

By: Lavender, et al.

H.B. No. 2756

A BILL TO BE ENTITLED

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

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

5 SECTION 1. (a) Sections 46.035(a) and (h), Penal Code, are  
6 repealed.

7 (b) Section 411.171(3), Government Code, is repealed.

8 SECTION 2. Section 11.041(a), Alcoholic Beverage Code, is  
9 amended to read as follows:

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

17 SECTION 3. Section 11.61(e), Alcoholic Beverage Code, is  
18 amended to read as follows:

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

24 (1) who holds a security officer commission issued

1 under Chapter 1702, Occupations Code, if:

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

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

6 (C) the weapon is in plain view;

7 (2) who is a peace officer;

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

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

14 SECTION 4. Section 61.11(a), Alcoholic Beverage Code, is  
15 amended to read as follows:

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

23 SECTION 5. Section 61.71(f), Alcoholic Beverage Code, is  
24 amended to read as follows:

25 (f) Except as provided by Subsection (g) or (j), the  
26 commission or administrator shall cancel an original or renewal  
27 dealer's on-premises or off-premises license if it is found, after

1 notice and hearing, that the licensee knowingly allowed a person to  
2 possess a firearm in a building on the licensed premises. This  
3 subsection does not apply to a person:

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

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

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

10 (C) the weapon is in plain view;

11 (2) who is a peace officer;

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

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

18 SECTION 6. Article 7A.05(c), Code of Criminal Procedure, is  
19 amended to read as follows:

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

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

25 (1) In the order for emergency protection, the magistrate  
26 shall suspend a license to carry a [~~concealed~~] handgun issued under  
27 Subchapter H, Chapter 411, Government Code, that is held by the

1 defendant.

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

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

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

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

15 (3) demand surrender of the suspended license from the  
16 license holder.

17 SECTION 9. Section 2.005(b), Family Code, is amended to  
18 read as follows:

19 (b) The proof must be established by:

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

25 (2) a United States passport;

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

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

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

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

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

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

18          (9) school records from a secondary school or  
19 institution of higher education;

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

22          (11) a motor vehicle certificate of title;

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

25          (13) an unexpired military dependent identification  
26 card;

27          (14) an original or certified copy of the applicant's

1 marriage license or divorce decree;

2 (15) a voter registration certificate;

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

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

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

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

11 SECTION 10. Section 58.003(m), Family Code, is amended to  
12 read as follows:

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

18 SECTION 11. Section 85.022(d), Family Code, is amended to  
19 read as follows:

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

24 SECTION 12. Section 85.042(e), Family Code, is amended to  
25 read as follows:

26 (e) The clerk of the court issuing an original or modified  
27 protective order under Section 85.022 that suspends a license to

1 carry a [~~concealed~~] handgun shall send a copy of the order to the  
2 appropriate division of the Department of Public Safety at its  
3 Austin headquarters. On receipt of the order suspending the  
4 license, the department shall:

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

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

9 (3) demand surrender of the suspended license from the  
10 license holder.

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

13 Sec. 411.047. REPORTING RELATED TO CERTAIN [~~CONCEALED~~]  
14 HANDGUN INCIDENTS.

15 SECTION 14. The heading to Subchapter H, Chapter 411,  
16 Government Code, is amended to read as follows:

17 SUBCHAPTER H. LICENSE TO CARRY A [~~CONCEALED~~] HANDGUN

18 SECTION 15. Sections 411.172(a), (b-1), (g), and (h),  
19 Government Code, are amended to read as follows:

20 (a) A person is eligible for a license to carry a  
21 [~~concealed~~] handgun if the person:

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

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

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

27 (4) is not charged with the commission of a Class A or

1 Class B misdemeanor or equivalent offense, or of an offense under  
2 Section 42.01, Penal Code, or equivalent offense, or of a felony  
3 under an information or indictment;

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

6 (6) is not a chemically dependent person;

