec. 548.008. VEHICLE INSPECTION PROGRAM DIRECTOR. (a)  
14 The vehicle inspection program is managed by a program director.  
15 The program director may not be a commissioned officer.

16 (b) The office of the vehicle inspection program director  
17 must be located in Austin, Texas.

18 (c) The duties of the program director include:

19 (1) responsibility for the quality of the vehicle  
20 inspection program;

21 (2) coordination of the regional offices;

22 (3) compilation of regional and statewide performance  
23 data;

24 (4) the establishment of best practices and

1 distribution of those practices to the regional offices;

2 (5) setting goals for the entire program, in  
3 consultation with the public safety director or the public safety  
4 director's designee, and setting goals for each regional office in  
5 consultation with the regional managers;

6 (6) monitoring the progress toward the goals set in  
7 Subdivision (5) and evaluating the program based on that progress;  
8 and

9 (7) coordination with the Texas Highway Patrol to  
10 enforce provisions related to vehicle inspection.

11 (d) The regional offices shall make reports as requested by  
12 the program director.

13 SECTION 1.03. Section 548.501, Transportation Code, is  
14 amended by amending Subsection (a) and adding Subsection (c) to  
15 read as follows:

16 (a) Except as provided by Sections 548.503 and 548.504, the  
17 fee for inspection of a motor vehicle other than a moped is \$14  
18 [~~\$12.50~~]. The fee for inspection of a moped is \$6.75 [~~\$5.75~~]. The  
19 fee for a verification form issued as required by Section 548.256 is  
20 \$2 [~~\$1~~].

21 (c) An inspection station may collect the applicable  
22 inspection fee at the time of the original inspection of a vehicle,  
23 regardless of whether an inspection certificate is issued at that  
24 time. An inspection fee may be included with charges for other  
25 products or services but must be shown on a work order for the  
26 products or services as a separate item. An inspection fee may be  
27 advertised in conjunction with other products or services.

ARTICLE 2. DIVISION OF EMERGENCY MANAGEMENT

PART A. ORGANIZATION OF DIVISION

SECTION 2A.01. Section 418.004, Government Code, is amended by amending Subdivision (2) and adding Subdivision (9) to read as follows:

(2) "Division" means the Texas Division of Emergency Management [~~division of emergency management in the office of the governor~~].

(9) "Department" means the Department of Public Safety of the State of Texas.

SECTION 2A.02. Sections 418.041(a), (b), and (c), Government Code, are amended to read as follows:

(a) The Texas Division of Emergency Management [~~division of emergency management~~] is a division of the department [~~office of the governor~~].

(b) The division is managed by a chief [~~director~~] appointed by the public safety director of the department, with the approval of the governor. The chief [~~director~~] serves at the pleasure of the public safety director [~~governor~~]. The chief must possess professional training and knowledge consisting of not less than five years of managerial or strategic planning experience in matters relating to public safety, security, emergency services, and emergency response.

(c) At least once every two months, the following shall meet to coordinate efforts, prevent overlap of activities, and ensure that the state's approach to emergency management and homeland security is unified:

- 1           (1) a representative of the department;  
2           (2) a representative of the division;  
3           (3) a representative of the governor's office of  
4 homeland security;  
5           (4) the presiding officer of the Homeland Security  
6 Council; and  
7           (5) a state agency representative from the emergency  
8 management council, selected by the chair of the emergency  
9 management council. [The director shall appoint a state  
10 coordinator.]

11           SECTION 2A.03. Section 418.072, Government Code, is amended  
12 to read as follows:

13           Sec. 418.072. DISASTER EMERGENCY FUNDING BOARD. The  
14 disaster emergency funding board is composed of:

- 15           (1) the governor;  
16           (2) the lieutenant governor;  
17           (3) the commissioner of insurance;  
18           (4) the executive commissioner of the Health and  
19 [Department of] Human Services Commission; and  
20           (5) the chief [~~director~~] of the division.

21           SECTION 2A.04. Section 418.074(b), Government Code, is  
22 amended to read as follows:

23           (b) If a gift, grant, or loan is accepted by the state, the  
24 governor, or the emergency management council or chief of the  
25 division [~~state coordinator~~] if designated by the governor, may  
26 dispense the gift, grant, or loan directly to accomplish the  
27 purpose for which it was made or may allocate and transfer to a

1 political subdivision services, equipment, supplies, materials, or  
2 funds in the amount the governor or the governor's designee may  
3 determine.

4 SECTION 2A.05. Section 431.082, Government Code, is amended  
5 by adding Subsection (d) to read as follows:

6 (d) A member of the Texas State Guard called to state active  
7 duty in response to a state emergency is a temporary employee of the  
8 state while on state active duty.

9 PART B. OTHER AMENDMENTS, INCLUDING CONFORMING AMENDMENTS

10 REFLECTING DIVISION'S NAME CHANGE

11 SECTION 2B.01. Section 12.0012, Agriculture Code, is  
12 amended to read as follows:

13 Sec. 12.0012. NOTIFICATION. The department shall, upon  
14 submission for publication, notify the Texas Division of Emergency  
15 Management [~~division of emergency management in the office of the~~  
16 ~~governor~~] of each quarantine it adopts. The department shall  
17 thereafter cooperate with the Texas Division of Emergency  
18 Management [~~division of emergency management~~] in implementing any  
19 necessary safeguards to protect the state's agricultural resources  
20 from potential economic, health, or ecological disaster that may  
21 result from the quarantined pest or disease.

22 SECTION 2B.02. Sections 88.303(a) and (d), Education Code,  
23 are amended to read as follows:

24 (a) Notwithstanding any other law, during any period in  
25 which Texas Task Force 1 is activated by the Texas Division of  
26 Emergency Management [~~governor's division of emergency~~  
27 ~~management~~], or during any training session sponsored or sanctioned

1 by Texas Task Force 1, a participating nongovernment member or  
2 local government employee member is included in the coverage  
3 provided under Chapter 501, Labor Code, in the same manner as an  
4 employee, as defined by Section 501.001, Labor Code.

5 (d) Notwithstanding Section 412.0123, Labor Code, as added  
6 by Chapter 1098, Acts of the 75th Legislature, Regular Session,  
7 1997, the Texas Division of Emergency Management [~~governor's~~  
8 ~~division of emergency management~~] shall reimburse the State Office  
9 of Risk Management for the actual medical and indemnity benefits  
10 paid on behalf of a covered member of Texas Task Force 1 at the  
11 beginning of the next state fiscal year occurring after the date the  
12 benefits are paid.

13 SECTION 2B.03. Section 418.014(e), Government Code, is  
14 amended to read as follows:

15 (e) An executive order or proclamation shall be  
16 disseminated promptly by means intended to bring its contents to  
17 the attention of the general public. An order or proclamation shall  
18 be filed promptly with the division [~~of emergency management~~], the  
19 secretary of state, and the county clerk or city secretary in each  
20 area to which it applies unless the circumstances attendant on the  
21 disaster prevent or impede the filing.

22 SECTION 2B.04. The heading to Subchapter C, Chapter 418,  
23 Government Code, is amended to read as follows:

24 SUBCHAPTER C. TEXAS DIVISION OF EMERGENCY MANAGEMENT

25 SECTION 2B.05. Subchapter C, Chapter 418, Government Code,  
26 is amended by adding Section 418.050 to read as follows:

27 Sec. 418.050. REENTRY CREDENTIALING PILOT PROGRAM. (a) The

1 division shall consider implementing a pilot program for a reentry  
2 credentialing process for reentry into areas previously evacuated  
3 because of a disaster or threat of disaster.

4 (b) If the division implements a pilot project under this  
5 section, the reentry credentials issued under the project must:

- 6 (1) be uniform and commonly constructed;  
7 (2) have common card holder information; and  
8 (3) have security features equivalent to the security  
9 features of a Texas driver's license.

10 (c) The division may not require residents of an evacuated  
11 area to participate in or comply with a reentry credentialing  
12 process under this section.

13 SECTION 2B.06. Section 418.073(d), Government Code, is  
14 amended to read as follows:

15 (d) The ~~[governor's]~~ division ~~[of emergency management]~~  
16 shall administer the disaster contingency fund and shall develop  
17 and implement rules and procedures for providing emergency  
18 assistance from the fund. The division shall annually report to the  
19 speaker of the house of representatives and the lieutenant governor  
20 expenditures from the fund, the overall status of the fund, and any  
21 changes to rules and procedures regarding the fund.

22 SECTION 2B.07. Section 421.021(a), Government Code, is  
23 amended to read as follows:

24 (a) The Homeland Security Council is composed of the  
25 governor or the governor's designee, the speaker of the house of  
26 representatives or the speaker's designee, the lieutenant governor  
27 or the lieutenant governor's designee, and one representative of

1 each of the following entities, appointed by the single statewide  
2 elected or appointed governing officer, administrative head, or  
3 chair, as appropriate, of the entity:

- 4 (1) Department of Agriculture;
- 5 (2) office of the attorney general;
- 6 (3) General Land Office;
- 7 (4) Public Utility Commission of Texas;
- 8 (5) Department of State Health Services;
- 9 (6) Department of Information Resources;
- 10 (7) Department of Public Safety of the State of Texas;
- 11 (8) Texas Division of Emergency Management [~~division~~  
12 ~~of emergency management of the office of the governor~~];
- 13 (9) adjutant general's department;
- 14 (10) Texas Commission on Environmental Quality;
- 15 (11) Railroad Commission of Texas;
- 16 (12) Texas Strategic Military Planning Commission;
- 17 (13) Texas Department of Transportation;
- 18 (14) Commission on State Emergency Communications;
- 19 (15) Office of State-Federal Relations;
- 20 (16) secretary of state;
- 21 (17) Senate Committee on Transportation and Homeland  
22 Security;
- 23 (18) House Committee on Defense and Veterans' Affairs  
24 [~~and State-Federal Relations~~];
- 25 (19) Texas Animal Health Commission;
- 26 (20) Texas Association of Regional Councils;
- 27 (21) Texas Commission on Law Enforcement Officer



1 Standards and Education;

2 (22) state fire marshal's office;

3 (23) Texas Education Agency;

4 (24) Texas Commission on Fire Protection;

5 (25) Parks and Wildlife Department;

6 (26) Texas Forest Service; and

7 (27) Texas Water Development Board.

8 SECTION 2B.08. Section 661.907(b), Government Code, is  
9 amended to read as follows:

10 (b) The number of certified disaster service volunteers who  
11 are eligible for leave under this section may not exceed 350 state  
12 employees at any one time during a fiscal year. The Texas Division  
13 of Emergency Management [~~division of emergency management in the~~  
14 ~~governor's office~~] shall coordinate the establishment and  
15 maintenance of the list of eligible employees.

16 SECTION 2B.09. Section 661.919(b), Government Code, is  
17 amended to read as follows:

18 (b) The number of amateur radio operators who are eligible  
19 for leave under this section may not exceed 350 state employees at  
20 any one time during a state fiscal year. The Texas Division of  
21 Emergency Management [~~division of emergency management in the~~  
22 ~~governor's office~~] shall coordinate the establishment and  
23 maintenance of the list of eligible employees.

24 SECTION 2B.10. Section 501.001(5), Labor Code, is amended  
25 to read as follows:

26 (5) "Employee" means a person who is:

27 (A) in the service of the state pursuant to an

1 election, appointment, or express oral or written contract of hire;

2 (B) paid from state funds but whose duties  
3 require that the person work and frequently receive supervision in  
4 a political subdivision of the state;

5 (C) a peace officer employed by a political  
6 subdivision, while the peace officer is exercising authority  
7 granted under:

8 (i) Article 2.12, Code of Criminal  
9 Procedure; or

10 (ii) Articles 14.03(d) and (g), Code of  
11 Criminal Procedure;

12 (D) a member of the state military forces, as  
13 defined by Section 431.001, Government Code, who is engaged in  
14 authorized training or duty; or

15 (E) a Texas Task Force 1 member, as defined by  
16 Section 88.301, Education Code, who is activated by the Texas  
17 Division of Emergency Management [~~governor's division of emergency~~  
18 ~~management~~] or is injured during [~~any~~] training [~~session~~] sponsored  
19 or sanctioned by Texas Task Force 1.

20 SECTION 2B.11. Sections 16.055(a) and (b), Water Code, are  
21 amended to read as follows:

22 (a) The chief [~~coordinator~~] of the Texas Division of  
23 Emergency Management [~~division of emergency management of the~~  
24 ~~office of the governor~~] is the state drought manager. The state  
25 drought manager is responsible for managing and coordinating the  
26 drought response component of the state water plan.

27 (b) The drought preparedness council is created and shall

1 meet as necessary to carry out the provisions of this section. The  
2 council is composed of one representative from each of the  
3 following entities, appointed by the administrative head of that  
4 entity:

- 5 (1) the Texas Division of Emergency Management  
6 [~~division of emergency management of the office of the governor~~];
- 7 (2) the board;
- 8 (3) the commission;
- 9 (4) the Parks and Wildlife Department;
- 10 (5) the Department of Agriculture;
- 11 (6) the Texas AgriLife [~~Agricultural~~] Extension  
12 Service;
- 13 (7) the State Soil and Water Conservation Board;
- 14 (8) the Texas Department of Housing and Community  
15 Affairs;
- 16 (9) the Texas Forest Service;
- 17 (10) the Texas Department of Transportation;
- 18 (11) the Texas Department of Economic Development; and
- 19 (12) a representative of groundwater management  
20 interests who is appointed by the governor.

21 SECTION 2B.12. Section 1(3), Chapter 350 (S.B. 1101), Acts  
22 of the 71st Legislature, Regular Session, 1989 (Article 6419c,  
23 Vernon's Texas Civil Statutes), is amended to read as follows:

24 (3) "Division of emergency management" means the Texas  
25 Division of Emergency Management [~~division of emergency management~~  
26 ~~of the office of the governor~~].

27 SECTION 2B.13. A reference in law or a rule to the

1 "governor's division of emergency management" or the "division of  
2 emergency management in the office of the governor" means the Texas  
3 Division of Emergency Management in the Department of Public Safety  
4 of the State of Texas.

5 ARTICLE 3. ADMINISTRATIVE SUSPENSION OF DRIVER'S LICENSE FOR  
6 INTOXICATION OFFENSES

7 SECTION 3.01. Section 524.038, Transportation Code, is  
8 amended by amending Subsection (d) and adding Subsection (e) to  
9 read as follows:

10 (d) An affidavit from an expert witness [~~a person~~] whose  
11 presence is timely requested under this section is inadmissible if  
12 the expert witness [~~person~~] fails to appear at a hearing without a  
13 showing of good cause. Otherwise, an affidavit under this section  
14 may be submitted in lieu of an appearance at the hearing by the  
15 [~~breath test operator, breath test technical supervisor, or~~] expert  
16 witness.

17 (e) An affidavit from a breath test operator or breath test  
18 technical supervisor is admissible unless the judge determines that  
19 justice requires the breath test operator or breath test technical  
20 supervisor to be present.

21 SECTION 3.02. Section 524.039, Transportation Code, is  
22 amended to read as follows:

23 Sec. 524.039. APPEARANCE OF TECHNICIANS AT HEARING. (a)  
24 Not [~~Notwithstanding Section 524.038, if not~~] later than the fifth  
25 day before the date of a scheduled hearing, [the department  
26 receives from] the person who requested a hearing may apply to the  
27 State Office of Administrative Hearings to issue a subpoena for the

1 attendance [~~written notice, including a facsimile transmission,~~  
2 ~~requesting the presence at the hearing]~~ of the breath test operator  
3 who took the specimen of the person's breath to determine alcohol  
4 concentration or the certified breath test technical supervisor  
5 responsible for maintaining and directing the operation of the  
6 breath test instrument used to analyze the specimen of the person's  
7 breath, or both[~~, each requested person must appear at the~~  
8 ~~hearing]~~. The State Office of Administrative Hearings shall issue  
9 the subpoena only on a showing of good cause.

10 (b) The department may reschedule a hearing once not less  
11 than 48 hours before the hearing if a [~~the~~] person subpoenaed  
12 [~~requested to attend~~] under Subsection (a) is unavailable. The  
13 department may also reschedule the hearing on showing good cause  
14 that a [~~the~~] person subpoenaed [~~requested~~] under Subsection (a) is  
15 not available at the time of the hearing.

16 SECTION 3.03. The changes in law made by this article by the  
17 amendment of Sections 524.038 and 524.039, Transportation Code,  
18 apply only to a hearing conducted on or after September 1, 2009. A  
19 hearing conducted before September 1, 2009, is covered by the law in  
20 effect immediately before that date, and the former law is  
21 continued in effect for that purpose.

22 SECTION 3.04. This article takes effect September 1, 2009.

23 ARTICLE 4. CHANGES TO PRIVATE SECURITY ACT

24 SECTION 4.01. Section 1702.002, Occupations Code, is  
25 amended by amending Subdivisions (2), (3), (5), (11), (12), (13),  
26 (17), (19), (20), and (21) and adding Subdivision (6-b) to read as  
27 follows:

1 (2) "Branch office" means an office that is:

2 (A) identified to the public as a place from  
3 which business is conducted, solicited, or advertised; and

4 (B) at a place other than the principal place of  
5 business as shown in board [~~commission~~] records.

6 (3) "Branch office license" means a permit issued by  
7 the board [~~commission~~] that entitles a person to operate at a branch  
8 office as a security services contractor or investigations company.

9 (5) "Commissioned security officer" means a security  
10 officer to whom a security officer commission has been issued by the  
11 board [~~commission~~].

12 (6-b) "Endorsement" means a permit entitling an  
13 individual holding a registration to perform a service regulated by  
14 this chapter for an appropriately licensed company.

15 (11) "Letter of authority" means a permit issued by  
16 the board [~~commission~~] that entitles the security department of a  
17 private business or a political subdivision to employ a  
18 commissioned security officer.

19 (12) "License" means a permit issued by the board  
20 [~~commission~~] that entitles a person to operate as a security  
21 services contractor or investigations company.

22 (13) "License holder" means a person to whom the board  
23 [~~commission~~] issues a license.

24 (17) "Personal protection officer endorsement  
25 [~~authorization~~]" means a permit issued by the board [~~commission~~]  
26 that entitles an individual to act as a personal protection  
27 officer.

1           (19) "Registrant" means an individual who has  
2 registered with the board [~~commission~~] under Section 1702.221.

3           (20) "Registration" means a permit issued by the board  
4 [~~commission~~] to an individual described by Section 1702.221.

5           (21) "Security officer commission" means an  
6 authorization issued by the board [~~commission~~] that entitles a  
7 security officer to carry a firearm.

8           SECTION 4.02. Section 1702.004, Occupations Code, is  
9 amended to read as follows:

10           Sec. 1702.004. GENERAL SCOPE OF REGULATION. (a) The board,  
11 in addition to performing duties required by other law or  
12 exercising powers granted by other law:

13           (1) licenses investigations companies and security  
14 services contractors;

15           (2) issues commissions to certain security officers;

16           (3) issues endorsements [~~authorizations~~] to certain  
17 security officers engaged in the personal protection of  
18 individuals;

19           (4) registers and endorses:

20           (A) certain individuals connected with a license  
21 holder; and

22           (B) certain individuals employed in a field  
23 connected to private investigation or private security; and

24           (5) regulates license holders, security officers,  
25 [~~and~~] registrants, and endorsement holders under this chapter.

26           (b) The board shall adopt rules necessary to comply with  
27 Chapter 53 [~~does not apply to this chapter or to any licensing,~~

1 ~~regulatory, or disciplinary determinations made under this~~  
2 ~~chapter]. In its rules under this section, the board shall list the~~  
3 ~~specific offenses for each category of regulated persons for which~~  
4 ~~a conviction would constitute grounds for the board to take action~~  
5 ~~under Section 53.021.~~

6 SECTION 4.03. The heading to Subchapter B, Chapter 1702,  
7 Occupations Code, is amended to read as follows:

8 SUBCHAPTER B. TEXAS [~~COMMISSION ON~~] PRIVATE SECURITY BOARD

9 SECTION 4.04. Section 1702.021, Occupations Code, is  
10 amended to read as follows:

11 Sec. 1702.021. BOARD [~~COMMISSION~~] MEMBERSHIP. (a) The  
12 Texas Private Security Board consists of seven members appointed by  
13 the governor with the advice and consent of the senate as follows:

14 (1) four public members, each of whom is a citizen of  
15 the United States;

16 (2) one member who is licensed under this chapter as a  
17 private investigator;

18 (3) one member who is licensed under this chapter as an  
19 alarm systems company; and

20 (4) one member who is licensed under this chapter as  
21 the owner or operator of a guard company.

22 (b) Appointments to the board [~~commission~~] shall be made  
23 without regard to the race, color, disability, sex, religion, age,  
24 or national origin of the appointee.

