

By: Sheets

H.B. No. 38

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the application of certain concealed handgun license  
3 laws to the attorney general and to assistant attorneys general,  
4 United States attorneys, assistant United States attorneys,  
5 special assistant United States attorneys, and certain associate  
6 judges and other judicial personnel, and to the authority of those  
7 persons to carry certain weapons.

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

9 SECTION 1. If H.B. No. 3142, Acts of the 83rd Legislature,  
10 Regular Session, 2013, becomes law, Section 411.1882(a),  
11 Government Code, as effective June 2013, is amended to read as  
12 follows:

13 (a) A person who is serving in this state as a judge or  
14 justice of a federal court, as an active judicial officer, as  
15 defined by Section 411.201, or as the attorney general or an  
16 assistant attorney general, United States attorney, assistant  
17 United States attorney, special assistant United States attorney,  
18 [a] district attorney, assistant district attorney, criminal  
19 district attorney, assistant criminal district attorney, county  
20 attorney, or assistant county attorney may establish handgun  
21 proficiency for the purposes of this subchapter by obtaining from a  
22 handgun proficiency instructor approved by the Texas Commission on  
23 Law Enforcement for purposes of Section 1702.1675, Occupations  
24 Code, a sworn statement that indicates that the person, during the

1 12-month period preceding the date of the person's application to  
2 the department, demonstrated to the instructor proficiency in the  
3 use of handguns.

4 SECTION 2. If H.B. No. 3142, Acts of the 83rd Legislature,  
5 Regular Session, 2013, does not become law, Section 411.1882(a),  
6 Government Code, is amended to read as follows:

7 (a) A person who is serving in this state as a judge or  
8 justice of a federal court, as an active judicial officer, as  
9 defined by Section 411.201, or as the attorney general or an  
10 assistant attorney general, United States attorney, assistant  
11 United States attorney, special assistant United States attorney,  
12 [a] district attorney, assistant district attorney, criminal  
13 district attorney, assistant criminal district attorney, county  
14 attorney, or assistant county attorney may establish handgun  
15 proficiency for the purposes of this subchapter by obtaining from a  
16 handgun proficiency instructor approved by the Texas Commission on  
17 Law Enforcement for purposes of Section 1702.1675, Occupations  
18 Code, a sworn statement that:

19 (1) indicates that the person, during the 12-month  
20 period preceding the date of the person's application to the  
21 department, demonstrated to the instructor proficiency in the use  
22 of handguns; and

23 (2) designates the categories of handguns with respect  
24 to which the person demonstrated proficiency.

25 SECTION 3. Section 411.201(a)(1), Government Code, is  
26 amended to read as follows:

27 (1) "Active judicial officer" means:

1 (A) a person serving as a judge or justice of the  
2 supreme court, the court of criminal appeals, a court of appeals, a  
3 district court, a criminal district court, a constitutional county  
4 court, a statutory county court, a justice court, or a municipal  
5 court;

6 (B) a federal judge who is a resident of this  
7 state; or

8 (C) a person appointed and serving as:

9 (i) an associate judge under Chapter 201,  
10 Family Code, or Chapter 54 or 54A; or

11 (ii) a master or magistrate under Chapter  
12 54.

13 SECTION 4. (a) Section 46.035(h-1), Penal Code, as added by  
14 Chapter 1222 (H.B. 2300), Acts of the 80th Legislature, Regular  
15 Session, 2007, is amended to read as follows:

16 (h-1) It is a defense to prosecution under Subsections (b)  
17 [~~(b)(1), (2), and (4)-(6),~~] and (c) that the actor, at the time of  
18 the commission of the offense, [~~the actor~~] was:

19 (1) a judge or justice of a federal court;

20 (2) an active judicial officer, as defined by Section  
21 411.201, Government Code;

22 (3) a bailiff designated by the active judicial  
23 officer and engaged in escorting the officer; or

24 (4) the attorney general or an assistant attorney  
25 general, United States attorney, assistant United States attorney,  
26 special assistant United States attorney, [~~(3)-a~~] district  
27 attorney, assistant district attorney, criminal district attorney,

1 assistant criminal district attorney, county attorney, or  
2 assistant county attorney.

3 (b) Section 46.035(h-1), Penal Code, as added by Chapter  
4 1214 (H.B. 1889), Acts of the 80th Legislature, Regular Session,  
5 2007, is repealed.