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

9 (8) has not, in the five years preceding the date of  
10 application, been convicted of a Class A or Class B misdemeanor or  
11 equivalent offense or of an offense under Section 42.01, Penal  
12 Code, or equivalent offense;

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

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

18 (11) has not been finally determined to be delinquent  
19 in the payment of a tax or other money collected by the comptroller,  
20 the tax collector of a political subdivision of the state, or any  
21 agency or subdivision of the state;

22 (12) is not currently restricted under a court  
23 protective order or subject to a restraining order affecting the  
24 spousal relationship, other than a restraining order solely  
25 affecting property interests;

26 (13) has not, in the 10 years preceding the date of  
27 application, been adjudicated as having engaged in delinquent



1 conduct violating a penal law of the grade of felony; and

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

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

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

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

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

15 (1) is a member or veteran of the United States armed  
16 forces, including a member or veteran of the reserves or national  
17 guard;

18 (2) was discharged under honorable conditions, if  
19 discharged from the United States armed forces, reserves, or  
20 national guard; and

21 (3) meets the other eligibility requirements of  
22 Subsection (a) except for the minimum age required by federal law to  
23 purchase a handgun.

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

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

3           (b) The governor shall negotiate an agreement with any other  
4 state that provides for the issuance of a license to carry a  
5 ~~concealed~~ handgun under which a license issued by the other state  
6 is recognized in this state or shall issue a proclamation that a  
7 license issued by the other state is recognized in this state if the  
8 attorney general of the State of Texas determines that a background  
9 check of each applicant for a license issued by that state is  
10 initiated by state or local authorities or an agent of the state or  
11 local authorities before the license is issued. For purposes of  
12 this subsection, "background check" means a search of the National  
13 Crime Information Center database and the Interstate  
14 Identification Index maintained by the Federal Bureau of  
15 Investigation.

16           SECTION 17. Section 411.174(a), Government Code, is amended  
17 to read as follows:

18           (a) An applicant for a license to carry a ~~concealed~~  
19 handgun must submit to the director's designee described by Section  
20 411.176:

21                   (1) a completed application on a form provided by the  
22 department that requires only the information listed in Subsection  
23 (b);

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

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

1 (4) proof of residency in this state;

2 (5) two complete sets of legible and classifiable  
3 fingerprints of the applicant taken by a person appropriately  
4 trained in recording fingerprints who is employed by a law  
5 enforcement agency or by a private entity designated by a law  
6 enforcement agency as an entity qualified to take fingerprints of  
7 an applicant for a license under this subchapter;

8 (6) a nonrefundable application and license fee of  
9 \$140 paid to the department;

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

12 (8) an affidavit signed by the applicant stating that  
13 the applicant:

14 (A) has read and understands each provision of  
15 this subchapter that creates an offense under the laws of this state  
16 and each provision of the laws of this state related to use of  
17 deadly force; and

18 (B) fulfills all the eligibility requirements  
19 listed under Section 411.172; and

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

24 SECTION 18. Section 411.177(a), Government Code, is amended  
25 to read as follows:

26 (a) The department shall issue a license to carry a  
27 ~~concealed~~ handgun to an applicant if the applicant meets all the

1 eligibility requirements and submits all the application  
2 materials. The department may issue a license to carry handguns  
3 only of the categories for which the applicant has demonstrated  
4 proficiency in the form and manner required by the department. The  
5 department shall administer the licensing procedures in good faith  
6 so that any applicant who meets all the eligibility requirements  
7 and submits all the application materials shall receive a license.  
8 The department may not deny an application on the basis of a  
9 capricious or arbitrary decision by the department.

10 SECTION 19. Section 411.185(d), Government Code, is amended  
11 to read as follows:

12 (d) The director by rule shall adopt a procedure by which a  
13 license holder who satisfies the eligibility criteria may renew a  
14 license by mail. The materials for renewal by mail must include a  
15 form to be signed and returned to the department by the applicant  
16 that describes state law regarding:

- 17 (1) the use of deadly force; and  
18 (2) the places where it is unlawful for the holder of a  
19 license issued under this subchapter to carry a ~~concealed~~  
20 handgun.

