

By: Taylor

H.B. No. 4406

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the application process for a license to carry a
3 concealed handgun.

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

5 SECTION 1. Section 411.175, Government Code, is repealed.

6 SECTION 2. Section 411.172(a), Government Code, is amended
7 to read as follows:

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

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

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

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

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

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

20 (6) is not a chemically dependent person;

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

23 (8) has not, in the five years preceding the date of
24 application, been convicted of a Class A or Class B misdemeanor or

1 an offense under Section 42.01, Penal Code;

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

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

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

11 (12) has not been finally determined to be in default
12 on a loan made under Chapter 57, Education Code;

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

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

20 (15) has not made any material misrepresentation, or
21 failed to disclose any material fact, in an application submitted
22 pursuant to Section 411.174 [~~or in a request for application~~
23 ~~submitted pursuant to Section 411.175~~].

24 SECTION 3. Section 411.176, Government Code, is amended to
25 read as follows:

26 Sec. 411.176. REVIEW OF APPLICATION MATERIALS. (a) On
27 receipt of [~~the~~] application materials by the department at its

1 Austin headquarters, the department shall conduct the appropriate
2 criminal history record check of the applicant through its
3 computerized criminal history system. Not later than the 30th day
4 after the date the department receives the application materials,
5 the department shall forward the materials to the director's
6 designee in the geographical area of the applicant's residence so
7 that the designee may conduct the investigation described by
8 Subsection (b). For purposes of this section, the director's
9 designee may be a noncommissioned employee of the department.

10 (b) The director's designee as needed shall conduct an
11 additional criminal history record check of the applicant and an
12 investigation of the applicant's local official records to verify
13 the accuracy of the application materials. The director's designee
14 may access any records necessary for purposes of this subsection.
15 The scope of the record check and the investigation are at the sole
16 discretion of the department, except that the director's designee
17 shall complete the record check and investigation not later than
18 the 60th day after the date the department receives the application
19 materials. The department shall send a fingerprint card to the
20 Federal Bureau of Investigation for a national criminal history
21 check of the applicant. On completion of the investigation, the
22 director's designee shall return all materials and the result of
23 the investigation to the appropriate division of the department at
24 its Austin headquarters.

25 (c) The director's designee may submit to the appropriate
26 division of the department, at the department's Austin
27 headquarters, along with the application materials a written

1 recommendation for disapproval of the application, accompanied by
2 an affidavit stating personal knowledge or naming persons with
3 personal knowledge of a ground for denial under Section 411.172.
4 The director's designee [~~in the appropriate geographical area~~] may
5 also submit the application and the recommendation that the license
6 be issued.

7 (d) On receipt at the department's Austin headquarters of
8 the application materials and the result of the investigation by
9 the director's designee, the department shall conduct any further
10 record check or investigation the department determines is
11 necessary if a question exists with respect to the accuracy of the
12 application materials or the eligibility of the applicant, except
13 that the department shall complete the record check and
14 investigation not later than the 180th day after the date the
15 department receives the application materials from the applicant.

16 SECTION 4. Section 411.177(b), Government Code, is amended
17 to read as follows:

18 (b) The department shall, not later than the 60th day after
19 the date of the receipt by the director's designee of the completed
20 application materials:

21 (1) issue the license;

22 (2) notify the applicant in writing that the
23 application was denied:

24 (A) on the grounds that the applicant failed to
25 qualify under the criteria listed in Section 411.172;

26 (B) based on the affidavit of the director's
27 designee submitted to the department under Section 411.176(c)

1 ~~[411.176(b)]~~; or

2 (C) based on the affidavit of the qualified
3 handgun instructor submitted to the department under Section
4 411.189(c); or

5 (3) notify the applicant in writing that the
6 department is unable to make a determination regarding the issuance
7 or denial of a license to the applicant within the 60-day period
8 prescribed by this subsection and include in that notification an
9 explanation of the reason for the inability and an estimation of the
10 amount of time the department will need to make the determination.

11 SECTION 5. The changes in law made by this Act in repealing
12 Section 411.175, Government Code, apply only to an application for
13 the issuance of a license that is submitted to the Department of
14 Public Safety on or after the effective date of this Act. An
15 application submitted before the effective date of this Act is
16 governed by the law in effect when the application was submitted,
17 and the former law is continued in effect for that purpose.

18 SECTION 6. This Act takes effect September 1, 2009.