25 [~~(c) On presentation by a commission member of the~~  
26 ~~constitutional oath taken by the member, together with the~~  
27 ~~certificate of appointment, the secretary of state shall issue a~~



1 ~~commission to the member as evidence of the member's authority to~~  
2 ~~act as a commission member.]~~

3 SECTION 4.05. Section 1702.023, Occupations Code, is  
4 amended to read as follows:

5 Sec. 1702.023. ELIGIBILITY OF PUBLIC MEMBERS. The board's  
6 ~~[commission's]~~ public members must be representatives of the  
7 general public. A person may not be a public member of the board  
8 ~~[commission]~~ if the person or the person's spouse:

9 (1) is registered, commissioned, certified, or  
10 licensed by a regulatory agency in the field of private  
11 investigations or private security;

12 (2) is employed by or participates in the management  
13 of a business entity or other organization regulated by or  
14 receiving money from the board ~~[commission]~~;

15 (3) owns or controls, directly or indirectly, more  
16 than a 10 percent interest in a business entity or other  
17 organization regulated by or receiving money from the board  
18 ~~[commission]~~; or

19 (4) uses or receives a substantial amount of tangible  
20 goods, services, or money from the board ~~[commission]~~ other than  
21 compensation or reimbursement authorized by law for board  
22 ~~[commission]~~ membership, attendance, or expenses.

23 SECTION 4.06. Sections 1702.024(b) and (c), Occupations  
24 Code, are amended to read as follows:

25 (b) A person may not be a board ~~[commission]~~ member, and may  
26 not be a department ~~[commission]~~ employee whose primary duties  
27 include private security regulation and who is employed in a "bona

1 fide executive, administrative, or professional capacity," as that  
2 phrase is used for purposes of establishing an exemption to the  
3 overtime provisions of the federal Fair Labor Standards Act of 1938  
4 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, if:

5 (1) the person is an officer, employee, or paid  
6 consultant of a Texas trade association in the field of private  
7 investigation or private security; or

8 (2) the person's spouse is an officer, manager, or paid  
9 consultant of a Texas trade association in the field of private  
10 investigation or private security.

11 (c) A person may not be a board [~~commission~~] member or act as  
12 general counsel to the board [~~commission~~] or agency if the person is  
13 required to register as a lobbyist under Chapter 305, Government  
14 Code, because of the person's activities for compensation on behalf  
15 of a profession related to the operation of the agency.

16 SECTION 4.07. Section 1702.027, Occupations Code, is  
17 amended to read as follows:

18 Sec. 1702.027. GROUNDS FOR REMOVAL. (a) It is a ground for  
19 removal from the board [~~commission~~] that a member:

20 (1) does not have the qualifications required by  
21 Section 1702.021 at the time of taking office;

22 (2) does not maintain the qualifications required by  
23 Section 1702.021 during service on the board [~~commission~~];

24 (3) is ineligible for membership under Section  
25 1702.023 or 1702.024;

26 (4) cannot, because of illness or disability,  
27 discharge the member's duties for a substantial part of the member's

1 term; or

2 (5) is absent from more than half of the regularly  
3 scheduled board [~~commission~~] meetings that the member is eligible  
4 to attend during a calendar year without an excuse approved by a  
5 majority vote of the board [~~commission~~].

6 (b) The validity of an action of the board [~~commission~~] is  
7 not affected by the fact that it is taken when a ground for removal  
8 of a board [~~commission~~] member exists.

9 (c) If the chief administrator [~~director~~] has knowledge  
10 that a potential ground for removal exists, the chief administrator  
11 [~~director~~] shall notify the presiding officer of the board  
12 [~~commission~~] of the potential ground. The presiding officer shall  
13 then notify the governor and the attorney general that a potential  
14 ground for removal exists. If the potential ground for removal  
15 involves the presiding officer, the chief administrator [~~director~~]  
16 shall notify the next highest ranking officer of the board  
17 [~~commission~~], who shall then notify the governor and the attorney  
18 general that a potential ground for removal exists.

19 SECTION 4.08. Section 1702.028, Occupations Code, is  
20 amended to read as follows:

21 Sec. 1702.028. PER DIEM; REIMBURSEMENT. (a) A board  
22 [~~commission~~] member is entitled to a per diem as set by legislative  
23 appropriation for each day the member engages in the business of the  
24 board [~~commission~~].

25 (b) A member is entitled to reimbursement for travel  
26 [~~transportation~~] expenses incurred while conducting board  
27 business, including expenses for transportation, meals, and

1 lodging, as prescribed by the General Appropriations Act. [A  
2 ~~member may not receive compensation for travel expenses, including~~  
3 ~~expenses for meals and lodging, other than transportation~~  
4 ~~expenses.~~]

5 SECTION 4.09. Section 1702.029, Occupations Code, is  
6 amended to read as follows:

7 Sec. 1702.029. MEETINGS. The board [~~commission~~] shall meet  
8 at regular intervals to be decided by the board [~~commission~~].

9 SECTION 4.10. Section 1702.030, Occupations Code, is  
10 amended to read as follows:

11 Sec. 1702.030. TRAINING. (a) A person who is appointed to  
12 and qualifies for office as a board [~~commission~~] member may not  
13 vote, deliberate, or be counted as a member in attendance at a board  
14 [~~commission~~] meeting until the person completes a training program  
15 that complies with this section.

16 (b) The training program must provide the person with  
17 information regarding:

- 18 (1) this chapter;
- 19 (2) the programs operated by the board [~~commission~~];
- 20 (3) the role and functions of the board [~~commission~~];
- 21 (4) the rules of the board [~~commission~~], with an  
22 emphasis on the rules that relate to disciplinary and investigatory  
23 authority;
- 24 (5) the current budget for the board [~~commission~~];
- 25 (6) the results of the most recent formal audit of the  
26 board [~~commission~~];
- 27 (7) the requirements of:

1 (A) the open meetings law, Chapter 551,  
2 Government Code;

3 (B) the public information law, Chapter 552,  
4 Government Code;

5 (C) the administrative procedure law, Chapter  
6 2001, Government Code; and

7 (D) other laws relating to public officials,  
8 including conflict of interest laws; and

9 (8) any applicable ethics policies adopted by the  
10 board [~~commission~~] or the Texas Ethics Commission.

11 (c) A person appointed to the board [~~commission~~] is entitled  
12 to reimbursement, as provided by the General Appropriations Act,  
13 for the travel expenses incurred in attending the training program  
14 regardless of whether the attendance at the program occurs before  
15 or after the person qualifies for office.

16 SECTION 4.11. The heading to Subchapter C, Chapter 1702,  
17 Occupations Code, is amended to read as follows:

18 SUBCHAPTER C. CHIEF ADMINISTRATOR [~~DIRECTOR~~] AND PERSONNEL

19 SECTION 4.12. Section 1702.041, Occupations Code, is  
20 amended to read as follows:

21 Sec. 1702.041. CHIEF ADMINISTRATOR [~~DIRECTOR~~]. (a) The  
22 [~~director is the~~] chief administrator is responsible for the  
23 administration of this chapter under the direction of the board  
24 [~~commission~~]. The chief administrator [~~director~~] shall perform  
25 duties as prescribed by the board and the department [~~commission~~].

26 (b) The chief administrator [~~director~~] is a full-time  
27 employee of the department [~~commission~~]. A board [~~commission~~]

1 member may not serve as chief administrator [~~director~~].

2 SECTION 4.13. Section 1702.042, Occupations Code, is  
3 amended to read as follows:

4 Sec. 1702.042. PERSONNEL; CONFLICT OF INTEREST. An  
5 employee of the department whose primary duties include private  
6 security regulation [~~commission~~] may not:

7 (1) have a financial or business interest, contingent  
8 or otherwise, in a security services contractor or investigations  
9 company; or

10 (2) be licensed under this chapter.

11 SECTION 4.14. Section 1702.043, Occupations Code, is  
12 amended to read as follows:

13 Sec. 1702.043. DIVISION OF RESPONSIBILITIES. The board  
14 [~~commission~~] shall develop and implement policies that clearly  
15 separate the policy-making responsibilities of the board  
16 [~~commission~~] and the management responsibilities of the chief  
17 administrator [~~director~~] and staff of the department [~~commission~~].

18 SECTION 4.15. Section 1702.044, Occupations Code, is  
19 amended to read as follows:

20 Sec. 1702.044. QUALIFICATIONS AND STANDARDS OF CONDUCT  
21 INFORMATION. The chief administrator [~~director~~] or the chief  
22 administrator's [~~director's~~] designee shall provide to board  
23 [~~commission~~] members and to agency employees, as often as  
24 necessary, information regarding the requirements for office or  
25 employment under this chapter, including information regarding a  
26 person's responsibilities under applicable laws relating to  
27 standards of conduct for state officers or employees.

1 SECTION 4.16. The heading to Subchapter D, Chapter 1702,  
2 Occupations Code, is amended to read as follows:

3 SUBCHAPTER D. POWERS AND DUTIES OF BOARD [~~COMMISSION~~]

4 SECTION 4.17. Section 1702.061, Occupations Code, is  
5 amended to read as follows:

6 Sec. 1702.061. GENERAL POWERS AND DUTIES OF BOARD  
7 [~~COMMISSION~~]. (a) The board [~~Texas Commission on Private~~  
8 ~~Security~~] shall perform the functions and duties provided by this  
9 chapter.

10 (b) The board [~~commission~~] shall adopt rules and general  
11 policies to guide the agency in the administration of this chapter.

12 (c) The rules and policies adopted by the board [~~commission~~]  
13 under Subsection (b) must be consistent with this chapter and other  
14 board [~~commission~~] rules adopted under this chapter and with any  
15 other applicable law, state rule, or federal regulation.

16 (d) The board [~~commission~~] has the powers and duties to:

17 (1) determine the qualifications of license holders,  
18 registrants, endorsement holders, and commissioned security  
19 officers;

20 (2) investigate alleged violations of this chapter and  
21 of board [~~commission~~] rules;

22 (3) adopt rules necessary to implement this chapter;  
23 and

24 (4) establish and enforce standards governing the  
25 safety and conduct of each person licensed, registered, or  
26 commissioned under this chapter.

27 (e) The board [~~commission~~] shall have a seal in the form

1 prescribed by the board [~~commission~~].

2 [~~(f) The commission may commission investigators who are~~  
3 ~~employed full-time by the commission as peace officers for the~~  
4 ~~limited purpose of assisting the commission in investigating~~  
5 ~~alleged violations of this chapter and of commission rules.~~]

6 SECTION 4.18. Subchapter D, Chapter 1702, Occupations Code,  
7 is amended by adding Section 1702.0612 to read as follows:

8 Sec. 1702.0612. NEGOTIATED RULEMAKING AND ALTERNATIVE  
9 DISPUTE RESOLUTION. (a) The board shall develop and implement a  
10 policy to encourage the use of:

11 (1) negotiated rulemaking procedures under Chapter  
12 2008, Government Code, for the adoption of board rules; and

13 (2) appropriate alternative dispute resolution  
14 procedures under Chapter 2009, Government Code, to assist in the  
15 resolution of internal and external disputes under the board's  
16 jurisdiction.

17 (b) The board's procedures relating to alternative dispute  
18 resolution must conform, to the extent possible, to any model  
19 guidelines issued by the State Office of Administrative Hearings  
20 for the use of alternative dispute resolution by state agencies.

21 (c) The board shall designate a trained person to:

22 (1) coordinate the implementation of the policy  
23 adopted under Subsection (a);

24 (2) serve as a resource for any training needed to  
25 implement the procedures for negotiated rulemaking or alternative  
26 dispute resolution; and

27 (3) collect data concerning the effectiveness of those



1 procedures, as implemented by the board.

2 SECTION 4.19. Section 1702.062, Occupations Code, is  
3 amended to read as follows:

4 Sec. 1702.062. FEES. (a) The board [~~commission~~] by rule  
5 shall establish reasonable and necessary fees that produce  
6 sufficient revenue to administer this chapter. The fees may not  
7 produce unnecessary fund balances. [~~and may not exceed the~~  
8 ~~following amounts:~~

- 9 [~~Class A license~~ ~~\_\_\_\_\_~~ ~~\$350 (original and renewal)~~
- 10 [~~Class B license~~ ~~\_\_\_\_\_~~ ~~\$400 (original and renewal)~~
- 11 [~~Class C license~~ ~~\_\_\_\_\_~~ ~~\$540 (original and renewal)~~
- 12 [~~Class D license~~ ~~\_\_\_\_\_~~ ~~\$400 (original and renewal)~~
- 13 [~~Reinstate suspended license~~ ~~\_\_\_\_\_~~ ~~\$150~~
- 14 [~~Assignment of license~~ ~~\_\_\_\_\_~~ ~~\$150~~
- 15 [~~Change name of license~~ ~~\_\_\_\_\_~~ ~~\$ 75~~
- 16 [~~Delinquency fee~~ ~~\_\_\_\_\_~~ ~~\_\_\_\_\_~~
- 17 [~~Branch office certificate and renewal~~ ~~\_\_\_\_\_~~ ~~\$300~~
- 18 [~~Registration fee for private investigator, manager, branch~~  
19 ~~office manager, locksmith, electronic access control device~~  
20 ~~installer, and alarm systems installer~~ ~~\$ 30 (original and renewal)~~
- 21 [~~Registration fee for noncommissioned security officer~~ ~~\$ 30~~  
22 ~~(original and renewal)~~
- 23 [~~Registration fee for security salesperson~~ ~~\_\_\_\_\_~~ ~~\$ 30~~
- 24 [~~Registration fee for alarm systems monitor~~ ~~\_\_\_\_\_~~ ~~\$ 30~~
- 25 [~~Registration fee for dog trainer~~ ~~\_\_\_\_\_~~ ~~\$ 30~~
- 26 [~~Registration fee for owner, officer, partner, or~~  
27 ~~shareholder of a license holder~~ ~~\_\_\_\_\_~~ ~~\$ 50~~

1	<del>[Registration fee for security consultant</del>	<del>\$300</del>
2	<del>[Registration fee for employee of license holder</del>	<del>\$ 30</del>
3	<del>[Security officer commission fee</del>	<del>\$ 50</del>
4	<del>(original and renewal)</del>	
5	<del>[School instructor fee</del>	<del>\$100</del>
6	<del>(original and renewal)</del>	
7	<del>[School approval fee</del>	<del>\$350</del>
8	<del>(original and renewal)</del>	
9	<del>[Letter of authority fee for private business and political</del>	
10	<del>subdivision</del>	<del>\$400</del>
11	<del>[Letter of authority renewal fee for private business and</del>	
12	<del>political subdivision</del>	<del>\$225</del>
13	<del>[Letter of authority fee for commissioned officer,</del>	
14	<del>noncommissioned officer, or personal protection officer for</del>	
15	<del>political subdivision</del>	<del>\$ 10</del>
16	<del>[FBI fingerprint check</del>	<del>\$ 25</del>
17	<del>[Duplicate pocket card</del>	<del>\$ 10</del>
18	<del>[Employee information update fee</del>	<del>\$ 15</del>
19	<del>[Burglar alarm sellers renewal fee</del>	<del>\$ 30</del>
20	<del>[Personal protection officer authorization</del>	<del>\$ 50]</del>

21 (b) The board ~~[In addition to other fees established under~~  
 22 ~~this chapter, the commission]~~ may charge a fee each time the board  
 23 ~~[commission]~~ requires a person regulated under this chapter to  
 24 resubmit a set of fingerprints for processing by the board  
 25 ~~[commission]~~ during the application process for a license,  
 26 registration, endorsement, or commission. The board ~~[commission]~~  
 27 shall set the fee in an amount that is reasonable and necessary to

1 cover the [~~commission's~~] administrative expenses related to  
2 processing the fingerprints.

3 (c) A person whose pocket card has not expired is not  
4 eligible to receive from the board [~~commission~~] another pocket card  
5 in the same classification in which the pocket card is held.

6 SECTION 4.20. The heading to Section 1702.063, Occupations  
7 Code, is amended to read as follows:

8 Sec. 1702.063. BOARD [~~COMMISSION~~] USE OF FINES.

9 SECTION 4.21. Section 1702.0635, Occupations Code, is  
10 amended to read as follows:

11 Sec. 1702.0635. RESTRICTIONS ON CERTAIN RULES. The board  
12 [~~commission~~] may not adopt rules or establish unduly restrictive  
13 experience or education requirements that limit a person's ability  
14 to be licensed as an electronic access control device company or be  
15 registered as an electronic access control device installer.

16 SECTION 4.22. Section 1702.064, Occupations Code, is  
17 amended to read as follows:

18 Sec. 1702.064. RULES RESTRICTING ADVERTISING OR  
19 COMPETITIVE BIDDING. (a) The board [~~commission~~] may not adopt  
20 rules restricting advertising or competitive bidding by a person  
21 regulated by the board [~~commission~~] except to prohibit false,  
22 misleading, or deceptive practices by the person.

23 (b) The board [~~commission~~] may not include in its rules to  
24 prohibit false, misleading, or deceptive practices by a person  
25 regulated by the board [~~commission~~] a rule that:

26 (1) restricts the person's use of any medium for  
27 advertising;

1           (2) restricts the person's personal appearance or use  
2 of the person's personal voice in an advertisement;

3           (3) relates to the size or duration of an  
4 advertisement by the person; or

5           (4) restricts the person's advertisement under a trade  
6 name.

7           SECTION 4.23. Section 1702.0645, Occupations Code, is  
8 amended to read as follows:

9           Sec. 1702.0645. PAYMENT OF FEES AND FINES. (a) The board  
10 [~~commission~~] may adopt rules regarding the method of payment of a  
11 fee or a fine assessed under this chapter.

12           (b) Rules adopted under this section may:

13           (1) authorize the use of electronic funds transfer or  
14 a valid credit card issued by a financial institution chartered by a  
15 state or the federal government or by a nationally recognized  
16 credit organization approved by the board [~~commission~~]; and

17           (2) require the payment of a discount or a reasonable  
18 service charge for a credit card payment in addition to the fee or  
19 the fine.

20           SECTION 4.24. Section 1702.066, Occupations Code, is  
21 amended to read as follows:

22           Sec. 1702.066. SERVICE OF PROCESS; SERVICE OF DOCUMENTS ON  
23 BOARD [~~COMMISSION~~]. Legal process and documents required by law to  
24 be served on or filed with the board [~~commission~~] must be served on  
25 or filed with the chief administrator [~~director~~] at the designated  
26 office of the board [~~commission~~].

27           SECTION 4.25. Section 1702.067, Occupations Code, is

1 amended to read as follows:

2           Sec. 1702.067. BOARD [~~COMMISSION~~] RECORDS; EVIDENCE. An  
3 official record of the board [~~commission~~] or an affidavit by the  
4 chief administrator [~~director~~] as to the content of the record is  
5 prima facie evidence of a matter required to be kept by the board  
6 [~~commission~~].

7           SECTION 4.26. Section 1702.068, Occupations Code, is  
8 amended to read as follows:

9           Sec. 1702.068. APPEAL BOND NOT REQUIRED. The board  
10 [~~commission~~] is not required to give an appeal bond in any cause  
11 arising under this chapter.

12           SECTION 4.27. Section 1702.081, Occupations Code, is  
13 amended to read as follows:

14           Sec. 1702.081. PUBLIC INTEREST INFORMATION. (a) The board  
15 [~~commission~~] shall prepare information of interest to consumers or  
16 recipients of services regulated under this chapter describing the  
17 board's [~~commission's~~] regulatory functions and the procedures by  
18 which complaints are filed with and resolved by the board  
19 [~~commission~~].

20           (b) The board [~~commission~~] shall make the information  
21 available to the public and appropriate state agencies.

22           SECTION 4.28. Section 1702.082, Occupations Code, is  
23 amended to read as follows:

24           Sec. 1702.082. COMPLAINTS. (a) The board [~~commission by~~  
25 ~~rule shall establish methods by which consumers and service~~  
26 ~~recipients are notified of the name, mailing address, and telephone~~  
27 ~~number of the commission for the purpose of directing complaints to~~

1 ~~the commission. The commission may provide for that notice:~~

2 ~~[(1) on each registration form, application, or~~  
3 ~~written contract for services of a person regulated under this~~  
4 ~~chapter;~~

5 ~~[(2) on a sign prominently displayed in the place of~~  
6 ~~business of each person regulated under this chapter; or~~

7 ~~[(3) in a bill for services provided by a person~~  
8 ~~regulated under this chapter.~~

9 ~~[(b) The commission]~~ shall maintain a system to promptly and  
10 efficiently act on complaints ~~[file on each written complaint]~~  
11 filed with the board ~~[commission]~~. The board shall maintain  
12 information about parties to the complaint, ~~[file must include:~~

13 ~~[(1) the name of the person who filed the complaint;~~

14 ~~[(2) the date the complaint is received by the~~  
15 ~~commission;~~

16 ~~[(3)]~~ the subject matter of the complaint, [+]

17 ~~[(4) the name of each person contacted in relation to~~  
18 ~~the complaint;~~

19 ~~[(5)]~~ a summary of the results of the review or  
20 investigation of the complaint, [+] and its disposition

21 ~~[(6) an explanation of the reason the file was closed,~~  
22 ~~if the agency closed the file without taking action other than to~~  
23 ~~investigate the complaint].~~

24 (b) ~~[(e)]~~ The board ~~[commission]~~ shall make information  
25 available describing its ~~[provide to the person filing the~~  
26 ~~complaint a copy of the commission's policies and]~~ procedures for  
27 [relating to] complaint investigation and resolution.

