

By: Carona

S.B. No. 35

A BILL TO BE ENTITLED

AN ACT

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

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

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

14 (a) A person who is serving in this state as a judge or
15 justice of a federal court, as an active judicial officer, as
16 defined by Section 411.201, or as the state prosecuting attorney or
17 an assistant state prosecuting attorney, the attorney general or an
18 assistant attorney general, a United States attorney, assistant
19 United States attorney, or special assistant United States
20 attorney, a district attorney or[7] assistant district attorney, a
21 criminal district attorney or[7] assistant criminal district
22 attorney, or a county attorney[7] or assistant county attorney may
23 establish handgun proficiency for the purposes of this subchapter
24 by obtaining from a handgun proficiency instructor approved by the

1 Texas Commission on Law Enforcement for purposes of Section
2 1702.1675, Occupations Code, a sworn statement that indicates that
3 the person, during the 12-month period preceding the date of the
4 person's application to the department, demonstrated to the
5 instructor proficiency in the use of handguns.

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

9 (a) A person who is serving in this state as a judge or
10 justice of a federal court, as an active judicial officer, as
11 defined by Section 411.201, or as the state prosecuting attorney or
12 an assistant state prosecuting attorney, the attorney general or an
13 assistant attorney general, a United States attorney, assistant
14 United States attorney, or special assistant United States
15 attorney, a district attorney or[~~7~~] assistant district attorney, a
16 criminal district attorney or[~~7~~] assistant criminal district
17 attorney, or a county attorney[~~7~~] or assistant county attorney may
18 establish handgun proficiency for the purposes of this subchapter
19 by obtaining from a handgun proficiency instructor approved by the
20 Texas Commission on Law Enforcement for purposes of Section
21 1702.1675, Occupations Code, a sworn statement that:

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

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

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

3 (1) "Active judicial officer" means:

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

9 (B) a federal judge who is a resident of this
10 state; or

11 (C) a person appointed and serving as:

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

14 (ii) a master or magistrate under Chapter
15 54.

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

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

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

23 (2) an active judicial officer, as defined by Section
24 411.201, Government Code;

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

27 (4) the state prosecuting attorney or an assistant

1 state prosecuting attorney, the attorney general or an assistant
2 attorney general, a United States attorney, assistant United States
3 attorney, or special assistant United States attorney, [~~3~~] a
4 district attorney or[7] assistant district attorney, a criminal
5 district attorney or[7] assistant criminal district attorney, or a
6 county attorney[7] or assistant county attorney.

7 (b) Section 46.035(h-1), Penal Code, as added by Chapter
8 1214 (H.B. 1889), Acts of the 80th Legislature, Regular Session,
9 2007, is repealed.

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

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

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

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

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

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

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

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

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

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

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

20 (A) an honorably retired peace officer;

21 (B) a qualified retired law enforcement officer;

22 (C) a federal criminal investigator; or

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

26 (6) the state prosecuting attorney, the attorney
27 general, or a United States attorney, district attorney, criminal

1 district attorney, county attorney, or municipal attorney if the
2 person [~~who~~] is licensed to carry a concealed handgun under
3 Subchapter H, Chapter 411, Government Code;

4 (7) an assistant state prosecuting attorney,
5 assistant attorney general, assistant United States attorney,
6 special assistant United States attorney, assistant district
7 attorney, assistant criminal district attorney, or assistant
8 county attorney who is licensed to carry a concealed handgun under
9 Subchapter H, Chapter 411, Government Code;

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

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

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

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

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

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

21 (1) peace officers or special investigators under
22 Article 2.122, Code of Criminal Procedure, and neither section
23 prohibits a peace officer or special investigator from carrying a
24 weapon in this state, including in an establishment in this state
25 serving the public, regardless of whether the peace officer or
26 special investigator is engaged in the actual discharge of the
27 officer's or investigator's duties while carrying the weapon;

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

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

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

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

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

14 (B) authorized to carry a weapon under Section
15 76.0051, Government Code;

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

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

24 (A) verifies that the officer honorably retired
25 after not less than 15 years of service as a commissioned officer;
26 and

27 (B) is issued by a state or local law enforcement

1 agency;

2 (6) the state prosecuting attorney, the attorney
3 general, or a United States attorney, district attorney, criminal
4 district attorney, county attorney, or municipal attorney if the
5 person [~~who~~] is licensed to carry a concealed handgun under
6 Subchapter H, Chapter 411, Government Code;

7 (7) an assistant state prosecuting attorney,
8 assistant attorney general, assistant United States attorney,
9 special assistant United States attorney, assistant district
10 attorney, assistant criminal district attorney, or assistant
11 county attorney who is licensed to carry a concealed handgun under
12 Subchapter H, Chapter 411, Government Code;

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

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

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

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

20 SECTION 7. (a) The changes in law made by this Act to
21 Sections 46.035(h-1) and 46.15(a), Penal Code, apply only to an
22 offense committed on or after the effective date of this Act. An
23 offense committed before the effective date of this Act is governed
24 by the law in effect on the date the offense was committed, and the
25 former law is continued in effect for that purpose. For purposes of
26 this subsection, an offense was committed before the effective date
27 of this Act if any element of the offense occurred before that date.

1 (b) The change in law made by this Act to Section
2 411.1882(a), Government Code, applies only to an application to
3 obtain or renew a license to carry a concealed handgun submitted on
4 or after the effective date of this Act. An application submitted
5 before the effective date of this Act is governed by the law in
6 effect when the application was submitted, and the former law is
7 continued in effect for that purpose.

8 SECTION 8. This Act takes effect on the 91st day after the
9 last day of the legislative session.