21 SECTION 20. Section 411.187(a), Government Code, is amended  
22 to read as follows:

23 (a) The department shall suspend a license under this  
24 section if the license holder:

- 25 (1) is charged with the commission of a Class A or  
26 Class B misdemeanor or equivalent offense, or of an offense under  
27 Section 42.01, Penal Code, or equivalent offense, or of a felony

1 under an information or indictment;

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

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

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

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

12 (6) is arrested for an offense involving family  
13 violence or an offense under Section 42.072, Penal Code, and is the  
14 subject of an order for emergency protection issued under Article  
15 17.292, Code of Criminal Procedure.

16 SECTION 21. Section 411.188(g), Government Code, is amended  
17 to read as follows:

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

22 SECTION 22. Section 411.1881(a), Government Code, is  
23 amended to read as follows:

24 (a) Notwithstanding any other provision of this subchapter,  
25 a person may not be required to complete the range instruction  
26 portion of a handgun proficiency course to obtain or renew a  
27 [~~concealed~~] handgun license issued under this subchapter if the

1 person:

2 (1) is currently serving in or is honorably discharged  
3 from:

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

7 (B) the state military forces, as defined by  
8 Section 431.001; and

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

14 SECTION 23. Sections 411.190(c) and (f), Government Code,  
15 are amended to read as follows:

16 (c) In the manner applicable to a person who applies for a  
17 license to carry a ~~concealed~~ handgun, the department shall  
18 conduct a background check of a person who applies for  
19 certification as a qualified handgun instructor. If the background  
20 check indicates that the applicant for certification would not  
21 qualify to receive a handgun license, the department may not  
22 certify the applicant as a qualified handgun instructor. If the  
23 background check indicates that the applicant for certification  
24 would qualify to receive a handgun license, the department shall  
25 provide handgun instructor training to the applicant. The  
26 applicant shall pay a fee of \$100 to the department for the  
27 training. The applicant must take and successfully complete the

1 training offered by the department and pay the training fee before  
2 the department may certify the applicant as a qualified handgun  
3 instructor. The department shall issue a license to carry a  
4 ~~[concealed]~~ handgun under the authority of this subchapter to any  
5 person who is certified as a qualified handgun instructor and who  
6 pays to the department a fee of \$100 in addition to the training  
7 fee. The department by rule may prorate or waive the training fee  
8 for an employee of another governmental entity.

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

14 (1) license to carry a ~~[concealed]~~ handgun if the  
15 person is an applicant for or the holder of a license issued under  
16 this subchapter; and

17 (2) certification as a qualified handgun instructor.

18 SECTION 24. Section 411.198(a), Government Code, is amended  
19 to read as follows:

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

24 SECTION 25. Sections 411.201(c), (d), (e), and (h),  
25 Government Code, are amended to read as follows:

26 (c) An active judicial officer is eligible for a license to  
27 carry a ~~[concealed]~~ handgun under the authority of this subchapter.

1 A retired judicial officer is eligible for a license to carry a  
2 [~~concealed~~] handgun under the authority of this subchapter if the  
3 officer:

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

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

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

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

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

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

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

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

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

23 (4) evidence of handgun proficiency, in the form and  
24 manner required by the department for an applicant under this  
25 section;

26 (5) a nonrefundable application and license fee set by  
27 the department in an amount reasonably designed to cover the



1 administrative costs associated with issuance of a license to carry  
2 a [~~concealed~~] handgun under this subchapter; and

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

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

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

13 (2) if the applicant is a retired judicial officer,  
14 conduct an appropriate background investigation to determine the  
15 applicant's eligibility for the license and, if the applicant is  
16 eligible, issue a license to carry a [~~concealed~~] handgun under the  
17 authority of this subchapter.