1        (c) The board shall periodically [~~(d) Unless it would~~  
2 ~~jeopardize an undercover investigation, the commission shall~~  
3 ~~provide to each person who is a subject of the complaint a copy of~~  
4 ~~the commission's policies and procedures relating to complaint~~  
5 ~~investigation and resolution.~~

6        [~~(e) The commission, at least quarterly until final~~  
7 ~~disposition of the complaint, shall]~~ notify the [~~person filing the~~  
8 complaint parties [~~and each person who is a subject of the~~  
9 ~~complaint]~~ of the status of the complaint until final disposition  
10 [~~investigation unless the notice would jeopardize an undercover~~  
11 ~~investigation)].~~

12        SECTION 4.29. Section 1702.083, Occupations Code, is  
13 amended to read as follows:

14        Sec. 1702.083. PUBLIC PARTICIPATION.        The board  
15 [~~commission~~] shall develop and implement policies that provide the  
16 public with a reasonable opportunity to appear before the board  
17 [~~commission~~] and to speak on any issue under the board's  
18 [~~commission's~~] jurisdiction.

19        SECTION 4.30. Section 1702.084, Occupations Code, is  
20 amended to read as follows:

21        Sec. 1702.084. PUBLIC ACCESS TO CERTAIN RECORDS OF  
22 DISCIPLINARY ACTIONS. (a) The board [~~commission~~] shall make  
23 available to the public through a toll-free telephone number,  
24 Internet website, or other easily accessible medium determined by  
25 the board [~~commission~~] the following information relating to a  
26 disciplinary action taken during the preceding three years  
27 regarding a person regulated by the board [~~commission~~]:

- 1           (1) the identity of the person;
- 2           (2) the nature of the complaint that was the basis of
- 3 the disciplinary action taken against the person; and
- 4           (3) the disciplinary action taken by the board
- 5 [~~commission~~].

6           (b) In providing the information, the board [~~commission~~]

7 shall present the information in an impartial manner, use language

8 that is commonly understood, and, if possible, avoid jargon

9 specific to the security industry.

10          (c) The board [~~commission~~] shall update the information on a

11 monthly basis.

12          (d) The board [~~commission~~] shall maintain the

13 confidentiality of information regarding the identification of a

14 complainant.

15          SECTION 4.31. Section 1702.103, Occupations Code, is

16 amended to read as follows:

17          Sec. 1702.103. CLASSIFICATION AND LIMITATION OF LICENSES.

18          (a) The license classifications are:

19               (1) Class A: investigations company license, covering

20 operations of an investigations company;

21               (2) Class B: security services contractor license,

22 covering operations of a security services contractor;

23               (3) Class C: covering the operations included within

24 Class A and Class B; [~~and~~]

25               (4) Class F: level III training school license;

26               (5) Class O: alarm level I training school license;

27               (6) Class P: private business letter of authority



1 license;

2 (7) Class X: government letter of authority license;

3 and

4 (8) Class T: telematics license [~~Class D: electronic~~  
5 ~~access control device license, covering operations of an electronic~~  
6 ~~access control device company~~].

7 (b) A [~~Class A, B, C, or D~~] license described by this chapter  
8 does not authorize the license holder to perform a service for which  
9 the license holder has not qualified. A person may not engage in an  
10 operation outside the scope of that person's license. The board  
11 [~~commission~~] shall indicate on the license the services the license  
12 holder is authorized to perform. The license holder may not perform  
13 a service unless it is indicated on the license.

14 (c) A license is not assignable unless the assignment is  
15 approved in advance by the board [~~commission~~].

16 (d) The board [~~commission~~] shall prescribe by rule the  
17 procedure under which a license may be terminated.

18 (e) The board by rule may establish other license  
19 classifications for activities expressly regulated by this chapter  
20 and may establish qualifications and practice requirements  
21 consistent with this chapter for those license classifications.

22 SECTION 4.32. Section 1702.110, Occupations Code, is  
23 amended to read as follows:

24 Sec. 1702.110. APPLICATION FOR LICENSE. An application for  
25 a license under this chapter must be in the form prescribed by the  
26 board [~~commission~~] and include:

27 (1) the full name and business address of the

- 1 applicant;
- 2 (2) the name under which the applicant intends to do  
3 business;
- 4 (3) a statement as to the general nature of the  
5 business in which the applicant intends to engage;
- 6 (4) a statement as to the classification for which the  
7 applicant requests qualification;
- 8 (5) if the applicant is an entity other than an  
9 individual, the full name and residence address of each partner,  
10 officer, and director of the applicant, and of the applicant's  
11 manager;
- 12 (6) if the applicant is an individual, two  
13 classifiable sets of fingerprints of the applicant or, if the  
14 applicant is an entity other than an individual, of each officer and  
15 of each partner or shareholder who owns at least a 25 percent  
16 interest in the applicant;
- 17 (7) a verified statement of the applicant's experience  
18 qualifications in the particular classification in which the  
19 applicant is applying;
- 20 (8) a report from the department [~~Texas Department of~~  
21 ~~Public Safety~~] stating the applicant's record of any convictions  
22 for a Class B misdemeanor or equivalent offense or a greater  
23 offense;
- 24 (9) the social security number of the individual  
25 making the application; and
- 26 (10) other information, evidence, statements, or  
27 documents required by the board [~~commission~~].

1 SECTION 4.33. Section 1702.111, Occupations Code, is  
2 amended to read as follows:

3 Sec. 1702.111. ISSUANCE OF BRANCH OFFICE LICENSE. (a) A  
4 license holder, in accordance with Section 1702.129, shall notify  
5 the board [~~commission~~] in writing of the establishment of a branch  
6 office and file in writing with the board [~~commission~~] the address  
7 of the branch office.

8 (b) On application by a license holder, the board  
9 [~~commission~~] shall issue a branch office license.

10 SECTION 4.34. Section 1702.112, Occupations Code, is  
11 amended to read as follows:

12 Sec. 1702.112. FORM OF LICENSE. The board [~~commission~~]  
13 shall prescribe the form of a license, including a branch office  
14 license. The license must include:

- 15 (1) the name of the license holder;
- 16 (2) the name under which the license holder is to  
17 operate; and
- 18 (3) the license number and the date the license was  
19 issued.

20 SECTION 4.35. Sections 1702.113(a) and (c), Occupations  
21 Code, are amended to read as follows:

22 (a) An applicant for a license, certificate of  
23 registration, endorsement, or security officer commission or the  
24 applicant's manager must be at least 18 years of age and must not:

- 25 (1) [~~have been convicted in any jurisdiction of two or~~  
26 ~~more felony offenses, unless full pardons have been granted for all~~  
27 ~~convictions for reasons relating to wrongful convictions;~~

1           ~~[(2) have been convicted in any jurisdiction of any of~~  
2 ~~the following:~~

3                   ~~[(A) a single felony or equivalent offense for~~  
4 ~~which the 20th anniversary of the date of conviction has not~~  
5 ~~occurred before the date of application, unless a full pardon has~~  
6 ~~been granted for reasons relating to a wrongful conviction; or~~

7                   ~~[(B) a Class A misdemeanor or equivalent offense~~  
8 ~~for which the 10th anniversary of the date of conviction has not~~  
9 ~~occurred before the date of application, unless a full pardon has~~  
10 ~~been granted for reasons relating to a wrongful conviction;~~

11           ~~[(3)]~~ at the time of application be charged with the  
12 commission of a Class A misdemeanor or felony offense, under an  
13 information or indictment;

14           ~~[(4) in the 10 years preceding the date of~~  
15 ~~application, have been adjudicated as having engaged in delinquent~~  
16 ~~conduct violating a penal law of the grade of felony;]~~

17           (2) ~~[(5)]~~ have been found by a court to be incompetent  
18 by reason of a mental defect or disease and not have been restored  
19 to competency;

20           (3) ~~[(6)]~~ have been dishonorably discharged from the  
21 United States armed services, discharged from the United States  
22 armed services under other conditions determined by the board to be  
23 prohibitive, or dismissed from the United States armed services if  
24 a commissioned officer in the United States armed services; or

25           (4) ~~[(7)]~~ be required to register in this or any other  
26 state as a sex offender, unless the applicant is approved by the  
27 board under Section 1702.3615.

1 (c) For purposes of this section, an offense under the laws  
2 of this state, another state, or the United States is considered[+]

3 ~~[(1) a felony if the offense:~~

4 ~~[(A) at the time of conviction was designated by~~  
5 ~~a law of this state as a felony, including a state jail felony;~~

6 ~~[(B) contains all the elements of an offense~~  
7 ~~designated by a law of this state as a felony, including a state~~  
8 ~~jail felony; or~~

9 ~~[(C) is punishable by confinement for one year or~~  
10 ~~more in a penitentiary;~~

11 ~~[(2) a Class A misdemeanor if the offense is not a~~  
12 ~~felony and the offense:~~

13 ~~[(A) at the time of conviction was designated by~~  
14 ~~a law of this state as a Class A misdemeanor;~~

15 ~~[(B) contains all the elements of an offense~~  
16 ~~designated by a law of this state as a Class A misdemeanor; or~~

17 ~~[(C) provides as a possible punishment~~  
18 ~~confinement in a jail other than a state jail felony facility; or~~

19 ~~[(3)] a Class B misdemeanor if the offense is not a~~  
20 ~~felony or Class A misdemeanor and the offense:~~

21 (1) ~~[(A)]~~ at the time of conviction was designated by  
22 a law of this state as a Class B misdemeanor;

23 (2) ~~[(B)]~~ contains all the elements of an offense  
24 designated by a law of this state as a Class B misdemeanor; or

25 (3) ~~[(C)]~~ provides as a possible punishment  
26 confinement in a jail other than a state jail felony facility.

27 SECTION 4.36. Section 1702.114, Occupations Code, is

1 amended to read as follows:

2           Sec. 1702.114. ADDITIONAL                   QUALIFICATIONS                   FOR  
3 INVESTIGATIONS COMPANY LICENSE. (a) An applicant for a license to  
4 engage in the business of an investigations company or the  
5 applicant's manager must have, before the date of the application,  
6 three consecutive years' experience in the investigative field as  
7 an employee, manager, or owner of an investigations company or  
8 satisfy other requirements set by the board [~~commission~~].

9           (b) The applicant's experience must be:

10                   (1) reviewed by the board [~~commission~~] or the chief  
11 administrator [~~director~~]; and

12                   (2) determined to be adequate to qualify the applicant  
13 to engage in the business of an investigations company.

14           SECTION 4.37. Section 1702.115, Occupations Code, is  
15 amended to read as follows:

16           Sec. 1702.115. ADDITIONAL QUALIFICATIONS FOR SECURITY  
17 SERVICES CONTRACTOR LICENSE. (a) An applicant for a license to  
18 engage in the business of a security services contractor or the  
19 applicant's manager must have, before the date of the application,  
20 two consecutive years' experience in each security services field  
21 for which the person applies as an employee, manager, or owner of a  
22 security services contractor or satisfy other requirements set by  
23 the board [~~commission~~].

24           (b) The applicant's experience must have been obtained  
25 legally and must be:

26                   (1) reviewed by the board [~~commission~~] or the chief  
27 administrator [~~director~~]; and

1 (2) determined to be adequate to qualify the applicant  
2 to engage in the business of a security services contractor.

3 SECTION 4.38. Section 1702.116, Occupations Code, is  
4 amended to read as follows:

5 Sec. 1702.116. QUALIFICATIONS FOR GUARD DOG COMPANY  
6 LICENSE; INSPECTIONS. (a) An applicant for a license to engage in  
7 the business of a guard dog company must:

8 (1) meet the requirements of Sections 1702.113 and  
9 1702.115; and

10 (2) present evidence satisfactory to the board  
11 [~~commission~~] that the applicant will comply with the rules adopted  
12 under this section.

13 (b) After consulting the [~~Texas~~] Department of State Health  
14 Services, the board [~~commission~~] shall adopt rules to ensure that  
15 the areas in which a guard dog company houses, exercises, or trains  
16 its animals are securely enclosed by a six-foot chain-link fence or  
17 made equally secure.

18 (c) The board [~~commission~~] shall conduct regular  
19 inspections to ensure compliance with the rules adopted under this  
20 section.

21 SECTION 4.39. Sections 1702.117(a), (c), and (d),  
22 Occupations Code, are amended to read as follows:

23 (a) The board [~~commission~~] shall require an applicant for a  
24 commission, license, registration, or endorsement under this  
25 chapter or the applicant's manager to demonstrate qualifications in  
26 the person's license classification, including knowledge of  
27 applicable state laws and board [~~commission~~] rules, by taking an

1 examination to be determined by the board [~~commission~~].

2 (c) The board [~~commission~~] shall set the reexamination fee  
3 in an amount not to exceed the amount of the renewal fee for the  
4 license classification for which application was made.

5 (d) The board [~~commission~~] shall develop and provide to a  
6 person who applies to take the examination under Subsection (a)  
7 material containing all applicable state laws and board  
8 [~~commission~~] rules.

9 SECTION 4.40. Section 1702.118, Occupations Code, is  
10 amended to read as follows:

11 Sec. 1702.118. EXAMINATION RESULTS. (a) Not later than the  
12 30th day after the date a person takes a licensing examination under  
13 this chapter, the board [~~commission~~] shall notify the person of the  
14 examination results.

15 (b) If an examination is graded or reviewed by a testing  
16 service:

17 (1) the board [~~commission~~] shall notify the person of  
18 the examination results not later than the 14th day after the date  
19 the board [~~commission~~] receives the results from the testing  
20 service; and

21 (2) if notice of the examination results will be  
22 delayed for longer than 90 days after the examination date, the  
23 board [~~commission~~] shall notify the person of the reason for the  
24 delay before the 90th day.

25 (c) The board [~~commission~~] may require a testing service to  
26 notify a person of the results of the person's examination.

27 (d) If requested in writing by a person who fails a



1 licensing examination administered under this chapter, the board  
2 [~~commission~~] shall furnish the person with an analysis of the  
3 person's performance on the examination.

4 SECTION 4.41. Section 1702.1183, Occupations Code, is  
5 amended to read as follows:

6 Sec. 1702.1183. RECIPROCAL LICENSE FOR CERTAIN FOREIGN  
7 APPLICANTS. (a) The board [~~commission~~] may waive any prerequisite  
8 to obtaining a license for an applicant who holds a license issued  
9 by another jurisdiction with which this state has a reciprocity  
10 agreement.

11 (b) The board [~~commission~~] may make an agreement, subject to  
12 the approval of the governor, with another state to allow for  
13 licensing by reciprocity.

14 SECTION 4.42. Section 1702.1186, Occupations Code, is  
15 amended to read as follows:

16 Sec. 1702.1186. PROVISIONAL LICENSE. (a) The board  
17 [~~commission~~] may issue a provisional license to an applicant  
18 currently licensed in another jurisdiction who seeks an equivalent  
19 license in this state and who:

20 (1) has been licensed in good standing as an  
21 investigations company or security services contractor for at least  
22 two years in another jurisdiction, including a foreign country,  
23 that has licensing requirements substantially equivalent to the  
24 requirements of this chapter;

25 (2) has passed a national or other examination  
26 recognized by the board [~~commission~~] relating to the practice of  
27 private investigations or security services contracting; and

1           (3) is sponsored by a person licensed by the board  
2 [~~commission~~] under this chapter with whom the provisional license  
3 holder will practice during the time the person holds a provisional  
4 license.

5           (b) A provisional license is valid until the date the board  
6 [~~commission~~] approves or denies the provisional license holder's  
7 application for a license. The board [~~commission~~] shall issue a  
8 license under this chapter to the provisional license holder if:

9           (1) the provisional license holder is eligible to be  
10 licensed under Section 1702.1183; or

11           (2) the provisional license holder:

12                   (A) passes the part of the examination under  
13 Section 1702.117(a) that relates to the applicant's knowledge and  
14 understanding of the laws and rules relating to the practice of an  
15 investigations company or security services contractor in this  
16 state;

17                   (B) is verified by the board [~~commission~~] as  
18 meeting the academic and experience requirements for a license  
19 under this chapter; and

20                   (C) satisfies any other licensing requirements  
21 under this chapter.

22           (c) The board [~~commission~~] must approve or deny a  
23 provisional license holder's application for a license not later  
24 than the 180th day after the date the provisional license is issued.  
25 The board [~~commission~~] may extend the 180-day period if the results  
26 of an examination have not been received by the board [~~commission~~]  
27 before the end of that period.

1 (d) The board [~~commission~~] may establish a fee for  
2 provisional licenses in an amount reasonable and necessary to cover  
3 the cost of issuing the license.

4 SECTION 4.43. Section 1702.120(b), Occupations Code, is  
5 amended to read as follows:

6 (b) An individual may not apply to the board [~~commission~~] to  
7 serve as manager of an investigations company, guard company, alarm  
8 systems company, armored car company, courier company, or guard dog  
9 company without the intent to maintain that supervisory position on  
10 a daily basis for that company.

11 SECTION 4.44. Section 1702.121, Occupations Code, is  
12 amended to read as follows:

13 Sec. 1702.121. TERMINATION OF MANAGER. A license holder  
14 shall notify the board [~~commission~~] in writing not later than the  
15 14th day after the date a manager ceases to be manager of the  
16 license holder's business. The license remains in effect for a  
17 reasonable period after notice is given as provided by board  
18 [~~commission~~] rule pending the board's [~~commission's~~] determination  
19 of the qualification of another manager under this subchapter.

20 SECTION 4.45. Section 1702.122, Occupations Code, is  
21 amended to read as follows:

22 Sec. 1702.122. TEMPORARY CONTINUATION OF LICENSE HOLDER'S  
23 BUSINESS. Under the terms provided by board [~~commission~~] rule, a  
24 license holder's business may continue for a temporary period if  
25 the individual on the basis of whose qualifications a license under  
26 this chapter has been obtained ceases to be connected with the  
27 license holder.

1 SECTION 4.46. Section 1702.123, Occupations Code, is  
2 amended to read as follows:

3 Sec. 1702.123. INSURANCE; BOND. (a) A license holder shall  
4 maintain on file with the board [~~commission~~] at all times the surety  
5 bond and certificate of insurance required by this chapter.

6 (b) The board [~~commission~~] shall immediately suspend the  
7 license of a license holder who violates Subsection (a).

8 (c) The board [~~commission~~] may rescind the license  
9 suspension if the license holder provides proof to the board  
10 [~~commission~~] that the bond or the insurance coverage is still in  
11 effect. The license holder must provide the proof in a form  
12 satisfactory to the board [~~commission~~] not later than the 10th day  
13 after the date the license is suspended.

14 (d) After suspension of the license, the board [~~commission~~]  
15 may not reinstate the license until an application, in the form  
16 prescribed by the board [~~commission~~], is filed accompanied by a  
17 proper bond, insurance certificate, or both. The board  
18 [~~commission~~] may deny the application notwithstanding the  
19 applicant's compliance with this section:

20 (1) for a reason that would justify suspending,  
21 revoking, or denying a license; or

22 (2) if, during the suspension, the applicant performs  
23 a practice for which a license is required.

24 SECTION 4.47. Section 1702.125, Occupations Code, is  
25 amended to read as follows:

26 Sec. 1702.125. BOND REQUIREMENT. A bond executed and filed  
27 with the board [~~commission~~] under this chapter remains in effect

1 until the surety terminates future liability by providing to the  
2 board [~~commission~~] at least 30 days' notice of the intent to  
3 terminate liability.

4 SECTION 4.48. Sections 1702.127(b) and (c), Occupations  
5 Code, are amended to read as follows:

6 (b) A license holder shall maintain a record containing  
7 information related to the license holder's employees as required  
8 by the board [~~commission~~].

9 (c) A license holder shall maintain for board [~~commission~~]  
10 inspection at the license holder's principal place of business or  
11 branch office two recent color photographs, of a type required by  
12 the board [~~commission~~], of each applicant, registrant,  
13 commissioned security officer, and employee of the license holder.

14 SECTION 4.49. Section 1702.129, Occupations Code, is  
15 amended to read as follows:

16 Sec. 1702.129. NOTICE OF CERTAIN CHANGES; BRANCH OFFICES.

17 (a) A license holder shall notify the board [~~commission~~] not later  
18 than the 14th day after the date of:

19 (1) a change of address for the license holder's  
20 principal place of business;

21 (2) a change of a name under which the license holder  
22 does business; or

23 (3) a change in the license holder's officers or  
24 partners.

25 (b) A license holder shall notify the board [~~commission~~] in  
26 writing not later than the 14th day after the date a branch office:

27 (1) is established;

1 (2) is closed; or

2 (3) changes address or location.

3 SECTION 4.50. Section 1702.131, Occupations Code, is  
4 amended to read as follows:

5 Sec. 1702.131. ADVERTISING. An advertisement by a license  
6 holder soliciting or advertising business must contain the license  
7 holder's company name and address as stated in board [~~commission~~]  
8 records.

9 SECTION 4.51. Section 1702.161(b), Occupations Code, is  
10 amended to read as follows:

11 (b) An individual employed as a security officer may not  
12 knowingly carry a firearm during the course of performing duties as  
13 a security officer unless the board [~~commission~~] has issued a  
14 security officer commission to the individual.

15 SECTION 4.52. Section 1702.162, Occupations Code, is  
16 amended to read as follows:

17 Sec. 1702.162. EMPLOYER'S APPLICATION FOR SECURITY OFFICER  
18 COMMISSION. The employer of a security officer who applies for a  
19 security officer commission for the officer must submit an  
20 application to the board [~~commission~~] on a form provided by the  
21 board [~~commission~~].