6 SECTION 5. If H.B. No. 3370, Acts of the 83rd Legislature,  
7 Regular Session, 2013, becomes law, Section 46.15(a), Penal Code,  
8 as effective September 1, 2013, is amended to read as follows:

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

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

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

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

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

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

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

3 (B) authorized to carry a weapon under Section  
4 76.0051, Government Code;

5 (4) a judge or justice of a federal court or an active  
6 judicial officer as defined by Section 411.201, Government Code,  
7 who is licensed to carry a concealed handgun under Subchapter H,  
8 Chapter 411, Government Code;

9 (5) an honorably retired peace officer, qualified  
10 retired law enforcement officer, federal criminal investigator, or  
11 former reserve law enforcement officer who holds a certificate of  
12 proficiency issued under Section 1701.357, Occupations Code, and is  
13 carrying a photo identification that is issued by a federal, state,  
14 or local law enforcement agency, as applicable, and that verifies  
15 that the officer is:

16 (A) an honorably retired peace officer;

17 (B) a qualified retired law enforcement officer;

18 (C) a federal criminal investigator; or

19 (D) a former reserve law enforcement officer who  
20 has served in that capacity not less than a total of 15 years with  
21 one or more state or local law enforcement agencies;

22 (6) the attorney general or a United States attorney,  
23 district attorney, criminal district attorney, county attorney, or  
24 municipal attorney who is licensed to carry a concealed handgun  
25 under Subchapter H, Chapter 411, Government Code;

26 (7) an assistant attorney general, assistant United  
27 States attorney, special assistant United States attorney,

1 assistant district attorney, assistant criminal district attorney,  
2 or assistant county attorney who is licensed to carry a concealed  
3 handgun under Subchapter H, Chapter 411, Government Code;

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

6 (A) licensed to carry a concealed handgun under  
7 Chapter 411, Government Code; and

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

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

11 SECTION 6. If H.B. No. 3370, Acts of the 83rd Legislature,  
12 Regular Session, 2013, does not become law, Section 46.15(a), Penal  
13 Code, is amended to read as follows:

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

15 (1) peace officers or special investigators under  
16 Article 2.122, Code of Criminal Procedure, and neither section  
17 prohibits a peace officer or special investigator from carrying a  
18 weapon in this state, including in an establishment in this state  
19 serving the public, regardless of whether the peace officer or  
20 special investigator is engaged in the actual discharge of the  
21 officer's or investigator's duties while carrying the weapon;

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

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

26 (B) in compliance with policies and procedures  
27 adopted by the Texas Department of Criminal Justice regarding the

1 possession of a weapon by an officer while on duty;

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

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

8 (B) authorized to carry a weapon under Section  
9 76.0051, Government Code;

10 (4) a judge or justice of a federal court or an active  
11 judicial officer as defined by Section 411.201, Government Code,  
12 who is licensed to carry a concealed handgun under Subchapter H,  
13 Chapter 411, Government Code;

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

18 (A) verifies that the officer honorably retired  
19 after not less than 15 years of service as a commissioned officer;  
20 and

21 (B) is issued by a state or local law enforcement  
22 agency;

23 (6) the attorney general or a United States attorney,  
24 district attorney, criminal district attorney, county attorney, or  
25 municipal attorney who is licensed to carry a concealed handgun  
26 under Subchapter H, Chapter 411, Government Code;

27 (7) an assistant attorney general, assistant United

1 States attorney, special assistant United States attorney,  
2 assistant district attorney, assistant criminal district attorney,  
3 or assistant county attorney who is licensed to carry a concealed  
4 handgun under Subchapter H, Chapter 411, Government Code;

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

7 (A) licensed to carry a concealed handgun under  
8 Chapter 411, Government Code; and

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

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

12 SECTION 7. (a) The changes in law made by this Act to  
13 Sections 46.035(h-1) and 46.15(a), Penal Code, apply only to an  
14 offense committed on or after the effective date of this Act. An  
15 offense committed before the effective date of this Act is governed  
16 by the law in effect on the date the offense was committed, and the  
17 former law is continued in effect for that purpose. For purposes of  
18 this subsection, an offense was committed before the effective date  
19 of this Act if any element of the offense occurred before that date.

20 (b) The change in law made by this Act to Section  
21 411.1882(a), Government Code, applies only to an application to  
22 obtain or renew a license to carry a concealed handgun submitted on  
23 or after the effective date of this Act. An application submitted  
24 before the effective date of this Act is governed by the law in  
25 effect when the application was submitted, and the former law is  
26 continued in effect for that purpose.

27 SECTION 8. This Act takes effect on the 91st day after the



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1 last day of the legislative session.