18 (h) The department shall issue a license to carry a  
19 [~~concealed~~] handgun under the authority of this subchapter to an  
20 elected attorney representing the state in the prosecution of  
21 felony cases who meets the requirements of this section for an  
22 active judicial officer. The department shall waive any fee  
23 required for the issuance of an original, duplicate, or renewed  
24 license under this subchapter for an applicant who is an attorney  
25 elected or employed to represent the state in the prosecution of  
26 felony cases.

27 SECTION 26. Section 411.203, Government Code, is amended to

1 read as follows:

2           Sec. 411.203. RIGHTS OF EMPLOYERS. This subchapter does  
3 not prevent or otherwise limit the right of a public or private  
4 employer to prohibit persons who are licensed under this subchapter  
5 from carrying a [~~concealed~~] handgun on the premises of the  
6 business.

7           SECTION 27. Section 12.092(b), Health and Safety Code, is  
8 amended to read as follows:

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

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

13                   (2) an applicant for or holder of a license to carry a  
14 [~~concealed~~] handgun under the authority of Subchapter H, Chapter  
15 411, Government Code, is capable of exercising sound judgment with  
16 respect to the proper use and storage of a handgun.

17           SECTION 28. Section 118.011(b), Local Government Code, is  
18 amended to read as follows:

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

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

23                   (2) Records Management and Preservation Fee (Sec.  
24 118.0216) . . . . . not more than \$5

25                   (3) Mental Health Background Check for License to  
26 Carry a [~~Concealed~~] Weapon (Sec. 118.0217) . . . . . not more than \$2

27           SECTION 29. Section 118.0217(a), Local Government Code, is

1 amended to read as follows:

2 (a) The fee for a "mental health background check for  
3 license to carry a [~~concealed~~] weapon" is for a check, conducted by  
4 the county clerk at the request of the Texas Department of Public  
5 Safety, of the county records involving the mental condition of a  
6 person who applies for a license to carry a [~~concealed~~] handgun  
7 under Subchapter H, Chapter 411, Government Code. The fee, not to  
8 exceed \$2, will be paid from the application fee submitted to the  
9 Department of Public Safety according to Section 411.174(a)(6),  
10 Government Code.

11 SECTION 30. Section 229.001(b), Local Government Code, is  
12 amended to read as follows:

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

15 (1) require residents or public employees to be armed  
16 for personal or national defense, law enforcement, or another  
17 lawful purpose;

18 (2) regulate the discharge of firearms within the  
19 limits of the municipality;

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

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

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

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

9                   (A) public park;

10                   (B) public meeting of a municipality, county, or  
11 other governmental body;

12                   (C) political rally, parade, or official  
13 political meeting; or

14                   (D) nonfirearms-related school, college, or  
15 professional athletic event.

16           SECTION 31. Sections 62.082(d) and (e), Parks and Wildlife  
17 Code, are amended to read as follows:

18           (d) Section 62.081 does not apply to:

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

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

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

23                   (4) a person who:

24                           (A) possesses a [~~concealed~~] handgun and a license  
25 issued under Subchapter H, Chapter 411, Government Code, to carry a

26 [~~concealed~~] handgun of the same category as a handgun the person is  
27 carrying; or

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

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

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

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

17           SECTION 32. Section 284.001(e), Parks and Wildlife Code, is  
18 amended to read as follows:

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

22           SECTION 33. Section 30.05(f), Penal Code, is amended to  
23 read as follows:

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

25           (1) the basis on which entry on the property or land or  
26 in the building was forbidden is that entry with a handgun was  
27 forbidden; and

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

5           SECTION 34. The heading to Section 30.06, Penal Code, is  
6 amended to read as follows:

7           Sec. 30.06. TRESPASS BY HOLDER OF LICENSE TO CARRY  
8 [~~CONCEALED~~] HANDGUN.

9           SECTION 35. Section 30.06(a), Penal Code, is amended to  
10 read as follows:

11           (a) A license holder commits an offense if the license  
12 holder:

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

16                   (2) received notice that:

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

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

21           SECTION 36. Section 30.06(c)(3), Penal Code, is amended to  
22 read as follows:

23                   (3) "Written communication" means:

24                           (A) a card or other document on which is written  
25 language identical to the following: "Pursuant to Section 30.06,  
26 Penal Code (trespass by holder of license to carry a [~~concealed~~]  
27 handgun), a person licensed under Subchapter H, Chapter 411,

1 Government Code (~~concealed~~ handgun license law), may not enter  
2 this property with a ~~concealed~~ handgun"; or

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

4 (i) includes the language described by  
5 Paragraph (A) in both English and Spanish;

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

8 (iii) is displayed in a conspicuous manner  
9 clearly visible to the public.

10 SECTION 37. Section 46.03(f), Penal Code, is amended to  
11 read as follows:

12 (f) It is not a defense to prosecution under this section  
13 that the actor possessed a handgun and was licensed to carry a  
14 ~~concealed~~ handgun under Subchapter H, Chapter 411, Government  
15 Code.

16 SECTION 38. Sections 46.035(b), (c), (d), (g), and (j),  
17 Penal Code, are amended to read as follows:

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

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

1 Beverage Commission under Section 104.06, Alcoholic Beverage Code;

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

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

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

12 (5) in an amusement park; or

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

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

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

24 (g) An offense under Subsection ~~[(a)]~~ (b), (c), (d), or (e)  
25 is a Class A misdemeanor, unless the offense is committed under  
26 Subsection (b)(1) or (b)(3), in which event the offense is a felony  
27 of the third degree.



1           (j) Subsection [~~Subsections (a) and~~] (b)(1) does [~~do~~] not  
2 apply to a historical reenactment performed in compliance with the  
3 rules of the Texas Alcoholic Beverage Commission.

4           SECTION 39. Sections 46.15(a) and (b), Penal Code, are  
5 amended to read as follows:

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

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

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

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

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

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

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

27                           (B) authorized to carry a weapon under Section

1 76.0051, Government Code;

2 (4) a judge or justice of a federal court, the supreme  
3 court, the court of criminal appeals, a court of appeals, a district  
4 court, a criminal district court, a constitutional county court, a  
5 statutory county court, a justice court, or a municipal court who is  
6 licensed to carry a ~~concealed~~ handgun under Subchapter H, Chapter  
7 411, Government Code;

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

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

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

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

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

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

27 (A) licensed to carry a ~~concealed~~ handgun under

1 Chapter 411, Government Code; and

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

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

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

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

10 (2) is traveling;

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

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

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

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

1 assignment; and

2 (B) is either:

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

7 (ii) not wearing the uniform of a security  
8 officer and carrying the officer's weapon in a concealed manner;

9 (6) is carrying a [~~concealed~~] handgun and a valid  
10 license issued under Subchapter H, Chapter 411, Government Code, to  
11 carry a [~~concealed~~] handgun of the same category as the handgun the  
12 person is carrying;

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

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

20 (A) on the immediate premises where the activity  
21 is conducted; or

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

24 SECTION 40. The change in law made by this Act relating to  
25 the authority of a license holder to openly carry a handgun applies  
26 to the carrying of a handgun on or after the effective date of this  
27 Act by any person who:

1           (1) holds a license issued under Subchapter H, Chapter  
2 411, Government Code, regardless of whether the person's license  
3 was issued before, on, or after the effective date of this Act; or

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

7           SECTION 41. The changes in law made by this Act to Sections  
8 30.05, 30.06, 46.03, 46.035, and 46.15, Penal Code, apply only to an  
9 offense committed on or after the effective date of this Act. An  
10 offense committed before the effective date of this Act is governed  
11 by the law in effect when the offense was committed, and the former  
12 law is continued in effect for that purpose. For purposes of this  
13 section, an offense was committed before the effective date of this  
14 Act if any element of the offense occurred before that date.

15           SECTION 42. This Act takes effect September 1, 2011.