22 SECTION 4.53. Section 1702.165, Occupations Code, is  
23 amended to read as follows:

24 Sec. 1702.165. ISSUANCE OF SECURITY OFFICER COMMISSION;  
25 POCKET CARD. (a) The board [~~commission~~], with the concurrence of  
26 the department [~~Texas Department of Public Safety~~]:

27 (1) may issue a security officer commission to an

1 individual employed as a uniformed security officer; and

2 (2) shall issue a security officer commission to a  
3 qualified employee of an armored car company that is a carrier  
4 conducting the armored car business under a federal or state permit  
5 or certificate.

6 (b) A security officer commission issued under this section  
7 must be in the form of a pocket card designed by the board  
8 [~~commission~~] that identifies the security officer.

9 SECTION 4.54. Section 1702.167, Occupations Code, is  
10 amended to read as follows:

11 Sec. 1702.167. TERMINATION OF EMPLOYMENT AS COMMISSIONED  
12 SECURITY OFFICER; TRANSFER OF COMMISSION. The holder of a security  
13 officer commission who terminates employment with one employer may  
14 transfer the individual's commission to a new employer if, not  
15 later than the 14th day after the date the individual begins the new  
16 employment, the new employer notifies the board [~~commission~~] of the  
17 transfer of employment on a form prescribed by the board  
18 [~~commission~~], accompanied by payment of the employee information  
19 update fee.

20 SECTION 4.55. Sections 1702.1675(a), (b), (c), (d), (e),  
21 (f), and (i), Occupations Code, are amended to read as follows:

22 (a) The board [~~commission~~] shall establish a basic training  
23 course for commissioned security officers. The course must  
24 include, at a minimum:

- 25 (1) general security officer training issues;  
26 (2) classroom instruction on handgun proficiency; and  
27 (3) range instruction on handgun proficiency.

1 (b) The course must be offered and taught by schools and  
2 instructors approved by the board [~~commission~~]. To receive board  
3 [~~commission~~] approval, a school or an instructor must submit an  
4 application to the board [~~commission~~] on a form provided by the  
5 board [~~commission~~].

6 (c) The basic training course approved by the board  
7 [~~commission~~] must consist of a minimum of 30 hours.

8 (d) The general security officer training portion of the  
9 course must include instruction on:

10 (1) board [~~commission~~] rules and applicable state  
11 laws;

12 (2) field note taking and report writing; and

13 (3) any other topics of security officer training  
14 curriculum the board [~~commission~~] considers necessary.

15 (e) The board [~~commission~~] shall develop a commissioned  
16 security officer training manual that contains applicable state  
17 laws and board [~~commission~~] rules to be used in the instruction and  
18 training of commissioned security officers.

19 (f) The board [~~commission~~] shall adopt rules necessary to  
20 administer the provisions of this section concerning the training  
21 requirements of this chapter.

22 (i) The board [~~commission~~] by rule shall establish minimum  
23 standards for handgun proficiency that are at least as stringent as  
24 the standards for handgun proficiency developed by the public  
25 safety director under Section 411.188, Government Code.

26 SECTION 4.56. Section 1702.168, Occupations Code, is  
27 amended to read as follows:



1           Sec. 1702.168. FIREARM REQUIREMENTS. (a) In addition to  
2 the requirements of Section 1702.163(a), the board [~~commission~~] by  
3 rule shall establish other qualifications for individuals who are  
4 employed in positions requiring the carrying of firearms. The  
5 qualifications may include:

- 6           (1) physical and mental standards;  
7           (2) standards of good moral character; and  
8           (3) other requirements that relate to the competency  
9 and reliability of individuals to carry firearms.

10          (b) The board [~~commission~~] shall prescribe appropriate  
11 forms and adopt rules by which evidence is presented that the  
12 requirements are fulfilled.

13          SECTION 4.57. Sections 1702.1685(b) and (d), Occupations  
14 Code, are amended to read as follows:

15          (b) Only a board-approved [~~commission-approved~~] instructor  
16 may administer the handgun proficiency examination.

17          (d) The school shall maintain the records of the required  
18 proficiency and make the records available for inspection by the  
19 board [~~commission~~].

20          SECTION 4.58. Section 1702.171, Occupations Code, is  
21 amended to read as follows:

22          Sec. 1702.171. SECURITY OFFICER COMMISSION RECORDS. The  
23 board [~~commission~~] shall adopt rules for the maintenance of records  
24 relating to an individual to whom the board [~~commission~~] has issued  
25 a security officer commission.

26          SECTION 4.59. Section 1702.183, Occupations Code, is  
27 amended to read as follows:

1           Sec. 1702.183. APPLICATION FOR LETTER OF AUTHORITY. A  
2 security department of a private business or of a political  
3 subdivision that applies for a security officer commission for an  
4 individual employed by the security department must submit an  
5 application to the board [~~commission~~] for a letter of authority on a  
6 form provided by the board [~~commission~~].

7           SECTION 4.60. The heading to Subchapter I, Chapter 1702,  
8 Occupations Code, is amended to read as follows:

9           SUBCHAPTER I. PERSONAL PROTECTION OFFICER ENDORSEMENT

10                           [~~AUTHORIZATION~~] REQUIREMENTS

11           SECTION 4.61. Section 1702.201, Occupations Code, is  
12 amended to read as follows:

13           Sec. 1702.201. PERSONAL PROTECTION OFFICER ENDORSEMENT  
14 [~~AUTHORIZATION~~] REQUIRED. A commissioned security officer may not  
15 act as a personal protection officer unless the officer holds a  
16 personal protection officer endorsement [~~authorization~~].

17           SECTION 4.62. Section 1702.203, Occupations Code, is  
18 amended to read as follows:

19           Sec. 1702.203. APPLICATION FOR PERSONAL PROTECTION OFFICER  
20 ENDORSEMENT [~~AUTHORIZATION~~]. An applicant for a personal  
21 protection officer endorsement [~~authorization~~] must submit a  
22 written application on a form prescribed by the board [~~commission~~].

23           SECTION 4.63. Section 1702.204, Occupations Code, is  
24 amended to read as follows:

25           Sec. 1702.204. PERSONAL PROTECTION OFFICER ENDORSEMENT  
26 [~~AUTHORIZATION~~]; QUALIFICATIONS. (a) An applicant for a personal  
27 protection officer endorsement [~~authorization~~] must be at least 21

1 years of age and must provide:

2 (1) a certificate of completion of the basic security  
3 officer training course;

4 (2) proof that the applicant:

5 (A) has been issued a security officer  
6 commission;

7 (B) is employed at the time of application by an  
8 investigations company or guard company licensed by the board  
9 [~~commission~~]; and

10 (C) has completed the required training in  
11 nonlethal self-defense or defense of a third person; and

12 (3) proof of completion and the results of the  
13 Minnesota Multiphasic Personality Inventory psychological testing.

14 (b) The board [~~commission~~] by rule shall require an  
15 applicant for a personal protection officer endorsement  
16 [~~authorization~~] to complete the Minnesota Multiphasic Personality  
17 Inventory test. The board [~~commission~~] may use the results of the  
18 test to evaluate the applicant's psychological fitness.

19 SECTION 4.64. Section 1702.205(a), Occupations Code, is  
20 amended to read as follows:

21 (a) The board [~~commission~~] shall establish a 15-hour course  
22 for a personal protection officer consisting of training in  
23 nonlethal self-defense or defense of a third person.

24 SECTION 4.65. Section 1702.206, Occupations Code, is  
25 amended to read as follows:

26 Sec. 1702.206. CONCEALED FIREARMS. An individual acting as  
27 a personal protection officer may not carry a concealed firearm

1 unless the officer:

2 (1) is either:

3 (A) engaged in the exclusive performance of the  
4 officer's duties as a personal protection officer for the employer  
5 under whom the officer's personal protection officer endorsement  
6 [~~authorization~~] is issued; or

7 (B) traveling to or from the officer's place of  
8 assignment; and

9 (2) carries the officer's security officer commission  
10 and personal protection officer endorsement [~~authorization~~] on the  
11 officer's person while performing the officer's duties or traveling  
12 as described by Subdivision (1) and presents the commission and  
13 endorsement [~~authorization~~] on request.

14 SECTION 4.66. Section 1702.221, Occupations Code, is  
15 amended to read as follows:

16 Sec. 1702.221. REGISTRATION AND ENDORSEMENT REQUIRED. (a)  
17 To perform any activity regulated by this chapter, the individual  
18 must:

19 (1) register in accordance with the requirements of  
20 this chapter and related administrative rules;

21 (2) obtain the proper endorsement under Subsection  
22 (b); and

23 (3) be employed by a company licensed under this  
24 chapter.

25 (b) An individual must obtain the appropriate endorsement  
26 [~~register~~] in accordance with the requirements of this chapter and  
27 related administrative rules if the individual:

1 (1) is employed as:

2 (A) an alarm instructor;

3 (B) an alarm systems installer;

4 (C) an [ ] alarm systems monitor;

5 (D) an [ ] electronic access control device  
6 installer;

7 (E) a level 3 classroom or firearm instructor;

8 (F) a [ ] locksmith;

9 (G) a [ ] dog trainer;

10 (H) a [ ] manager or branch office manager;

11 (I) a [ ] noncommissioned security officer;

12 (J) a level 4 personal protection instructor;

13 (K) a [ ] private investigator;

14 (L) a [ ] private security consultant;

15 (M) a [ ~~]~~ security salesperson; or

16 (N) an individual whose duties include  
17 performing another activity for which an endorsement is required  
18 under Subsection (e); or

19 (2) is an owner, officer, partner, or shareholder of a  
20 license holder.

21 (c) [~~(b)~~] Registration and endorsement under this chapter  
22 does not preclude an individual from performing additional duties  
23 or services authorized by the individual's employer that are not  
24 regulated by this chapter. An individual who performs more than one  
25 of the services that require an endorsement under this section must  
26 obtain an endorsement for each service.

27 (d) In addition to the services listed in Subsection (a), a

1 person holding a security officer commission must also obtain an  
2 endorsement for personal protection if the individual performs the  
3 services described by Section 1702.202.

4 (e) The board by rule may require a person to hold an  
5 endorsement for performing other activity expressly regulated by  
6 this chapter.

7 SECTION 4.67. Section 1702.2226(b), Occupations Code, is  
8 amended to read as follows:

9 (b) A person registered as an electronic access control  
10 device installer may not install alarm systems unless the person  
11 holds an endorsement [~~is registered~~] under this chapter as an alarm  
12 systems installer.

13 SECTION 4.68. The heading to Subchapter J, Chapter 1702,  
14 Occupations Code, is amended to read as follows:

15 SUBCHAPTER J. REGISTRATION AND ENDORSEMENT REQUIREMENTS;  
16 [~~REGISTRANT~~] DUTIES OF REGISTRANT AND ENDORSEMENT HOLDER

17 SECTION 4.69. Section 1702.228, Occupations Code, is  
18 amended to read as follows:

19 Sec. 1702.228. EMPLOYEE OF LICENSE HOLDER; REGISTRATION  
20 PERMITTED. An employee of a license holder who is employed in a  
21 capacity that is not subject to mandatory registration under this  
22 subchapter may register with the board [~~commission~~].

23 SECTION 4.70. Section 1702.230, Occupations Code, is  
24 amended to read as follows:

25 Sec. 1702.230. APPLICATION FOR REGISTRATION OR  
26 ENDORSEMENT. (a) An application for registration or endorsement  
27 must be verified and include:

1           (1) the applicant's full name, residence address,  
2 residence telephone number, date and place of birth, and social  
3 security number;

4           (2) a statement that:

5                 (A) lists each name used by the applicant, other  
6 than the name by which the applicant is known at the time of  
7 application, and an explanation stating each place where each name  
8 was used, the date of each use, and a full explanation of the  
9 reasons the name was used; or

10                (B) states that the applicant has never used a  
11 name other than the name by which the applicant is known at the time  
12 of application;

13           (3) the name and address of the applicant's employer  
14 and, if applicable, the applicant's consulting firm;

15           (4) the date the employment commenced;

16           (5) a letter from the license holder requesting that  
17 the applicant be registered or endorsed;

18           (6) the title of the position occupied by the  
19 applicant and a description of the applicant's duties; and

20           (7) any other information, evidence, statement, or  
21 document required by the board [~~commission~~].

22           (b) The employer of the applicant shall make a reasonable  
23 attempt to verify the information required under Subsection (a)(1).

24           SECTION 4.71. Section 1702.2305, Occupations Code, is  
25 amended to read as follows:

26           Sec. 1702.2305. PROVISIONAL REGISTRATION. (a) The board  
27 [~~commission~~] may issue a provisional registration to an applicant

1 currently registered in another jurisdiction who seeks an  
2 equivalent registration in this state and who:

3 (1) has been registered in good standing in the field  
4 in which the registration is sought for at least two years in  
5 another jurisdiction, including a foreign country, that has  
6 registration requirements substantially equivalent to the  
7 requirements of this chapter;

8 (2) has passed a national or other examination  
9 recognized by the board [~~commission~~] relating to practice in the  
10 field in which the registration is sought; and

11 (3) is employed by a person licensed by the board  
12 [~~commission~~] under this chapter with whom the provisional  
13 registration holder will practice during the time the person holds  
14 a provisional registration.

15 (b) A provisional registration is valid until the date the  
16 board [~~commission~~] approves or denies the provisional registration  
17 holder's application for a registration. The board [~~commission~~]  
18 shall issue a registration under this chapter to the provisional  
19 registration holder if the provisional registration holder is  
20 eligible to be registered under this chapter.

21 (c) The board [~~commission~~] must approve or deny a  
22 provisional registration holder's application for a registration  
23 not later than the 180th day after the date the provisional  
24 registration is issued. The board [~~commission~~] may extend the  
25 180-day period if the results of an examination have not been  
26 received by the board [~~commission~~] before the end of that period.

27 (d) The board [~~commission~~] may establish a fee for



1 provisional registration in an amount reasonable and necessary to  
2 cover the cost of issuing the registration.

3 SECTION 4.72. Section 1702.232, Occupations Code, is  
4 amended to read as follows:

5 Sec. 1702.232. POCKET CARDS. (a) The board [~~commission~~]  
6 shall issue a pocket card for each registrant under this chapter. A  
7 pocket card for an owner, officer, partner, or shareholder of a  
8 license holder shall be issued to the license holder.

9 (b) The board [~~commission~~] shall determine the size,  
10 design, and content of the pocket card.

11 (c) The pocket card must:

12 (1) state the name of the registrant;

13 (2) contain a color photograph and the signature of  
14 the registrant; [~~and~~]

15 (3) state the date the card was issued and the card's  
16 expiration date; and

17 (4) state each endorsement held by the registrant and  
18 the date the endorsement expires.

19 SECTION 4.73. Section 1702.234, Occupations Code, is  
20 amended to read as follows:

21 Sec. 1702.234. REGISTRATION AND ENDORSEMENT TRANSFER. A  
22 registrant may transfer the registrant's registration and  
23 endorsements from one employer to another employer if, not later  
24 than the 14th day after the date the registrant begins the new  
25 employment, the new employer notifies the board [~~commission~~] of the  
26 transfer of employment on a form prescribed by the board  
27 [~~commission~~] accompanied by payment of the employee information

1 update fee.

2 SECTION 4.74. Section 1702.235, Occupations Code, is  
3 amended to read as follows:

4 Sec. 1702.235. PREEMPLOYMENT CHECK FOR NONCOMMISSIONED  
5 SECURITY OFFICERS. A person may not hire a noncommissioned  
6 security officer unless the person conducts a preemployment check  
7 as required by board [~~commission~~] rule.

8 SECTION 4.75. Section 1702.236, Occupations Code, is  
9 amended to read as follows:

10 Sec. 1702.236. EXAMINATION AND TRAINING REQUIREMENTS FOR  
11 ELECTRONIC ACCESS CONTROL DEVICE INSTALLERS. (a) The board  
12 [~~commission~~] shall require an individual who applies for an  
13 endorsement [~~registration~~] as an electronic access control device  
14 installer to pass an examination given by the board [~~commission~~] or  
15 a person approved by the board [~~commission~~]. The examination must  
16 cover material related to access control.

17 (b) [~~(c)~~] On and after September 1, 2005, the board  
18 [~~commission~~] by rule may allow an electronic access control device  
19 installer to obtain or renew an endorsement [~~a certificate of~~  
20 ~~registration~~] by fulfilling the requirements of a board-approved  
21 [~~commission-approved~~], industry-based educational training  
22 program.

23 SECTION 4.76. Sections 1702.239(a), (b), and (d),  
24 Occupations Code, are amended to read as follows:

25 (a) The board [~~commission~~] may require that an individual  
26 employed as an alarm systems installer or security salesperson hold  
27 a certification by a board-approved [~~commission-approved~~] training

1 program to renew an endorsement [~~an initial registration~~]. The  
2 board [~~commission~~] may approve only nationally recognized training  
3 programs that consist of at least 16 hours of classroom study in the  
4 areas of work allowed by the endorsement [~~registration~~]. To be  
5 approved, a training program must offer at least two certification  
6 programs each year, sufficient to complete the requirements of this  
7 subsection, within 100 miles of each county in the state that has a  
8 population of more than 500,000.

9 (b) The board [~~commission~~] may require an individual who has  
10 completed a training program under Subsection (a) to pass an  
11 examination given by the board [~~commission~~] or by a person approved  
12 by the board [~~commission~~]. The board [~~commission~~] may approve  
13 examinations in conjunction with training programs approved under  
14 Subsection (a). The individual's performance on the examination  
15 must demonstrate the individual's qualifications to perform the  
16 duties allowed by the individual's endorsement [~~registration~~].

17 (d) If the board [~~commission~~] requires certification or  
18 examination under this section, the board [~~commission~~] shall  
19 implement rules to require that to renew an endorsement [~~a~~  
20 ~~registration~~], an individual who is employed as an alarm systems  
21 installer or a security salesperson and who has already once  
22 renewed the endorsement [~~registration~~] must obtain continuing  
23 education credits related to the line of work for which the  
24 individual is licensed. If the board [~~commission~~] requires the  
25 continuing education, the chief administrator [~~director~~] must  
26 approve classes offered by nationally recognized organizations,  
27 and participants in the classes must qualify according to board

1 [~~commission~~] rules.

2 SECTION 4.77. Section 1702.240(b), Occupations Code, is  
3 amended to read as follows:

4 (b) An employee of a license holder who is employed  
5 exclusively as an undercover agent is not required to register with  
6 the board [~~commission~~].

7 SECTION 4.78. Subchapter J, Chapter 1702, Occupations Code,  
8 is amended by adding Section 1702.241 to read as follows:

9 Sec. 1702.241. JURISPRUDENCE EXAMINATION. (a) The board  
10 may develop and administer at least twice each calendar year a  
11 jurisprudence examination to determine the knowledge that an  
12 applicant for an endorsement has of this chapter, board rules, and  
13 any other applicable laws of this state affecting the applicant's  
14 activities regulated under this chapter.

15 (b) Before the board may administer a jurisprudence  
16 examination under this section, the board shall adopt rules to  
17 implement this section, including rules related to the development  
18 and administration of the examination, examination fees,  
19 guidelines for reexamination, grading the examination, and  
20 providing notice of examination results. The board may design  
21 different examinations for different types of endorsements.

22 SECTION 4.79. Sections 1702.282(a), (c), and (e),  
23 Occupations Code, are amended to read as follows:

24 (a) The board shall conduct a criminal history check,  
25 including a check of any criminal history record information  
26 maintained by the Federal Bureau of Investigation, in the manner  
27 provided by Subchapter F, Chapter 411, Government Code, on each

1 applicant for a license, registration, security officer  
2 commission, letter of approval, permit, endorsement, or  
3 certification. An applicant is not eligible for a license,  
4 registration, commission, letter of approval, permit, endorsement,  
5 or certification if the check reveals that the applicant has  
6 committed an act that constitutes grounds for the denial of the  
7 license, registration, commission, letter of approval, permit,  
8 endorsement, or certification. Except as provided by Subsection  
9 (d), each applicant shall include in the application two complete  
10 sets of fingerprints on forms prescribed by the board accompanied  
11 by the fee set by the board.

12 (c) A license, registration, security officer commission,  
13 letter of approval, permit, endorsement, or certification issued by  
14 the board is conditional on the board's receipt of criminal history  
15 record information.

16 (e) On receipt of notice that a check of the applicant's  
17 criminal record has uncovered an unresolved and potentially  
18 disqualifying arrest that occurred before the 10th anniversary of  
19 the date the application is filed, the applicant must provide a  
20 letter of reference from the county sheriff, prosecuting attorney,  
21 or judge of the county in which the applicant was arrested stating  
22 that a record of a disposition related to the arrest does not exist,  
23 and to the best of the county sheriff's, prosecuting attorney's, or  
24 judge's knowledge the applicant is free of any disqualifying  
25 convictions. If the applicant fails to provide either the letter of  
26 reference or documentary proof of the final disposition of the  
27 arrest, the application is considered incomplete and the applicant

1 may not be issued a license, commission, endorsement, or  
2 certificate of registration under this chapter.

3 SECTION 4.80. Section 1702.283, Occupations Code, is  
4 amended to read as follows:

5 Sec. 1702.283. CRUELTY TO ANIMALS. A person who has been  
6 convicted of cruelty to animals under Section 42.09 or 42.092,  
7 Penal Code:

8 (1) is ineligible for a license as a guard dog company  
9 or for endorsement [~~registration~~] as a dog trainer; and

10 (2) may not be employed to work with dogs as a security  
11 officer by a security services contractor or security department of  
12 a private business that uses dogs to protect individuals or  
13 property or to conduct investigations.

14 SECTION 4.81. Section 1702.285, Occupations Code, is  
15 amended to read as follows:

16 Sec. 1702.285. FALSE REPRESENTATION. A person may not  
17 represent falsely that the person:

18 (1) is employed by a license holder; or

19 (2) is licensed, registered, endorsed, or  
20 commissioned under this chapter.

21 SECTION 4.82. Sections 1702.301(c), (d), (e), (f), (g), and  
22 (h), Occupations Code, are amended to read as follows:

23 (c) A personal protection officer endorsement  
24 [~~authorization~~] expires on the expiration date of the security  
25 officer commission under which the individual's endorsement  
26 [~~authorization~~] is issued.

27 (d) Endorsement [~~Registration~~] as a private investigator,

1 manager, branch office manager, alarm systems installer, security  
2 consultant, security salesperson, alarm systems monitor, or dog  
3 trainer expires on the second anniversary of the date of  
4 endorsement [~~registration~~].

5 (e) Endorsement [~~Registration~~] as an owner, officer,  
6 partner, or shareholder of a license holder expires on the second  
7 anniversary of the date of endorsement [~~registration~~].

8 (f) Endorsement [~~Registration~~] as a noncommissioned  
9 security officer expires on the second anniversary of the date of  
10 endorsement [~~registration~~].

11 (g) A letter of authority, or a school approval or school  
12 instructor approval letter issued by the board [~~commission~~],  
13 expires on the first anniversary of the date of issuance.

14 (h) A license, ~~or~~ registration, or endorsement issued  
15 under this chapter, other than one specified in this section,  
16 expires on the date specified by this chapter or by board  
17 [~~commission~~] rule.

18 SECTION 4.83. Section 1702.302, Occupations Code, is  
19 amended to read as follows:

20 Sec. 1702.302. LICENSE RENEWAL. (a) A person who is  
21 otherwise eligible to renew a license may renew an unexpired  
22 license by paying the required renewal fee to the board  
23 [~~commission~~] before the expiration date of the license. A person  
24 whose license has expired may not engage in activities that require  
25 a license until the license has been renewed.

26 (b) A person whose license has been expired for 90 days or  
27 less may renew the license by paying to the board [~~commission~~] a

1 renewal fee that is equal to 1-1/2 times the normally required  
2 renewal fee.

3 (c) A person whose license has been expired for longer than  
4 90 days but less than one year may renew the license by paying to the  
5 board [~~commission~~] a renewal fee that is equal to two times the  
6 normally required renewal fee.

7 (d) A person whose license has been expired for one year or  
8 more may not renew the license. The person may obtain a new license  
9 by complying with the requirements and procedures, including the  
10 examination requirements, for obtaining an original license.

11 (e) Not later than the 30th day before the date a person's  
12 license is scheduled to expire, the board [~~commission~~] shall send  
13 written notice of the impending expiration to the person at the  
14 person's last known address according to the board's [~~commission's~~]  
15 records.

16 SECTION 4.84. Section 1702.303, Occupations Code, is  
17 amended to read as follows:

18 Sec. 1702.303. RENEWAL OF EXPIRED LICENSE BY OUT-OF-STATE  
19 PRACTITIONER. A person who was licensed in this state, moved to  
20 another state, and is currently licensed and has been in practice in  
21 the other state for the two years preceding the date the person  
22 applies for renewal may obtain a new license without reexamination.  
23 The person must pay to the board [~~commission~~] a fee that is equal to  
24 two times the normally required renewal fee for the license.

25 SECTION 4.85. Section 1702.304, Occupations Code, is  
26 amended to read as follows:

27 Sec. 1702.304. STAGGERED RENEWAL; PRORATION OF LICENSE FEE.



1 The board [~~commission~~] by rule may adopt a system under which  
2 licenses expire on various dates during the year. For the year in  
3 which the expiration date of a license is changed, the board  
4 [~~commission~~] shall prorate license fees on a monthly basis so that  
5 each license holder pays only that portion of the license fee that  
6 is allocable to the number of months during which the license is  
7 valid. On renewal of the license on the new expiration date, the  
8 total license renewal fee is payable.

9 SECTION 4.86. Section 1702.307, Occupations Code, is  
10 amended to read as follows:

11 Sec. 1702.307. REGISTRATION RENEWAL. (a) An individual  
12 who is otherwise eligible to renew a registration may renew an  
13 unexpired registration by paying the required renewal fee to the  
14 board [~~commission~~] before the expiration date of the registration.  
15 An individual whose registration has expired may not engage in  
16 activities that require a registration until the registration has  
17 been renewed.

18 (b) An individual whose registration has been expired for 90  
19 days or less may renew the registration by paying to the board  
20 [~~commission~~] a renewal fee that is equal to 1-1/2 times the normally  
21 required renewal fee.

22 (c) An individual whose registration has been expired for  
23 more than 90 days but less than one year may renew the registration  
24 by paying to the board [~~commission~~] a renewal fee that is equal to  
25 two times the normally required renewal fee.

26 (d) An individual whose registration has been expired for  
27 one year or more may not renew the registration. The individual may

1 obtain a new registration by complying with the requirements and  
2 procedures, including any examination required by the board  
3 [~~commission~~], for obtaining an original registration.

4 (e) An individual who was registered in this state, moved to  
5 another state, and is currently registered and has been in practice  
6 in the other state for the two years preceding the date of  
7 application may obtain a new registration without reexamination.  
8 The individual must pay to the board [~~commission~~] a fee that is  
9 equal to two times the normally required renewal fee for the  
10 registration.

11 (f) Not later than the 30th day before the expiration date  
12 of an individual's registration, the board [~~commission~~] shall send  
13 written notice of the impending expiration to the individual at the  
14 individual's last known address according to board [~~commission~~]  
15 records.

16 SECTION 4.87. Sections 1702.308(b) and (c), Occupations  
17 Code, are amended to read as follows:

18 (b) The board [~~commission~~] shall recognize, prepare, or  
19 administer continuing education programs for license holders,  
20 commissioned security officers, and endorsement holders  
21 [~~registrants~~]. The board [~~commission~~] shall set the minimum number  
22 of hours that must be completed and the types of programs that may  
23 be offered.

24 (c) A license holder, commissioned security officer, or  
25 endorsement holder [~~registrant~~] must participate in the programs to  
26 the extent required by the board [~~commission~~] to keep the person's  
27 license, commission, or endorsement [~~registration~~]. A license

1 holder, commissioned security officer, or endorsement holder  
2 [~~registrant~~] shall submit evidence of compliance with the board's  
3 [~~commission's~~] continuing education requirements in a manner  
4 prescribed by the board [~~commission~~].

5 SECTION 4.88. Section 1702.309(a), Occupations Code, is  
6 amended to read as follows:

7 (a) The board [~~commission~~] by rule shall develop a  
8 continuing education course required for renewal of a security  
9 officer commission. Only a board-approved [~~commission-approved~~]  
10 instructor may administer the continuing education course. The  
11 course must include at least six hours of instruction determined by  
12 the chief administrator [~~director~~] of the board [~~commission~~].

13 SECTION 4.89. Sections 1702.321(b), (c), and (e),  
14 Occupations Code, are amended to read as follows:

15 (b) The provisions of this chapter relating to security  
16 officer commissions apply to a person employed by a political  
17 subdivision whose duties include serving as a security guard,  
18 security watchman, or security patrolman on property owned or  
19 operated by the political subdivision if the governing body of the  
20 political subdivision files a written request with the board  
21 [~~commission~~] for the board [~~commission~~] to issue a commission to  
22 the political subdivision's employees with those duties.

23 (c) The board [~~commission~~] may not charge a fee for issuing  
24 a commission to an officer under Subsection (b). The board  
25 [~~commission~~] shall issue to the officer a pocket card designating  
26 the political subdivision that employs the officer.

27 (e) The board [~~commission~~] may approve a security officer

1 training program conducted by the political subdivision in  
2 accordance with Sections 1702.1675 and 1702.168.

3 SECTION 4.90. Sections 1702.361(a) and (b), Occupations  
4 Code, are amended to read as follows:

5 (a) Subject to the board's final order under the hearing  
6 provisions of this subchapter, the department, for conduct  
7 described by Subsection (b), may:

8 (1) deny an application or revoke, suspend, or refuse  
9 to renew a license, registration, endorsement, or security officer  
10 commission;

11 (2) reprimand a license holder, registrant, or  
12 commissioned security officer; or

13 (3) place on probation a person whose license,  
14 registration, endorsement, or security officer commission has been  
15 suspended.

16 (b) The department shall take disciplinary action described  
17 by Subsection (a) on proof:

18 (1) that the applicant, license holder, registrant,  
19 endorsement holder, or commissioned security officer has:

20 (A) violated this chapter or a rule adopted under  
21 this chapter;

22 (B) become ineligible for licensure, ~~[or]~~  
23 registration, or endorsement under Section 1702.113, or a  
24 commission under Section 1702.163, if applicable, other than an  
25 action for which the department has taken summary action under  
26 Section 1702.364;

27 (C) engaged in fraud, deceit, or

1 misrepresentation;

2 (D) made a material misstatement in an  
3 application for or renewal of a license, registration, endorsement,  
4 or commission; [~~or~~]

5 (E) failed to pay in full an administrative  
6 penalty assessed under Subchapter Q, for which the board has issued  
7 a final order; or

8 (F) performed any service for which an  
9 endorsement is required under this chapter and either:

10 (i) was not employed with a company  
11 licensed under this chapter at the time the service was performed;  
12 or

13 (ii) performed the service for a company  
14 licensed under this chapter that was not listed on the individual's  
15 registration without informing the board of the individual's  
16 employment with the company within a reasonable period; or

17 (2) that the license holder of a registrant or  
18 commissioned security officer has submitted to the department  
19 sufficient evidence that the registrant or commissioned security  
20 officer:

21 (A) engaged in fraud or deceit while employed by  
22 the license holder; or

23 (B) committed theft while performing work as a  
24 registrant or commissioned security officer.

25 SECTION 4.91. Section 1702.362, Occupations Code, is  
26 amended to read as follows:

27 Sec. 1702.362. FAILURE TO FILE REQUIRED NOTICE. The board

1 [~~commission~~] may suspend or revoke a license if the license holder  
2 fails to notify the board [~~commission~~] as required by Section  
3 1702.121 that a manager has ceased to be the manager of the license  
4 holder.

5 SECTION 4.92. Section 1702.363, Occupations Code, is  
6 amended to read as follows:

7 Sec. 1702.363. APPLICATION OF ADMINISTRATIVE PROCEDURE  
8 ACT. Except as provided by Sections 1702.3615(b) and 1702.364, a  
9 person regulated under this chapter against whom the board  
10 [~~commission~~] has taken action is entitled to a hearing before the  
11 State Office of Administrative Hearings. A proceeding under this  
12 section is a contested case that is governed by Chapter 2001,  
13 Government Code.

14 SECTION 4.93. Sections 1702.364(a), (d), (f), and (h),  
15 Occupations Code, are amended to read as follows:

16 (a) On receiving written notice from a law enforcement  
17 agency that a person has been charged with or convicted of an  
18 offense that would make the person ineligible for a license,  
19 certificate of registration, endorsement, or security officer  
20 commission under Section 1702.113 or 1702.163, the department  
21 shall:

22 (1) summarily deny the person's application for a  
23 license, registration, endorsement, or security officer  
24 commission;

25 (2) in the event of pending charges, summarily suspend  
26 the person's license, certificate of registration, endorsement, or  
27 security officer commission; or

1           (3) in the event of a conviction, summarily revoke the  
2 person's license, certificate of registration, endorsement, or  
3 security officer commission.

4           (d) At a preliminary hearing, the person must show cause  
5 why:

6           (1) the application should not have been denied;

7           (2) the registration, license, endorsement, or  
8 security officer commission should not have been suspended; or

9           (3) the registration, license, endorsement, or  
10 commission should not have been revoked.

11          (f) The dismissal of a complaint, information, or  
12 indictment or an acquittal releases the person from automatic  
13 grounds for a summary denial of an application or summary  
14 suspension of a registration, endorsement, or security officer  
15 commission under this section. A conviction for the offense giving  
16 rise to a summary suspension is automatic grounds for immediate,  
17 summary revocation.

18          (h) The administrative law judge shall make findings of fact  
19 and conclusions of law regarding the person's eligibility for a  
20 license, registration, or endorsement under this section and  
21 promptly issue to the board a proposal for a decision.

22          SECTION 4.94. Section 1702.365, Occupations Code, is  
23 amended to read as follows:

24          Sec. 1702.365. ABDUCTION OF CHILD. The board [~~commission~~]  
25 shall revoke a person's license, registration, endorsement, or  
26 security officer commission or deny a person's application for, or  
27 renewal of, a license, registration, endorsement, or security

1 officer commission on proof that the person or an agent of the  
2 person has, after the date of application for a license,  
3 registration, endorsement, or security officer commission,  
4 abducted or attempted to abduct by force or the threat of force or  
5 by misrepresentation, stealth, or unlawful entry a child who at the  
6 time of the abduction or attempt is under the care and control of a  
7 person who:

8 (1) has custody or physical possession of the child  
9 under a court order; or

10 (2) is exercising the care and control with the  
11 consent of a person who has custody or physical possession of the  
12 child under a court order.

13 SECTION 4.95. Sections 1702.367(a), (c), (d), and (e),  
14 Occupations Code, are amended to read as follows:

15 (a) For an investigation conducted under this chapter, the  
16 board [~~commission~~] may issue a subpoena to compel the attendance of  
17 a witness or the production of a pertinent record or document. The  
18 hearings officer may administer oaths and require testimony or  
19 evidence to be given under oath.

20 (c) A person required to testify or to produce a record or  
21 document on any matter properly under inquiry by the board  
22 [~~commission~~] who refuses to testify or to produce the record or  
23 document on the ground that the testimony or the production of the  
24 record or document would incriminate or tend to incriminate the  
25 person is nonetheless required to testify or to produce the record  
26 or document. A person who is required to testify or to produce a  
27 record or document under this subsection is not subject to



1 indictment or prosecution for a transaction, matter, or thing  
2 concerning which the person truthfully testifies or produces  
3 evidence.

4 (d) If a witness refuses to obey a subpoena or to give  
5 evidence relevant to proper inquiry by the board [~~commission~~], the  
6 board [~~commission~~] may petition a district court of the county in  
7 which the hearing is held to compel the witness to obey the subpoena  
8 or to give the evidence. The court shall immediately issue process  
9 to the witness and shall hold a hearing on the petition as soon as  
10 possible.

11 (e) An investigator employed by the board [~~commission~~] may  
12 take statements under oath in an investigation of a matter covered  
13 by this chapter.

14 SECTION 4.96. Section 1702.368, Occupations Code, is  
15 amended to read as follows:

16 Sec. 1702.368. NOTIFICATION OF CONVICTION FOR CERTAIN  
17 OFFENSES. The department [~~Texas Department of Public Safety~~] shall  
18 notify the board [~~commission~~] and the police department of the  
19 municipality and the sheriff's department of the county in which a  
20 person licensed, registered, or commissioned under this chapter  
21 resides of the conviction of the person for a Class B misdemeanor or  
22 equivalent offense or a greater offense.

23 SECTION 4.97. Subchapter O, Chapter 1702, Occupations Code,  
24 is amended by adding Section 1702.372 to read as follows:

25 Sec. 1702.372. RECUSAL OF BOARD MEMBER. (a) A board member  
26 who participated in the investigation of a complaint or in informal  
27 settlement negotiations regarding the complaint:

1           (1) may not vote on the matter at a board meeting  
2 related to the complaint; and

3           (2) shall state at the meeting the reason for which the  
4 member is prohibited from voting on the matter.

5           (b) A statement under Subsection (a)(2) shall be entered  
6 into the minutes of the meeting.

7           SECTION 4.98. Section 1702.381(b), Occupations Code, is  
8 amended to read as follows:

9           (b) A person who contracts with or employs a person who is  
10 required to hold a license, [~~certificate of~~] registration,  
11 endorsement, or security officer commission under this chapter  
12 knowing that the person does not hold the required license,  
13 registration, endorsement [~~certificate~~], or commission or who  
14 otherwise, at the time of contract or employment, is in violation of  
15 this chapter may be assessed a civil penalty to be paid to the state  
16 in an amount not to exceed \$10,000 for each violation.

17           SECTION 4.99. Section 1702.386(a), Occupations Code, is  
18 amended to read as follows:

19           (a) A person commits an offense if the person contracts with  
20 or employs a person who is required to hold a license, registration,  
21 endorsement [~~certificate~~], or commission under this chapter  
22 knowing that the person does not hold the required license,  
23 registration, endorsement [~~certificate~~], or commission or who  
24 otherwise, at the time of contract or employment, is in violation of  
25 this chapter.

26           SECTION 4.100. Section 1702.3863(a), Occupations Code, is  
27 amended to read as follows:

1           (a) A person commits an offense if the person contracts with  
2 or is employed by a bail bond surety as defined by Chapter 1704 to  
3 secure the appearance of a person who has violated Section 38.10,  
4 Penal Code, unless the person is:

5                 (1) a peace officer;

6                 (2) an individual endorsed or licensed as a private  
7 investigator or the manager of a licensed investigations company;  
8 or

9                 (3) a commissioned security officer employed by a  
10 licensed guard company.

11           SECTION 4.101. Section 1702.387(a), Occupations Code, is  
12 amended to read as follows:

13           (a) A person commits an offense if the person fails to  
14 surrender or immediately return to the board [~~commission~~] the  
15 person's registration, commission, pocket card, or other  
16 identification issued to the person by the board [~~commission~~] on  
17 notification of a summary suspension or summary denial under  
18 Section 1702.364.

19           SECTION 4.102. Section 1702.388(b), Occupations Code, is  
20 amended to read as follows:

21           (b) An offense under this section is a Class A misdemeanor,  
22 except that the offense is a felony of the third degree if the  
23 person has previously been convicted under this chapter of failing  
24 to hold a license, registration, endorsement, certificate, or  
25 commission that the person is required to hold under this chapter.

26           SECTION 4.103. Section 1702.402, Occupations Code, is  
27 amended by amending Subsection (a) and adding Subsection (c) to

1 read as follows:

2 (a) Each day a violation continues or occurs is a separate  
3 violation for purposes of imposing a penalty. The amount of each  
4 separate violation may not exceed \$5,000 [~~\$500~~].

5 (c) The board by rule shall develop a standardized penalty  
6 schedule based on the criteria listed in Subsection (b).

7 SECTION 4.104. Section 1702.406(b), Occupations Code, is  
8 amended to read as follows:

9 (b) The notice of the board's order given to the person must  
10 include a statement of the right of the person to judicial review of  
11 the order. Judicial review is under the substantial evidence rule  
12 as provided by Subchapter G, Chapter 2001, Government Code.

13 SECTION 4.105. The following provisions of the Occupations  
14 Code are repealed:

- 15 (1) Section 1702.002(4);
- 16 (2) Section 1702.003;
- 17 (3) Section 1702.045;
- 18 (4) Section 1702.046;
- 19 (5) Section 1702.047;
- 20 (6) Section 1702.065;
- 21 (7) Section 1702.069;
- 22 (8) Section 1702.113(e);
- 23 (9) Section 1702.364(j); and
- 24 (10) Subchapter K.

25 SECTION 4.106. (a) Not later than January 1, 2010, the  
26 Texas Private Security Board and the Department of Public Safety  
27 shall adopt the rules required by or under Section 1702.062,

1 Occupations Code, as amended by this article. The fee schedule in  
2 effect under Section 1702.062, Occupations Code, before the  
3 effective date of this article is continued in effect until new fees  
4 are adopted under Section 1702.062, Occupations Code, as amended by  
5 this article.

6 (b) The requirement to pass a jurisprudence examination  
7 under Section 1702.241, Occupations Code, as added by this article,  
8 applies only to an individual who applies for a registration or  
9 endorsement under Chapter 1702, Occupations Code, on or after the  
10 date specified by the Texas Private Security Board in the event the  
11 board begins requiring applicants to pass a jurisprudence  
12 examination, but not earlier than September 1, 2010.

13 (c) The changes in law made by this article related to the  
14 filing, investigation, or resolution of a complaint under Chapter  
15 1702, Occupations Code, as amended by this article, apply only to a  
16 complaint filed with the Texas Private Security Board on or after  
17 the effective date of this article. A complaint filed before the  
18 effective date of this article is governed by the law as it existed  
19 immediately before that date, and the former law is continued in  
20 effect for that purpose.

21 (d) The changes in law made by this article governing the  
22 authority of the Texas Private Security Board and the Department of  
23 Public Safety to issue, renew, or revoke a license, registration,  
24 endorsement, or commission under Chapter 1702, Occupations Code,  
25 apply only to an application for an original or renewal license,  
26 registration, endorsement, or commission filed with the Texas  
27 Private Security Board under Chapter 1702, Occupations Code, as

1 amended by this article, on or after the effective date of this  
2 article. An application filed before the effective date of this  
3 article is governed by the law in effect at the time the application  
4 was filed, and the former law is continued in effect for that  
5 purpose.

6 (e) The change in law made by this article with respect to  
7 conduct that is grounds for imposition of a disciplinary sanction  
8 applies only to conduct that occurs on or after the effective date  
9 of this article. Conduct that occurs before the effective date of  
10 this article is governed by the law in effect on the date the  
11 conduct occurred, and the former law is continued in effect for that  
12 purpose.

13 (f) Section 1702.372, Occupations Code, as added by this  
14 article, applies only to a hearing conducted on or after the  
15 effective date of this article, regardless of the date on which the  
16 complaint was filed. A complaint on which a hearing is conducted  
17 before the effective date of this article is governed by the law in  
18 effect on the date the hearing was conducted, and the former law is  
19 continued in effect for that purpose.

20 (g) The holder of a Class D license under Chapter 1702,  
21 Occupations Code, as amended by this article, shall be considered  
22 to hold a Class B license on the effective date of this article. On  
23 the expiration of the Class D license, the license holder may renew  
24 the license as a Class B license.

25 SECTION 4.107. This article takes effect September 1, 2009.

26 ARTICLE 5. GENERAL PROVISIONS

27 SECTION 5.01. Section 411.002, Government Code, is amended

1 by amending Subsection (c) and adding Subsections (d) and (e) to  
2 read as follows:

3 (c) The Department of Public Safety of the State of Texas is  
4 subject to Chapter 325 (Texas Sunset Act). Unless continued in  
5 existence as provided by that chapter, the department is abolished  
6 and Subsections (a) and (b) expire September 1, 2015 [~~2009~~].

7 (d) Not later than December 1, 2010, the Sunset Advisory  
8 Commission shall review and prepare a written report for submission  
9 to the legislature on the department's implementation of:

10 (1) the recommendations in the 2008 audit of the  
11 department's information technology system; and

12 (2) a civilian business model for the operation of the  
13 driver's license division that focuses on improving customer  
14 service by:

15 (A) using best practices in call center  
16 technology and monitoring customer service calls;

17 (B) expanding operating hours at driver's  
18 license offices; and

19 (C) decreasing the time the department takes to  
20 send a replacement driver's license.

21 (e) The Sunset Advisory Commission shall submit the report  
22 required by Subsection (d) not later than February 15, 2011. This  
23 subsection and Subsection (d) expire August 31, 2011.

24 SECTION 5.02. Section 411.0035, Government Code, is amended  
25 to read as follows:

26 Sec. 411.0035. MEMBER AND GENERAL COUNSEL RESTRICTION. (a)  
27 In this section, "Texas trade association" means a cooperative and

1 voluntarily joined statewide association of business or  
2 professional competitors in this state designed to assist its  
3 members and its industry or profession in dealing with mutual  
4 business or professional problems and in promoting their common  
5 interest.

6 (b) A person may not be [~~serve as~~] a member of the commission  
7 and may not be a department employee employed in a "bona fide  
8 executive, administrative, or professional capacity," as that  
9 phrase is used for purposes of establishing an exemption to the  
10 overtime provisions of the federal Fair Labor Standards Act of 1938  
11 (29 U.S.C. Section 201 et seq.), if:

12 (1) the person is an officer, employee, or paid  
13 consultant of a Texas trade association in the field of law  
14 enforcement or private security; or

15 (2) the person's spouse is an officer, manager, or paid  
16 consultant of a Texas trade association in the field of law  
17 enforcement or private security.

18 (c) A person may not be a member of the commission or act as  
19 the general counsel to the commission if the person is required to  
20 register as a lobbyist under Chapter 305 because of the person's  
21 activities for compensation on behalf of a profession related to  
22 the operation of the commission.

23 SECTION 5.03. Subchapter A, Chapter 411, Government Code,  
24 is amended by adding Section 411.0042 to read as follows:

25 Sec. 411.0042. DIVISION OF RESPONSIBILITIES. The  
26 commission shall develop and implement policies that clearly  
27 separate the policymaking responsibilities of the commission and



1 the management responsibilities of the director and the staff of  
2 the department.

3 SECTION 5.04. Subchapter A, Chapter 411, Government Code,  
4 is amended by adding Section 411.0043 to read as follows:

5 Sec. 411.0043. TECHNOLOGY POLICY. The commission shall  
6 implement a policy requiring the department to use appropriate  
7 technological solutions to improve the department's ability to  
8 perform its functions. The policy must ensure that the public is  
9 able to interact with the department on the Internet.

10 SECTION 5.05. Subchapter A, Chapter 411, Government Code,  
11 is amended by adding Section 411.0044 to read as follows:

12 Sec. 411.0044. NEGOTIATED RULEMAKING AND ALTERNATIVE  
13 DISPUTE RESOLUTION. (a) The commission shall develop and  
14 implement a policy to encourage the use of:

15 (1) negotiated rulemaking procedures under Chapter  
16 2008 for the adoption of department rules; and

17 (2) appropriate alternative dispute resolution  
18 procedures under Chapter 2009 to assist in the resolution of  
19 internal and external disputes under the department's  
20 jurisdiction.

21 (b) The department's procedures relating to alternative  
22 dispute resolution must conform, to the extent possible, to any  
23 model guidelines issued by the State Office of Administrative  
24 Hearings for the use of alternative dispute resolution by state  
25 agencies.

26 (c) The commission shall designate a trained person to:

27 (1) coordinate the implementation of the policy

1 adopted under Subsection (a);

2 (2) serve as a resource for any training needed to  
3 implement the procedures for negotiated rulemaking or alternative  
4 dispute resolution; and

5 (3) collect data concerning the effectiveness of those  
6 procedures, as implemented by the department.

7 SECTION 5.06. Section 411.005, Government Code, is amended  
8 by amending Subsections (a) and (c) and adding Subsection (d) to  
9 read as follows:

10 (a) The commission shall appoint a citizen of the United  
11 States [~~this state~~] as public safety director. The director serves  
12 until removed by the commission.

13 (c) The commission shall select the director, and the  
14 director shall select an assistant director, on the basis of the  
15 person's training, experience, and qualifications for the  
16 position. The director and each [~~an~~] assistant director must,  
17 during the six-year period before appointment to the department as  
18 the director or as an assistant director, have been serving for a  
19 period of not less than five consecutive years as:

20 (1) a full-time peace officer commissioned by a state,  
21 federal, local, or tribal law enforcement agency; and

22 (2) the head of or a senior manager in a state,  
23 federal, local, or tribal law enforcement agency [~~five years'~~  
24 ~~experience, preferably in police or public administration~~].

25 (d) The director and an assistant director are entitled to  
26 annual salaries as provided by the legislature.

27 SECTION 5.07. Section 411.015(b), Government Code, is

1 amended to read as follows:

2 (b) ~~[The number of divisions may not exceed the number of~~  
3 ~~divisions existing on August 22, 1957.]~~ The division relating to  
4 the Texas Rangers may not be abolished.

5 SECTION 5.08. Sections 411.0195(a), (b), and (c),  
6 Government Code, are amended to read as follows:

7 (a) The department shall maintain a system to promptly and  
8 efficiently act on ~~[prepare information of public interest~~  
9 ~~describing the functions of the department and the department's~~  
10 ~~procedures by which]~~ complaints ~~[are]~~ filed with ~~[and resolved by]~~  
11 the department. The department shall maintain ~~[make the]~~  
12 information about parties to the complaint, the subject matter of  
13 the complaint, a summary of the results of the review or  
14 investigation of the complaint, and its disposition ~~[available to~~  
15 ~~the public and appropriate state agencies].~~

16 (b) The department shall make information available  
17 describing its procedures for complaint investigation and  
18 resolution ~~[director by rule shall establish methods by which~~  
19 ~~consumers and service recipients are notified of the name, mailing~~  
20 ~~address, and telephone number of the department for the purpose of~~  
21 ~~directing complaints to the department].~~

22 (c) The department shall periodically notify the complaint  
23 parties of the status of the complaint until final disposition  
24 ~~[maintain a file on each written complaint filed with the~~  
25 ~~department. The file must include:~~

26 ~~[(1) the name of the person who filed the complaint,~~

27 ~~[(2) the date the complaint is received by the~~

1 ~~department,~~

2 ~~[(3) the subject matter of the complaint,~~

3 ~~[(4) the name of each person contacted in relation to~~  
4 ~~the complaint,~~

5 ~~[(5) a summary of the results of the review or~~  
6 ~~investigation of the complaint, and~~

7 ~~[(6) an explanation of the reason the file was closed,~~  
8 ~~if the agency closed the file without taking action other than to~~  
9 ~~investigate the complaint].~~

10 SECTION 5.09. Section 411.188, Government Code, is amended  
11 by adding Subsection (j) to read as follows:

12 (j) The department may offer online, or allow a qualified  
13 handgun instructor to offer online, the continuing education  
14 instruction course and written section of the proficiency  
15 examination required to renew a license.

16 SECTION 5.10. Section 411.190, Government Code, is amended  
17 by adding Subsection (d-1) to read as follows:

18 (d-1) The department shall ensure that an applicant may  
19 renew certification under Subsection (d) from any county in this  
20 state by using an online format to complete the required retraining  
21 courses if:

22 (1) the applicant is renewing certification for the  
23 first time; or

24 (2) the applicant completed the required retraining  
25 courses in person the previous time the applicant renewed the  
26 certificate.

27 SECTION 5.11. The heading to Section 411.244, Government

1 Code, is amended to read as follows:

2           Sec. 411.244. OFFICE OF INSPECTOR GENERAL [~~INTERNAL~~  
3 ~~AFFAIRS~~].

4           SECTION 5.12. Sections 411.244(a), (b), (d), (e), and (f),  
5 Government Code, are amended to read as follows:

6           (a) The commission [~~director~~] shall establish the office of  
7 inspector general, which is responsible for:

8                   (1) acting to prevent and detect criminal conduct  
9 within the department; and

10                   (2) independently and objectively investigating:

11                           (A) criminal activity occurring in all divisions  
12 of the department;

13                           (B) allegations of wrongdoing by department  
14 employees;

15                           (C) crimes committed on department property; and

16                           (D) serious breaches of department policy  
17 [~~internal affairs~~].

18           (b) The office of inspector general [~~internal affairs~~] has  
19 original departmental jurisdiction over all investigations  
20 occurring on department property or involving department  
21 employees. The office shall coordinate, but need not conduct, all  
22 investigations under this section.

23           (d) The commission has direct oversight over the office of  
24 inspector general, including decisions regarding budget and  
25 staffing. The commission [~~director~~] shall appoint the inspector  
26 general [~~head of the office of internal affairs~~]. The inspector  
27 general [~~head of the office of internal affairs~~] serves until

1 removed by the commission [~~director~~]. The commission shall  
2 establish policies to ensure that the commission continues to  
3 oversee the office of inspector general as required by this  
4 subsection and to ensure that the office of inspector general  
5 retains and exercises its original jurisdiction under Subsection  
6 (b).

7 (e) The inspector general [~~head of the office of internal~~  
8 ~~affairs~~] shall report directly to the commission [~~director~~]  
9 regarding performance of and activities related to investigations,  
10 report to the director for administrative purposes, and provide the  
11 director with information regarding investigations as appropriate.

12 (f) The inspector general [~~head of the office of internal~~  
13 ~~affairs~~] shall present at each regularly scheduled commission  
14 meeting and at other appropriate times:

15 (1) reports of investigations; and

16 (2) a summary of information relating to  
17 investigations conducted under this section that includes analysis  
18 of the number, type, and outcome of investigations, trends in the  
19 investigations, and recommendations to avoid future complaints.

20 SECTION 5.13. Sections 411.0195(d) and (e), Government  
21 Code, are repealed.

22 SECTION 5.14. The changes in law made by this article by the  
23 amendment of Section 411.0035, Government Code, apply only to a  
24 person first appointed to the Public Safety Commission or employed  
25 by the Department of Public Safety of the State of Texas on or after  
26 the effective date of this Act. A person first appointed or  
27 employed before the effective date of this Act is governed by the

1 law in effect immediately before that date, and the former law is  
2 continued in effect for that purpose.

3 SECTION 5.15. The changes in law made by this article by the  
4 amendment of Section 411.0195, Government Code, apply only to a  
5 complaint filed on or after the effective date of this Act. A  
6 complaint filed before the effective date of this Act is governed by  
7 the law in effect when the complaint was filed, and the former law  
8 is continued in effect for that purpose.

9 SECTION 5.16. The Department of Public Safety of the State  
10 of Texas shall take action as necessary to ensure that an applicant  
11 may renew a qualified handgun instructor certification from any  
12 county in this state, as required by Section 411.190(d-1),  
13 Government Code, as added by this Act, not later than March 1, 2010.

14 SECTION 5.17. The Department of Public Safety shall develop  
15 customer service training requirements that at a minimum must be  
16 completed by the staff of the driver license division that interact  
17 with the public. Each new employee of the division that is required  
18 to complete this training, as a condition of employment, must do so  
19 by the end of the third month of employment. Thereafter, each  
20 employee that the training applies to shall participate annually in  
21 this training.

22 SECTION 5.18. The Department of Public Safety shall develop  
23 cultural diversity training requirements to be completed by all  
24 staff of the drivers license division. Each new employee of the  
25 division, as a condition of employment, must complete the training  
26 by the end of the third month of employment. Thereafter, each  
27 employee in the division shall participate annually in the

1 diversity training.

2 SECTION 5.19. The Department of Public Safety shall develop  
3 training requirements regarding proof of citizenship documents. At  
4 a minimum, this training must be completed by all staff in the  
5 drivers license division. Each new employee of this division, as a  
6 condition of employment, must complete the training by the end of  
7 the third month of employment. Thereafter, each employee of the  
8 division shall participate annually in this training.

9 ARTICLE 6. ADDITIONAL PROVISIONS

10 SECTION 6.01. Section 411.00755(b), Government Code, is  
11 amended to read as follows:

12 (b) The [~~Notwithstanding Chapter 552, the~~] personnel  
13 records of a commissioned officer of the department may not be  
14 disclosed or otherwise made available to the public, except the  
15 department shall release in accordance with Chapter 552:

16 (1) any letter, memorandum, or document relating to:

17 (A) a commendation, congratulation, or honor  
18 bestowed on the officer for an action, duty, or activity that  
19 relates to the officer's official duties; and

20 (B) misconduct by the officer, if the letter,  
21 memorandum, or document resulted in disciplinary action;

22 (2) the state application for employment submitted by  
23 the officer, but not including any attachments to the application;

24 (3) any reference letter submitted by the officer;

25 (4) any letter of recommendation for the officer;

26 (5) any employment contract with the officer;

27 (6) any periodic evaluation of the officer by a



1 supervisor;

2 (7) any document recording a promotion or demotion of  
3 the officer;

4 (8) any request for leave by the officer;

5 (9) any request by the officer for transfers of shift  
6 or duty assignments;

7 (10) any documents presented to the commission in  
8 connection with a public hearing under Section 411.007(f);

9 (11) the officer's:

10 (A) name;

11 (B) age;

12 (C) dates of employment;

13 (D) positions held; and

14 (E) gross salary; and

15 (12) information about the location of the officer's  
16 department duty assignments.

17 SECTION 6.02. Section 411.192, Government Code, is amended  
18 by amending Subsections (a) and (d) and adding Subsection (e) to  
19 read as follows:

20 (a) The department shall disclose to a criminal justice  
21 agency information contained in its files and records regarding  
22 whether a named individual or any individual named in a specified  
23 list is licensed under this subchapter. Information on an  
24 individual subject to disclosure under this section includes the  
25 individual's name, date of birth, gender, race, ~~and~~ zip code,  
26 telephone number, e-mail address, and Internet website address.

27 Except as otherwise provided by this section and by Section

1 411.193, all other records maintained under this subchapter are  
2 confidential and are not subject to mandatory disclosure under the  
3 open records law, Chapter 552.

4 (d) Except as provided by Subsection (e), [~~This section~~  
5 ~~does not prohibit~~] the department shall make [~~from making~~] public  
6 and distribute [~~distributing~~] to the public at no cost lists of  
7 individuals who are certified as qualified handgun instructors by  
8 the department. The department shall include on the lists each  
9 individual's name, telephone number, e-mail address, and Internet  
10 website address. The department shall make the list available on  
11 the department's Internet website.

12 (e) An individual who is certified as a qualified handgun  
13 instructor may request in writing that the department not disclose  
14 all or part of the information described by Subsection (d)  
15 regarding the individual. The department shall remove all or part  
16 of the individual's information from the list as requested.

17 SECTION 6.03. The heading to Section 418.005, Government  
18 Code, is amended to read as follows:

19 Sec. 418.005. EMERGENCY MANAGEMENT TRAINING FOR APPOINTED  
20 OFFICERS.

21 SECTION 6.04. Subchapter A, Chapter 418, Government Code,  
22 is amended by adding Section 418.0051 to read as follows:

23 Sec. 418.0051. EMERGENCY MANAGEMENT TRAINING FOR ELECTED  
24 PUBLIC OFFICERS. An elected public officer of the state or of a  
25 political subdivision whose duties include emergency management  
26 responsibilities or who plays a role in emergency preparedness,  
27 response, or recovery may attend the training provided under

1 Section 418.005 appropriate to the individual's position.

2 SECTION 6.05. Section 614.151(2), Government Code, as added  
3 by Chapter 1159 (H.B. 12), Acts of the 80th Legislature, Regular  
4 Session, 2007, is amended to read as follows:

5 (2) "Law enforcement officer" means a person who [+  
6 [~~(A)~~] is a commissioned peace officer [+  
7 [~~(B) is~~] employed by a law enforcement agency [+  
8 and

9 [~~(C) is compensated according to:~~

10 [~~(i) Schedule C of the position~~  
11 ~~classification salary schedule prescribed by the General~~  
12 ~~Appropriations Act if the person is employed by a law enforcement~~  
13 ~~agency other than the Parks and Wildlife Department; or~~

14 [~~(ii) Schedule B or C of the position~~  
15 ~~classification salary schedule prescribed by the General~~  
16 ~~Appropriations Act if the person is employed by the Parks and~~  
17 ~~Wildlife Department].~~

18 SECTION 6.06. Section 614.152, Government Code, as added by  
19 Chapter 1159 (H.B. 12), Acts of the 80th Legislature, Regular  
20 Session, 2007, is amended to read as follows:

21 Sec. 614.152. PHYSICAL FITNESS PROGRAMS AND STANDARDS. (a)  
22 Each [~~Out of appropriated funds, each~~] law enforcement agency shall  
23 adopt physical fitness programs that a law enforcement officer must  
24 participate in and physical fitness standards that a law  
25 enforcement officer must meet [~~to continue employment with the~~  
26 ~~agency as a law enforcement officer~~]. The standards as applied to  
27 an officer must directly relate to the officer's job duties and

1 shall include individual fitness goals specific to the officer's  
2 age, weight, and gender. A law enforcement agency shall use the  
3 services of a consultant to aid the agency in developing the  
4 standards.

5 (a-1) Each law enforcement agency shall adopt a reward  
6 policy that provides for reward incentives to officers who  
7 participate in the program and meet the standards adopted under  
8 Subsection (a). The reward incentives under the policy must be an  
9 amount of administrative leave of not more than four days per year.

10 (a-2) An agency may adopt physical readiness standards  
11 independent of other law enforcement agencies.

12 (b) Except as provided by Subsection (c), the inability of  
13 an officer to participate in a program or meet [a violation of] a  
14 standard adopted under Subsection (a) is just cause to [~~discharge~~  
15 ~~an officer or:~~

16 [~~(1)~~] transfer an officer to a position that is not  
17 compensated according to Schedule C of the position classification  
18 salary schedule prescribed by the General Appropriations Act [~~, or~~

19 [~~(2) for a law enforcement officer employed by the~~  
20 ~~Parks and Wildlife Department and compensated according to Schedule~~  
21 ~~B of the position classification salary schedule prescribed by the~~  
22 ~~General Appropriations Act, transfer the officer to a position that~~  
23 ~~does not require the employee to be a commissioned peace officer].~~

24 (c) A law enforcement agency may exempt a law enforcement  
25 officer from participating in a program or meeting a standard under  
26 Subsection (a) based on the facts and circumstances of the  
27 individual case, including whether an officer was injured in the

1 line of duty.

2 SECTION 6.07. Section 411.171(4), Government Code, is  
3 amended to read as follows:

4 (4) "Convicted" means an adjudication of guilt or,  
5 except as provided in Section 411.1711, an order of deferred  
6 adjudication entered against a person by a court of competent  
7 jurisdiction whether or not the imposition of the sentence is  
8 subsequently probated and the person is discharged from community  
9 supervision. The term does not include an adjudication of guilt or  
10 an order of deferred adjudication that has been subsequently:

11 (A) expunged; [~~or~~]

12 (B) pardoned under the authority of a state or  
13 federal official; or

14 (C) otherwise vacated, set aside, annulled,  
15 invalidated, voided, or sealed under any state or federal law.

16 SECTION 6.08. Section 521.005, Transportation Code, is  
17 amended to read as follows:

18 Sec. 521.005. RULEMAKING AUTHORITY. (a) The department  
19 may adopt rules necessary to administer this chapter.

20 (b) The department may not adopt or implement a new rule or  
21 directive that is consistent with the REAL ID Act of 2005 (49 U.S.C.  
22 Section 30301 et seq.), unless otherwise authorized by this  
23 chapter.

24 SECTION 6.09. Subchapter C, Chapter 522, Transportation  
25 Code, is amended by adding Section 522.034 to read as follows:

26 Sec. 522.034. HEALTH MANAGEMENT AND WELLNESS PROGRAM. (a)  
27 The department shall establish a health management and wellness

1 program to educate each applicant for a commercial driver's license  
2 or commercial driver learner's permit on health risks that may  
3 increase the risk that an operator may cause an accident while  
4 driving a commercial motor vehicle. At a minimum, the program must  
5 include information on:

- 6 (1) high blood pressure;
- 7 (2) high cholesterol; and
- 8 (3) diabetes.

9 (b) The department shall make the health management and  
10 wellness information required by Subsection (a) available to each  
11 applicant:

- 12 (1) in person, at the time the applicant submits an  
13 application for a commercial driver's license or commercial driver  
14 learner's permit; and
- 15 (2) on the department's Internet website.

16 SECTION 6.10. Subchapter S, Chapter 521, Transportation  
17 Code, is amended by adding Section 521.4565 to read as follows:

18 Sec. 521.4565. CONSPIRING TO MANUFACTURE COUNTERFEIT  
19 LICENSE OR CERTIFICATE. (a) In this section:

20 (1) "Combination," "conspires to commit," "profits,"  
21 and "criminal street gang" have the meanings assigned by Section  
22 71.01, Penal Code.

23 (2) "Conspires to manufacture or produce" means that:

24 (A) a person agrees with one or more other  
25 persons to engage in the manufacture or production of a forged or  
26 counterfeit instrument; and

27 (B) the person and one or more of the other

1 persons perform an overt act in pursuance of the agreement.

2 (3) "Instrument" means a driver's license, commercial  
3 driver's license, or personal identification certificate.

4 (4) "Public servant" has the meaning assigned by  
5 Section 1.07, Penal Code.

6 (b) A person commits an offense if the person establishes,  
7 maintains, or participates in or conspires to establish, maintain,  
8 or participate in a combination or criminal street gang, or  
9 participates in the profits of a combination or criminal street  
10 gang, with the intent to manufacture or produce a forged or  
11 counterfeit instrument for the purpose of selling, distributing, or  
12 delivering the instrument. An agreement that constitutes  
13 conspiring to manufacture or produce may be inferred from the acts  
14 of the parties.

15 (c) An offense under this section is a state jail felony,  
16 except that an offense committed by a public servant is a felony of  
17 the third degree.

18 SECTION 6.11. Section 708.151, Transportation Code, is  
19 amended to read as follows:

20 Sec. 708.151. NOTICE OF SURCHARGE. (a) The department  
21 shall send notices as required by Subsection (b) to [notify] the  
22 holder of a driver's license when [of the assessment of] a surcharge  
23 is assessed on that license. Each notice must:

24 (1) be sent by first class mail [sent] to the person's  
25 most recent address as shown on the records of the department or to  
26 the person's most recent forwarding address on record with the  
27 United States Postal Service if it is different;

1           (2) [~~• The notice must~~] specify the date by which the  
2 surcharge must be paid;

3           (3) state the total dollar amount of the surcharge  
4 which must be paid, the number of monthly payments required under an  
5 installment payment plan, and the minimum monthly payment required  
6 for a person to enter and maintain an installment payment plan with  
7 the department; and

8           (4) state the consequences of a failure to pay the  
9 surcharge.

10          (b) The department shall send a first notice not later than  
11 the fifth day after the date the surcharge is assessed. Any notice  
12 under this section shall also include a conspicuous notice  
13 regarding the ability of a person to qualify as indigent under  
14 Section 708.158 and the procedures to establish with the department  
15 their indigent status so that they may qualify for the reduced  
16 surcharges as set forth in Section 708.158.

17          (c) Once a person is recognized as an indigent under Section  
18 708.158, the department shall send a new notification to that  
19 person which accurately reflects the reduced surcharges owed.

20          (d) If on or before the 45th day after the date the first  
21 notice was sent the person fails to pay the amount of the surcharge  
22 or fails to enter into an installment payment agreement with the  
23 department, the department shall send a second notice. If on or  
24 before the 60th day after the date the second notice was sent the  
25 person fails to pay the amount of the surcharge or fails to enter  
26 into an installment payment agreement with the department, the  
27 department shall send a third notice which advises the person that



1 his/her driving privileges are suspended.

2 SECTION 6.12. Section 708.152(a), Transportation Code, is  
3 amended to read as follows:

4 (a) If on [~~before~~] the 60th [~~30th~~] day after the date the  
5 department sends a second notice under Section 708.151 the person  
6 fails to pay the amount of a surcharge on the person's license or  
7 fails to enter into an installment payment agreement with the  
8 department, the license of the person is automatically suspended.  
9 The person's license may not be suspended under this section before  
10 the 105th day after the surcharge was assessed by the department.

11 SECTION 6.13. Section 708.153(b), Transportation Code, is  
12 amended to read as follows:

13 (b) A rule under this section:

14 (1) may not require [~~permit~~] a person to pay a  
15 surcharge over a period of less [~~more~~] than 36 consecutive months  
16 for surcharges in the amount of \$500 or more; may not require a  
17 person to pay a surcharge over a period of less than 24 consecutive  
18 months for surcharges of \$250 to \$499; and may not require a person  
19 to pay a surcharge over a period of less than 12 consecutive months  
20 for surcharges of \$249 or less; and

21 (2) may provide that if the person fails to make any  
22 [~~a~~] required monthly installment payment, the department may  
23 reestablish the installment plan upon receipt of a payment in the  
24 amount at least equal to a required monthly installment payment [~~or~~  
25 ~~declare the amount of the unpaid surcharge immediately due and~~  
26 ~~payable~~].

27 SECTION 6.14. Section 708.157(c), Transportation Code, is

1 amended to read as follows:

2 (c) The department by rule shall [~~may~~] establish an  
3 indigency program for holders of a driver's license on which a  
4 surcharge has been assessed for certain offenses, as determined by  
5 the department.

6 SECTION 6.15. Subchapter D, Chapter 708, Transportation  
7 Code, is amended by adding Section 708.158 to read as follows:

8 Sec. 708.158. INDIGENT STATUS AND REDUCTION OF SURCHARGES.

9 (a) The department shall waive 75 percent of all surcharges  
10 assessed under Chapter 708 for a person meeting the criteria set  
11 forth in Subsections (b) and (c) hereof.

12 (b) The department shall waive 80 percent of all surcharges  
13 against a person who is indigent. For the purposes of this  
14 subsection, a person is indigent if the person provides evidence  
15 described by Subsection (c) to the department.

16 (c) A person must provide the following information to the  
17 department that the person's income or the person's household  
18 income does not exceed 125 percent of the applicable income level  
19 established by the federal poverty guidelines, and the following  
20 documentation may be used as such proof:

21 (1) a copy of the person's most recent federal income  
22 tax return;

23 (2) a copy of the person's most recent statement of  
24 wages; or

25 (3) documentation from a federal agency, state agency,  
26 or school district that indicates that the person or, if the person  
27 is a dependent as defined by Section 152 of the Internal Revenue

1 Code, the taxpayer claiming the person as a dependent, receives  
2 assistance from:

3 (A) the food stamp program or the financial  
4 assistance program established under Chapter 31, Human Resources  
5 Code;

6 (B) the federal special supplemental nutrition  
7 program for women, infants, and children authorized by 42 U.S.C.  
8 Section 1786;

9 (C) the medical assistance program under Chapter  
10 32, Human Resources Code;

11 (D) the child health plan program under Chapter  
12 62, Health and Safety Code; or

13 (E) the national free or reduced-price lunch  
14 program established under 42 U.S.C. Section 1751 et seq.

15 SECTION 6.16. Article 2.131, Code of Criminal Procedure, is  
16 amended to read as follows:

17 Art. 2.131. RACIAL PROFILING PROHIBITED. (a) A peace  
18 officer may not engage in racial profiling.

19 (b) A civilian employee of the Department of Public Safety  
20 assigned to a driver's license facility of that department may not  
21 engage in racial profiling in issuing an original, renewal, or  
22 duplicate driver's license, commercial driver's license, or  
23 personal identification certificate.

24 SECTION 6.17. Article 2.132, Code of Criminal Procedure, is  
25 amended by adding Subsection (g) to read as follows:

26 (g) To the extent that they can be made applicable, the  
27 provisions of Subsections (b)(1), (2), (3), (4), and (5) also apply

1 to civilian employees of the Department of Public Safety who are  
2 assigned to the driver's license facilities of the department.

3 SECTION 6.18. Section 22.0834, Education Code, is amended  
4 by adding Subsection (k) to read as follows:

5 (k) The requirements of this section apply to an entity that  
6 contracts directly with a school district, open-enrollment charter  
7 school, or shared services arrangement and any subcontractor of the  
8 entity. For purposes of this subsection, "subcontractor" means an  
9 entity that contracts with another entity that is not a school  
10 district, open-enrollment charter school, or shared services  
11 arrangement to provide services to a school district,  
12 open-enrollment charter school, or shared services arrangement.

13 SECTION 6.19. (a) In this section:

14 (1) "Authorized employee" means an officer of the  
15 Texas Highway Patrol or other law enforcement officer commissioned  
16 by the director of the department.

17 (2) "Department" means the Department of Public  
18 Safety.

19 (3) "Pilot program" means the pilot fingerprint  
20 identification program established under this section.

21 (b) If sufficient funds are available, the department shall  
22 develop and implement a program in one or more counties of this  
23 state to pilot the use by authorized employees of a mobile  
24 fingerprint identification system to perform fingerprint checks in  
25 the field as an aid to law enforcement.

26 (c) In implementing the pilot program, the department shall  
27 use a portable, lightweight mobile fingerprint scanner developed

1 for law enforcement that is secure, uses encrypted data  
2 transmissions for protection of the public, and does not require  
3 the authorized employee to carry additional equipment for the  
4 scanner to receive the data. The department shall make its existing  
5 automated fingerprint identification system available for use  
6 during the period of the pilot program.

7 (d) The department shall comply with all state procurement  
8 requirements in implementing the pilot program.

9 (e) The department may work with and enter into memorandums  
10 of understanding with municipalities to implement the pilot  
11 program.

12 (f) Under the pilot program, an authorized employee may not  
13 check the fingerprint of a person without the verbal consent of that  
14 person.

15 (g) The department may extend the pilot program to  
16 additional counties if the department determines that the expansion  
17 would be cost-effective.

18 (h) The department shall begin implementation of the pilot  
19 program not later than January 1, 2010, and shall conduct the pilot  
20 program for at least 12 months.

21 (i) Not later than February 1, 2011, the department shall  
22 report to the governor, the lieutenant governor, the speaker of the  
23 house of representatives, and the Sunset Advisory Commission  
24 regarding the pilot program. The report must include the  
25 department's recommendations for continuation or expansion of the  
26 pilot program and an evaluation of the department's use of the  
27 mobile fingerprint identification system, including:

1           (1) the appropriateness of conducting remote  
2 fingerprint checks;

3           (2) the value of remote fingerprint checking in  
4 combating crime and enforcing department rules and other laws of  
5 this state;

6           (3) the impact of using remote fingerprint checks on  
7 the efficiency of authorized employees;

8           (4) the impact of using remote fingerprint checks on  
9 the safety of authorized employees; and

10          (5) any reduction in inconvenience to a person who is  
11 not carrying a required license.

12          SECTION 6.20. Subject to the availability of funds, all  
13 department employees charged with processing applications for and  
14 issuing driver's licenses and/or identification cards shall  
15 receive a one-time pay raise in the amount of \$3,000 per year upon  
16 meeting the following qualifications:

17           (1) completion of all training requirements;

18           (2) a minimum of six months consecutive employment  
19 with the department in the same position; and

20           (3) a satisfactory job review by the employee's  
21 immediate supervisor.

22          ARTICLE 7. CERTAIN AGENCY ACCESS TO DATABASES

23          SECTION 7.01 Subchapter C, Chapter 481, Health and Safety  
24 Code, is amended by adding Section 481.0762 to read as follows:

25          Sec. 481.0762. CERTAIN AGENCY ACCESS TO DATABASES.

26          Notwithstanding any other provision of law, the director shall when  
27 it becomes technologically feasible permit the Texas State Board of

1 Pharmacy and the Texas Medical Board to have independent direct  
2 access to any information submitted to the director or the  
3 department for their respective applicants or licensees relating to  
4 controlled substance prescriptions, including information  
5 submitted by electronic transfer of prescriptions for controlled  
6 substances created under Subchapter C, Chapter 481, including any  
7 information received, collected, maintained, or compiled under  
8 Section 481.076 or 481.0761.

9 ARTICLE 8. GRANTS FOR HOMELAND SECURITY AND BORDER SECURITY

10 PURPOSES

11 SECTION 8.01. Subchapter A, Chapter 411, Government Code,  
12 is amended by adding Section 411.0133 to read as follows:

13 Sec. 411.0133. HOMELAND SECURITY AND BORDER SECURITY  
14 GRANTS. (a) Notwithstanding any other law, including Section  
15 772.006, the department is the only entity of state government that  
16 may select the recipient of state or federal funds granted by the  
17 state for homeland security or border security purposes.

18 (b) Another state entity with state or federal funds to be  
19 granted for homeland security or border security purposes shall:

20 (1) remit the funds to the department, which shall  
21 administer the grant; or

22 (2) notify the department and award the grant to the  
23 person selected by the department.

24 (c) The department by rule shall adopt a formula for  
25 selecting the recipients of grants for homeland security and border  
26 security purposes. The formula must fully consider the needs of the  
27 communities or entities applying for the grants and must give

1 emphasis to:

2 (1) the quality of homeland security or border  
3 security information collected by applicants;

4 (2) the number of suspects with authority in a  
5 criminal enterprise apprehended by the applicants; and

6 (3) the amount of illegal substances, contraband  
7 currency, and ammunition and number of firearms and stolen vehicles  
8 seized by the applicants.

9 (d) The department may not award a grant using a method  
10 other than the formula under Subsection (c).

11 (e) Not later than December 1 of each year, the department  
12 shall submit a report to the governor, lieutenant governor, speaker  
13 of the house of representatives, and members of the legislature  
14 regarding the department's activities under this section during the  
15 preceding state fiscal year.

16 SECTION 8.02. Sections 421.0025(b) and (c), Government  
17 Code, are amended to read as follows:

18 (b) The Border Security Council shall develop and recommend  
19 to the Department of Public Safety of the State of Texas [~~office of~~  
20 ~~the governor~~] performance standards, reporting requirements, audit  
21 methods, and other procedures to ensure that funds allocated by the  
22 department [~~office of the governor~~] for purposes related to  
23 security at or near this state's international border are used  
24 properly and that the recipients of the funds are accountable for  
25 the proper use of the funds.

26 (c) The Border Security Council shall advise the Department  
27 of Public Safety of the State of Texas [~~office of the governor~~]



1 regarding the allocation of funds by the department [~~office~~] for  
2 purposes related to security at or near this state's international  
3 border. Recommendations relating to the allocation of those funds  
4 must be made by a majority of the members of the council.

5 SECTION 8.03. The heading to Subchapter D, Chapter 421,  
6 Government Code, is amended to read as follows:

7 SUBCHAPTER D. COOPERATION AND ASSISTANCE [~~FUNDING~~]

8 SECTION 8.04. Section 421.072, Government Code, is  
9 repealed.

10 SECTION 8.05. This article takes effect September 1, 2009.

11 ARTICLE 9. SAFE SCHOOLS UNIT

12 SECTION 9.01. Subchapter A, Chapter 411, Government Code, is  
13 amended by adding Section 411.0203 to read as follows:

14 Sec. 411.0203. SAFE SCHOOLS UNIT. (a) The commission shall  
15 establish a safe schools unit pilot program in the department for  
16 the 2010-2011 school year to provide school districts in counties  
17 that participate in the program with information and other  
18 assistance concerning the issues of juvenile delinquency, juvenile  
19 substance abuse, and other law enforcement issues that affect  
20 school districts.

21 (b) Not later than February 1, 2010, the director shall  
22 select five counties to participate in the pilot program. The  
23 director may select only a county that has a population of less than  
24 500,000. At least one of the counties the director selects must  
25 have a population of more than 190,000, be located along the  
26 southern portion of the border between this state and Mexico, and  
27 contain a municipality with a population of more than 175,000. Each

1 school district in a participating county shall participate in the  
2 pilot program.

3 (c) The director shall administer the pilot program and  
4 adopt rules to implement and administer the program. In adopting  
5 rules, the director shall ensure that the pilot program addresses  
6 law enforcement issues that affect school districts, including the  
7 prevention of and intervention in juvenile delinquency and  
8 substance abuse.

9 (d) This section expires August 31, 2011.

10 SECTION 9.02. As soon as practicable after the effective  
11 date of this Act, the public safety director shall adopt rules as  
12 necessary to implement Section 411.0203, Government Code, as added  
13 by this Act.

14 ARTICLE 9A. DISCLOSURE OF CRIMINAL HISTORY RECORD INFORMATION  
15 REGARDING PUBLIC SCHOOL EMPLOYEES

16 SECTION 9A.01. Section 411.084, Government Code, is amended  
17 by amending Subsection (a) and adding Subsections (a-1) and (c) to  
18 read as follows:

19 (a) Criminal history record information obtained from the  
20 department under this subchapter, including any identification  
21 information that could reveal the identity of a person about whom  
22 criminal history record information is requested and information  
23 that directly or indirectly indicates or implies involvement of a  
24 person in the criminal justice system:

25 (1) is for the exclusive use of the authorized  
26 recipient of the information; and

27 (2) may be disclosed or used by the recipient only if,

1 and only to the extent that, disclosure or use is authorized or  
2 directed by:

- 3 (A) this subchapter;
- 4 (B) another statute;
- 5 (C) a rule adopted under a statute; or
- 6 (D) an order of a court of competent  
7 jurisdiction.

8 (a-1) The term "criminal history record" information under  
9 Subsection (a) does not refer to any specific document produced to  
10 comply with this subchapter but to the information contained,  
11 wholly or partly, in a document's original form or any subsequent  
12 form or use.

13 (c) An agency or individual may not confirm the existence or  
14 nonexistence of criminal history record information to any person  
15 that is not eligible to receive the information.

16 SECTION 9A.02. Sections 411.090(b) and (c), Government Code,  
17 are amended to read as follows:

18 (b) Criminal history record information obtained by the  
19 board in the original form or any subsequent form [~~under Subsection~~  
20 ~~(a)~~]:

21 (1) may be used only for a [~~any~~] purpose related to the  
22 issuance, denial, suspension, or cancellation of a certificate  
23 issued by the board;

24 (2) may not be released to any person except:

25 (A) the person who is the subject of the  
26 information;

27 (B) the Texas Education Agency;

1           (C) a local or regional educational entity as  
2 provided by Section 411.097; or

3           (D) by [en] court order [or with the consent of  
4 the applicant for a certificate]; [and]

5           (3) is not subject to disclosure as provided by  
6 Chapter 552; and

7           (4) shall be destroyed by the board after the  
8 information is used for the authorized purposes.

9           (c) The department shall notify the State Board for Educator  
10 Certification of the arrest of any educator, as defined by Section  
11 5.001, Education Code, who has fingerprints on file with the  
12 department. Any record of the notification and any information  
13 contained in the notification is not subject to disclosure as  
14 provided by Chapter 552.

15           SECTION 9A.03. Section 411.0901, Government Code, is  
16 amended to read as follows:

17           Sec. 411.0901. ACCESS TO CRIMINAL HISTORY RECORD  
18 INFORMATION: TEXAS EDUCATION AGENCY. (a) The Texas Education  
19 Agency is entitled to obtain criminal history record information  
20 maintained by the department about a person who:

21           (1) is employed or is an applicant for employment by a  
22 school district or open-enrollment charter school;

23           (2) is employed or is an applicant for employment by a  
24 shared services arrangement, if the employee's or applicant's  
25 duties are or will be performed on school property or at another  
26 location where students are regularly present; or

27           (3) is employed or is an applicant for employment by an

1 entity that contracts with a school district, open-enrollment  
2 charter school, or shared services arrangement if:

3 (A) the employee or applicant has or will have  
4 continuing duties relating to the contracted services; and

5 (B) the employee or applicant has or will have  
6 direct contact with students.

7 (b) Criminal history record information obtained by the  
8 agency in the original form or any subsequent form:

9 (1) may be used only for a purpose authorized by the  
10 Education Code;

11 (2) may not be released to any person except:

12 (A) the person who is the subject of the  
13 information;

14 (B) the State Board for Educator Certification;

15 (C) a local or regional educational entity as  
16 provided by Section 411.097; or

17 (D) by court order;

18 (3) is not subject to disclosure as provided by  
19 Chapter 552; and

20 (4) shall be destroyed by the agency after the  
21 information is used for the authorized purposes.

22 SECTION 9A.04. Section 411.097, Government Code, is amended  
23 by amending Subsection (d) and adding Subsection (f) to read as  
24 follows:

25 (d) Criminal history record information obtained by a  
26 school district, charter school, private school, service center,  
27 commercial transportation company, or shared services arrangement

1 in the original form or any subsequent form:

2 (1) [~~under Subsection (a), (b), or (c)~~] may not be  
3 released [~~or disclosed~~] to any person except:

4 (A) [~~other than~~] the individual who is the  
5 subject of the information;

6 (B) [~~7~~] the Texas Education Agency;

7 (C) [~~7~~] the State Board for Educator  
8 Certification;

9 (D) [~~7 or~~] the chief personnel officer of the  
10 transportation company, if the information is obtained under  
11 Subsection (a)(2); or

12 (E) by court order;

13 (2) is not subject to disclosure as provided by  
14 Chapter 552; and

15 (3) shall be destroyed by the school district, charter  
16 school, private school, service center, commercial transportation  
17 company, or shared services arrangement on the earlier of:

18 (A) the first anniversary of the date the  
19 information was originally obtained; or

20 (B) the date the information is used for the  
21 authorized purpose.

22 (f) An employee of a school district, charter school,  
23 private school, regional education service center, commercial  
24 transportation company, or education shared services arrangement  
25 or an entity that contracts to provide services to a school  
26 district, charter school, or shared services arrangement may  
27 request from the employer a copy of any criminal history record

1 information relating to that employee that the employer has  
2 obtained as provided by Subchapter C, Chapter 22, Education Code.  
3 The employer may charge a fee to an employee requesting a copy of  
4 the information in an amount not to exceed the actual cost of  
5 copying the requested criminal history record information.

6 SECTION 9A.05. Subchapter C, Chapter 22, Education Code, is  
7 amended by adding Section 22.08391 to read as follows:

8 Sec. 22.08391. CONFIDENTIALITY OF INFORMATION. (a)  
9 Information collected about a person to comply with this  
10 subchapter, including the person's name, address, phone number,  
11 social security number, driver's license number, other  
12 identification number, and fingerprint records:

13 (1) may not be released except:

14 (A) to comply with this subchapter;

15 (B) by court order; or

16 (C) with the consent of the person who is the  
17 subject of the information;

18 (2) is not subject to disclosure as provided by  
19 Chapter 552, Government Code; and

20 (3) shall be destroyed by the requestor or any  
21 subsequent holder of the information not later than the first  
22 anniversary of the date the information is received.

23 (b) Any criminal history record information received by the  
24 State Board for Educator Certification as provided by this  
25 subchapter is subject to Section 411.090(b), Government Code.

26 (c) Any criminal history record information received by the  
27 agency as provided by this subchapter is subject to Section

1 411.0901(b), Government Code.

2 (d) Any criminal history record information received by a  
3 school district, charter school, private school, regional  
4 education service center, commercial transportation company, or  
5 education shared services arrangement or an entity that contracts  
6 to provide services to a school district, charter school, or shared  
7 services arrangement as provided by this subchapter is subject to  
8 Section 411.097(d), Government Code.

9 SECTION 9A.06. The change in law made by this article  
10 applies to information collected, assembled, or maintained before,  
11 on, or after the effective date of this article.

12 ARTICLE 10. CRIMINAL HISTORY RECORD INFORMATION

13 CONCERNING CERTAIN INTOXICATION OFFENSES

14 SECTION 10.01. Section 411.135(a), Government Code, is  
15 amended to read as follows:

16 (a) Any person is entitled to obtain from the department:

17 (1) any information described as public information  
18 under Chapter 62, Code of Criminal Procedure, [~~as added by Chapter~~  
19 ~~668, Acts of the 75th Legislature, Regular Session, 1997,~~]  
20 including, to the extent available, a recent photograph of each  
21 person subject to registration under that chapter; [~~and~~]

22 (2) criminal history record information maintained by  
23 the department that relates to the conviction of or a grant of  
24 deferred adjudication to a person for any criminal offense,  
25 including arrest information that relates to the conviction or  
26 grant of deferred adjudication; and

27 (3) any information described as public information



1 under Section 411.1355(a).

2 SECTION 10.02. Subchapter F, Chapter 411, Government Code,  
3 is amended by adding Sections 411.1355 and 411.1356 to read as  
4 follows:

5 Sec. 411.1355. PUBLIC ACCESS TO CRIMINAL HISTORY RECORD  
6 INFORMATION CONCERNING CERTAIN INTOXICATION OFFENSES. (a)  
7 Criminal history record information that concerns a person's  
8 conviction for an offense under Section 49.04, 49.045, 49.05,  
9 49.06, 49.065, 49.07, or 49.08, Penal Code, is public information  
10 if the person has been previously convicted of an offense under one  
11 of those sections.

12 (b) The department shall design and implement an Internet  
13 website to allow any person, free of charge, to electronically  
14 search for and receive information described by Subsection (a) by  
15 entering specific search criteria into the website, including a zip  
16 code, city, county, or name of a person. The search results:

17 (1) must include:

18 (A) the municipality in which the last known  
19 address of the person convicted is located; and

20 (B) a recent photograph of the person convicted  
21 taken attendant to the person's arrest; and

22 (2) may not include:

23 (A) any information regarding the convicted  
24 person's social security number, driver's license number, or  
25 telephone number;

26 (B) any information that would identify a victim  
27 of the offense; or

1           (C) any information regarding a person if 15  
2 years have elapsed since the date the person committed the most  
3 recent offense for which the person was convicted under Section  
4 49.04, 49.045, 49.05, 49.06, 49.065, 49.07, or 49.08, Penal Code.

5           Sec. 411.1356. CRIMINAL HISTORY RECORD INFORMATION  
6 CONCERNING CERTAIN INTOXICATION OFFENSES PROVIDED TO PEACE OFFICER  
7 ON REQUEST. The department shall establish a procedure by which a  
8 peace officer or employee of a law enforcement agency who provides  
9 the department with a driver's license number, personal  
10 identification certificate number, or license plate number is  
11 automatically provided information as to whether the department has  
12 criminal history record information concerning an offense under  
13 Section 49.04, 49.045, 49.05, 49.06, 49.065, 49.07, or 49.08, Penal  
14 Code, about the person to whom the driver's license, personal  
15 identification certificate, or license plate is issued. The  
16 procedure must allow a peace officer to request the information  
17 from the location of a motor vehicle stop and to receive a response  
18 to the request during the duration of a reasonable motor vehicle  
19 stop.

20           SECTION 10.03. Not later than May 1, 2010, the Department of  
21 Public Safety shall make criminal history record information  
22 available to a requesting person as required by Sections 411.1355  
23 and 411.1356, Government Code, as added by this Act.

24           ARTICLE 11. APPLICATION FOR LICENSE TO  
25                                 CARRY A CONCEALED HANDGUN

26           SECTION 11.01. Section 411.175, Government Code, is  
27 repealed.

1 SECTION 11.02. Section 411.172(a), Government Code, is  
2 amended to read as follows:

3 (a) A person is eligible for a license to carry a concealed  
4 handgun if the person:

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

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

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

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

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

15 (6) is not a chemically dependent person;

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

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

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

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

26 (11) ~~[has not been finally determined to be delinquent~~  
27 ~~in the payment of a tax or other money collected by the comptroller,~~

1 ~~the tax collector of a political subdivision of the state, or any~~  
2 ~~agency or subdivision of the state;~~

3 ~~[(12) has not been finally determined to be in default~~  
4 ~~on a loan made under Chapter 57, Education Code;~~

5 ~~[(13)]~~ is not currently restricted under a court  
6 protective order or subject to a restraining order affecting the  
7 spousal relationship, other than a restraining order solely  
8 affecting property interests;

9 (12) ~~[(14)]~~ has not, in the 10 years preceding the  
10 date of application, been adjudicated as having engaged in  
11 delinquent conduct violating a penal law of the grade of felony; and

12 (13) ~~[(15)]~~ has not made any material  
13 misrepresentation, or failed to disclose any material fact, in an  
14 application submitted pursuant to Section 411.174 ~~[or in a request~~  
15 ~~for application submitted pursuant to Section 411.175].~~

16 SECTION 11.03. Section 411.176, Government Code, is amended  
17 to read as follows:

18 Sec. 411.176. REVIEW OF APPLICATION MATERIALS. (a) On  
19 receipt of ~~the~~ application materials by the department at its  
20 Austin headquarters, the department shall conduct the appropriate  
21 criminal history record check of the applicant through its  
22 computerized criminal history system. Not later than the 30th day  
23 after the date the department receives the application materials,  
24 the department shall forward the materials to the director's  
25 designee in the geographical area of the applicant's residence so  
26 that the designee may conduct the investigation described by  
27 Subsection (b). For purposes of this section, the director's

1 designee may be a noncommissioned employee of the department.

2 (b) The director's designee as needed shall conduct an  
3 additional criminal history record check of the applicant and an  
4 investigation of the applicant's local official records to verify  
5 the accuracy of the application materials. The director's designee  
6 may access any records necessary for purposes of this subsection.  
7 The scope of the record check and the investigation are at the sole  
8 discretion of the department, except that the director's designee  
9 shall complete the record check and investigation not later than  
10 the 60th day after the date the department receives the application  
11 materials. The department shall send a fingerprint card to the  
12 Federal Bureau of Investigation for a national criminal history  
13 check of the applicant. On completion of the investigation, the  
14 director's designee shall return all materials and the result of  
15 the investigation to the appropriate division of the department at  
16 its Austin headquarters.

17 (c) The director's designee may submit to the appropriate  
18 division of the department, at the department's Austin  
19 headquarters, along with the application materials a written  
20 recommendation for disapproval of the application, accompanied by  
21 an affidavit stating personal knowledge or naming persons with  
22 personal knowledge of a ground for denial under Section 411.172.  
23 The director's designee [~~in the appropriate geographical area~~] may  
24 also submit the application and the recommendation that the license  
25 be issued.

26 (d) On receipt at the department's Austin headquarters of  
27 the application materials and the result of the investigation by

1 the director's designee, the department shall conduct any further  
2 record check or investigation the department determines is  
3 necessary if a question exists with respect to the accuracy of the  
4 application materials or the eligibility of the applicant, except  
5 that the department shall complete the record check and  
6 investigation not later than the 180th day after the date the  
7 department receives the application materials from the applicant.

8 SECTION 11.04. Section 411.177(b), Government Code, is  
9 amended to read as follows:

10 (b) The department shall, not later than the 60th day after  
11 the date of the receipt by the director's designee of the completed  
12 application materials:

13 (1) issue the license;

14 (2) notify the applicant in writing that the  
15 application was denied:

16 (A) on the grounds that the applicant failed to  
17 qualify under the criteria listed in Section 411.172;

18 (B) based on the affidavit of the director's  
19 designee submitted to the department under Section 411.176(c)  
20 [~~411.176(b)~~]; or

21 (C) based on the affidavit of the qualified  
22 handgun instructor submitted to the department under Section  
23 411.189(c); or

24 (3) notify the applicant in writing that the  
25 department is unable to make a determination regarding the issuance  
26 or denial of a license to the applicant within the 60-day period  
27 prescribed by this subsection and include in that notification an

1 explanation of the reason for the inability and an estimation of the  
2 amount of time the department will need to make the determination.

3 SECTION 11.05. The changes in law made by this article in  
4 repealing Section 411.175, Government Code, apply only to an  
5 application for the issuance of a license that is submitted to the  
6 Department of Public Safety on or after September 1, 2009. An  
7 application submitted before September 1, 2009, is governed by the  
8 law in effect when the application was submitted, and the former law  
9 is continued in effect for that purpose.

10 SECTION 11.06. This article takes effect September 1, 2009.

11 ARTICLE 12. DISPLAY OF LICENSE TO

12 CARRY A CONCEALED HANDGUN

13 SECTION 12.01. Sections 411.187(a) and (c), Government  
14 Code, are amended to read as follows:

15 (a) A license may be suspended under this section if the  
16 license holder:

17 (1) is charged with the commission of a Class A or  
18 Class B misdemeanor or an offense under Section 42.01, Penal Code,  
19 or of a felony under an information or indictment;

20 (2) ~~[fails to display a license as required by Section~~  
21 ~~411.205,~~

22 ~~[(3)]~~ fails to notify the department of a change of  
23 address or name as required by Section 411.181;

24 (3) ~~[(4)]~~ carries a concealed handgun under the  
25 authority of this subchapter of a different category than the  
26 license holder is licensed to carry;

27 (4) ~~[(5)]~~ fails to return a previously issued license

1 after a license is modified as required by Section 411.184(d);

2 (5) [~~(6)~~] commits an act of family violence and is the  
3 subject of an active protective order rendered under Title 4,  
4 Family Code; or

5 (6) [~~(7)~~] is arrested for an offense involving family  
6 violence or an offense under Section 42.072, Penal Code, and is the  
7 subject of an order for emergency protection issued under Article  
8 17.292, Code of Criminal Procedure.

9 (c) A license may be suspended under this section:

10 (1) for 30 days, if the person's license is subject to  
11 suspension for a reason listed in Subsection (a)(2), (3) [~~(a)(3)~~],  
12 or (4), [~~or (5)~~], except as provided by Subdivision (2) [~~(3)~~];

13 (2) [~~for 90 days, if the person's license is subject to~~  
14 ~~suspension for a reason listed in Subsection (a)(2), except as~~  
15 ~~provided by Subdivision (3)~~];

16 [~~(3)~~] for not less than one year and not more than three  
17 years if the person's license is subject to suspension for a reason  
18 listed in Subsection (a), other than the reason listed in  
19 Subsection (a)(1), and the person's license has been previously  
20 suspended for the same reason;

21 (3) [~~(4)~~] until dismissal of the charges if the  
22 person's license is subject to suspension for the reason listed in  
23 Subsection (a)(1); or

24 (4) [~~(5)~~] for the duration of or the period specified  
25 by:

26 (A) the protective order issued under Title 4,  
27 Family Code, if the person's license is subject to suspension for



1 the reason listed in Subsection (a)(5) [~~(a)(6)~~]; or

2 (B) the order for emergency protection issued  
3 under Article 17.292, Code of Criminal Procedure, if the person's  
4 license is subject to suspension for the reason listed in  
5 Subsection (a)(6) [~~(a)(7)~~].

6 SECTION 12.02. Section 411.205, Government Code, is amended  
7 to read as follows:

8 Sec. 411.205. REQUIREMENT TO DISPLAY [~~DISPLAYING~~]  
9 LICENSE [~~, PENALTY~~]. [~~(a)~~] If a license holder is carrying a  
10 handgun on or about the license holder's person when a magistrate or  
11 a peace officer demands that the license holder display  
12 identification, the license holder shall display both the license  
13 holder's driver's license or identification certificate issued by  
14 the department and the license holder's handgun license. [~~A person~~  
15 ~~who fails or refuses to display the license and identification as~~  
16 ~~required by this subsection is subject to suspension of the~~  
17 ~~person's license as provided by Section 411.187.~~

18 [~~(b) A person commits an offense if the person fails or~~  
19 ~~refuses to display the license and identification as required by~~  
20 ~~Subsection (a) after previously having had the person's license~~  
21 ~~suspended for a violation of that subsection. An offense under this~~  
22 ~~subsection is a Class B misdemeanor.]~~

23 SECTION 12.03. An offense under Section 411.205, Government  
24 Code, may not be prosecuted after the effective date of this  
25 article. If, on the effective date of this article, a criminal  
26 action is pending for an offense under Section 411.205, the action  
27 is dismissed on that date. However, a final conviction for an

1 offense under Section 411.205 that exists on the effective date of  
2 this article is unaffected by this article.

3 SECTION 12.04. This article takes effect September 1, 2009.

4 ARTICLE 13. DRIVER'S LICENSE ISSUED TO CERTAIN FEDERAL AND STATE  
5 JUDGES AND SPOUSES

6 SECTION 13.01. Section 521.001, Transportation Code, is  
7 amended by adding Subdivisions (3-a) and (8-a) to read as follows:

8 (3-a) "Federal judge" means:

9 (A) a judge of a United States court of appeals;

10 (B) a judge of a United States district court;

11 (C) a judge of a United States bankruptcy court;

12 or

13 (D) a magistrate judge of a United States  
14 district court.

15 (8-a) "State judge" means:

16 (A) the judge of an appellate court, a district  
17 court, or a county court at law of this state; or

18 (B) an associate judge appointed under Chapter  
19 201, Family Code.

20 SECTION 13.02. Sections 521.054(a) and (b), Transportation  
21 Code, are amended to read as follows:

22 (a) This section applies to a person who:

23 (1) after applying for or being issued a ~~the~~ license  
24 or certificate moves to a new residence ~~from the~~ address ~~stated~~  
25 ~~in the person's application for a license or certificate~~;

26 (2) has used the procedure under Section 521.121(d)  
27 and whose status as a federal judge, a state judge, or the spouse of

1 a federal or state judge becomes inapplicable [~~moves from the~~  
2 ~~address shown on the license or certificate held by the person~~]; or

3 (3) changes the person's name by marriage or  
4 otherwise.

5 (b) A person subject to this section shall notify the  
6 department of the change not later than the 30th day after the date  
7 on which the change takes effect and apply for a duplicate license  
8 or certificate as provided by Section 521.146. The duplicate  
9 license must include the person's current residence address.

10 SECTION 13.03. Section 521.121, Transportation Code, is  
11 amended by amending Subsection (a) and adding Subsection (d) to  
12 read as follows:

13 (a) The driver's license must include:

14 (1) a distinguishing number assigned by the department  
15 to the license holder;

16 (2) a color photograph of the entire face of the  
17 holder;

18 (3) the full name and[~~7~~] date of birth[~~, and residence~~  
19 ~~address~~] of the holder; [~~and~~]

20 (4) a brief description of the holder; and

21 (5) the license holder's residence address or, for a  
22 license holder using the procedure under Subsection (d), the street  
23 address of the courthouse in which the license holder or license  
24 holder's spouse serves as a federal judge or state judge.

25 (d) The department shall establish a procedure for a federal  
26 judge, a state judge, or the spouse of a federal or state judge to  
27 omit the license holder's residence address on the license and to

1 include, in lieu of that address, the street address of the  
2 courthouse in which the license holder or license holder's spouse  
3 serves as a federal judge or state judge. In establishing the  
4 procedure, the department shall require sufficient documentary  
5 evidence to establish the license holder's status as a federal  
6 judge, state judge, or the spouse of a federal or state judge.

7 SECTION 13.04. Section 521.142(c), Transportation Code, is  
8 amended to read as follows:

9 (c) The application must state:

10 (1) the sex of the applicant;

11 (2) the residence address of the applicant, or if the  
12 applicant is a federal judge, a state judge, or the spouse of a  
13 federal or state judge using the procedure developed under Section  
14 521.121(d), the street address of the courthouse in which the  
15 applicant or the applicant's spouse serves as a federal judge or a  
16 state judge;

17 (3) whether the applicant has been licensed to drive a  
18 motor vehicle before;

19 (4) if previously licensed, when and by what state or  
20 country;

21 (5) whether that license has been suspended or revoked  
22 or a license application denied;

23 (6) the date and reason for the suspension,  
24 revocation, or denial;

25 (7) whether the applicant is a citizen of the United  
26 States; and

27 (8) the county of residence of the applicant.

ARTICLE 14. OPERATION OF MOTOR VEHICLES

SECTION 14.01. Section 545.413(e), Transportation Code, is amended to read as follows:

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

(1) the person possesses a written statement from a licensed physician stating that for a medical reason the person should not wear a safety belt;

(2) the person presents to the court, not later than the 10th day after the date of the offense, a statement from a licensed physician stating that for a medical reason the person should not wear a safety belt;

(3) the person is employed by the United States Postal Service and performing a duty for that agency that requires the operator to service postal boxes from a vehicle or that requires frequent entry into and exit from a vehicle;

(4) the person is engaged in the actual delivery of newspapers from a vehicle or is performing newspaper delivery duties that require frequent entry into and exit from a vehicle;

(5) the person is employed by a public or private utility company and is engaged in the reading of meters or performing a similar duty for that company requiring the operator to frequently enter into and exit from a vehicle; ~~or~~

(6) the ~~The~~ person is operating a commercial vehicle registered as a farm vehicle under the provisions of Section 502.163 that does not have a gross weight, registered weight, or gross weight rating of 48,000 pounds or more; or

(7) the person is the operator of or a passenger in a

1 vehicle used exclusively to transport solid waste and performing  
2 duties that require frequent entry into and exit from the vehicle.

3 SECTION 14.02. The change in law made by this article to  
4 Section 545.413(e), Transportation Code, as amended by this  
5 article, applies only to an offense under Section 545.413(a) of  
6 that code, regardless of whether the offense was committed before,  
7 on, or after the effective date of this Act.

8 ARTICLE 15. MOTOR VEHICLE SAFETY RESPONSIBILITY

9 SECTION 15.01. Section 601.053, Transportation Code, is  
10 amended by amending Subsection (b) and adding Subsection (c) to  
11 read as follows:

12 (b) Except as provided by Subsection (c), an [An] operator  
13 who does not exhibit evidence of financial responsibility under  
14 Subsection (a) is presumed to have operated the vehicle in  
15 violation of Section 601.051.

16 (c) Subsection (b) does not apply if the peace officer  
17 determines through use of the verification program established  
18 under Subchapter N that financial responsibility has been  
19 established for the vehicle.

20 SECTION 15.02. Subchapter N, Chapter 601, Transportation  
21 Code, as added by Chapter 1325 (H.B. 3588), Acts of the 78th  
22 Legislature, Regular Session, 2003, is repealed.

23 ARTICLE 16. EFFECTIVE DATE

24 SECTION 16.01. Except as otherwise provided by this Act,  
25 this Act takes effect immediately if it receives a vote of  
26 two-thirds of all the members elected to each house, as provided by  
27 Section 39, Article III, Texas Constitution. If this Act does not

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1 receive the vote necessary for immediate effect, this Act takes  
2 effect September 1, 2009.