

By: Bell

H.B. No. 3142

A BILL TO BE ENTITLED

AN ACT

1
2 relating to handguns used to demonstrate proficiency in handgun use
3 for purposes of obtaining a concealed handgun license.

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

5 SECTION 1. Section 11.041(a), Alcoholic Beverage Code, is
6 amended to read as follows:

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

14 SECTION 2. Section 11.61(e), Alcoholic Beverage Code, is
15 amended to read as follows:

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

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

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

1 (B) the person is wearing a distinctive uniform;

2 and

3 (C) the weapon is in plain view;

4 (2) who is a peace officer;

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

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

11 SECTION 3. Section 61.11(a), Alcoholic Beverage Code, is
12 amended to read as follows:

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

20 SECTION 4. Section 61.71(f), Alcoholic Beverage Code, is
21 amended to read as follows:

22 (f) Except as provided by Subsection (g) or (j), the
23 commission or administrator shall cancel an original or renewal
24 dealer's on-premises or off-premises license if it is found, after
25 notice and hearing, that the licensee knowingly allowed a person to
26 possess a firearm in a building on the licensed premises. This
27 subsection does not apply to a person:

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

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

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

7 (C) the weapon is in plain view;

8 (2) who is a peace officer;

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

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

15 SECTION 5. Section 411.177(a), Government Code, is amended
16 to read as follows:

17 (a) The department shall issue a license to carry a
18 concealed handgun to an applicant if the applicant meets all the
19 eligibility requirements and submits all the application
20 materials. [~~The department may issue a license to carry handguns~~
21 ~~only of the categories for which the applicant has demonstrated~~
22 ~~proficiency in the form and manner required by the department.~~] The
23 department shall administer the licensing procedures in good faith
24 so that any applicant who meets all the eligibility requirements
25 and submits all the application materials shall receive a license.
26 The department may not deny an application on the basis of a
27 capricious or arbitrary decision by the department.

1 SECTION 6. Section 411.179(a), Government Code, is amended
2 to read as follows:

3 (a) The department by rule shall adopt the form of the
4 license. A license must include:

5 (1) a number assigned to the license holder by the
6 department;

7 (2) a statement of the period for which the license is
8 effective;

9 (3) ~~[a statement of the category or categories of
10 handguns the license holder may carry as provided by Subsection
11 (b)],~~

12 ~~[(4)]~~ a color photograph of the license holder;

13 (4) ~~[(5)]~~ the license holder's full name, date of
14 birth, hair and eye color, height, weight, and signature;

15 (5) ~~[(6)]~~ the license holder's residence address or,
16 as provided by Subsection (d), the street address of the courthouse
17 in which the license holder or license holder's spouse serves as a
18 federal judge or the license holder serves as a state judge; and

19 (6) ~~[(7)]~~ the number of a driver's license or an
20 identification certificate issued to the license holder by the
21 department.

22 SECTION 7. Section 411.187(a), Government Code, is amended
23 to read as follows:

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

26 (1) is charged with the commission of a Class A or
27 Class B misdemeanor or equivalent offense, or of an offense under

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

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

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

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

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

13 (4) [(6)] is arrested for an offense involving family
14 violence or an offense under Section 42.072, Penal Code, and is the
15 subject of an order for emergency protection issued under Article
16 17.292, Code of Criminal Procedure.

17 SECTION 8. Sections 411.188(a) and (d), Government Code,
18 are amended to read as follows:

19 (a) The director by rule shall establish minimum standards
20 for handgun proficiency and shall develop a course to teach handgun
21 proficiency and examinations to measure handgun proficiency. The
22 course to teach handgun proficiency must contain training sessions
23 divided into two parts. One part of the course must be classroom
24 instruction and the other part must be range instruction and an
25 actual demonstration by the applicant of the applicant's ability to
26 safely and proficiently use a [~~the applicable category of~~] handgun.
27 An applicant must be able to demonstrate, at a minimum, the degree

1 of proficiency that is required to effectively operate a handgun of
2 .32 caliber or above. The department shall distribute the
3 standards, course requirements, and examinations on request to any
4 qualified handgun instructor.

5 (d) Only a qualified handgun instructor may administer the
6 proficiency examination to obtain or to renew a license. The
7 proficiency examination must include:

8 (1) a written section on the subjects listed in
9 Subsection (b); and

10 (2) a physical demonstration of proficiency in the use
11 of one or more handguns [~~of specific categories~~] and in handgun
12 safety procedures.

13 SECTION 9. Section 411.1882(a), Government Code, is amended
14 to read as follows:

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

25 [~~(1)~~] indicates that the person, during the 12-month
26 period preceding the date of the person's application to the
27 department, demonstrated to the instructor proficiency in the use

1 of handguns [~~, and~~

2 [~~(2) designates the categories of handguns with~~
3 ~~respect to which the person demonstrated proficiency].~~

4 SECTION 10. Section 411.199(e), Government Code, is amended
5 to read as follows:

6 (e) A retired peace officer who obtains a license under this
7 subchapter must maintain [~~, for the category of weapon licensed,~~
8 the proficiency required for a peace officer under Section
9 1701.355, Occupations Code. The department or a local law
10 enforcement agency shall allow a retired peace officer of the
11 department or agency an opportunity to annually demonstrate the
12 required proficiency. The proficiency shall be reported to the
13 department on application and renewal.

14 SECTION 11. Sections 62.082(d) and (e), Parks and Wildlife
15 Code, are amended to read as follows:

16 (d) Section 62.081 does not apply to:

- 17 (1) an employee of the Lower Colorado River Authority;
18 (2) a person authorized to hunt under Subsection (c);
19 (3) a peace officer as defined by Article 2.12, Code of
20 Criminal Procedure; or

21 (4) a person who:

22 (A) possesses a concealed handgun and a license
23 issued under Subchapter H, Chapter 411, Government Code, to carry a
24 concealed handgun [~~of the same category as a handgun the person is~~
25 ~~carrying]; or~~

26 (B) under circumstances in which the person would
27 be justified in the use of deadly force under Chapter 9, Penal Code,

1 shoots a handgun [~~of the same category as a handgun~~] the person is
2 licensed to carry under Subchapter H, Chapter 411, Government Code.

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

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

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

15 SECTION 12. Section 30.05(f), Penal Code, is amended to
16 read as follows:

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

18 (1) the basis on which entry on the property or land or
19 in the building was forbidden is that entry with a handgun was
20 forbidden; and

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

25 SECTION 13. Section 46.15(b), Penal Code, is amended to
26 read as follows:

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

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

5 (2) is traveling;

6 (3) is engaging in lawful hunting, fishing, or other
7 sporting activity on the immediate premises where the activity is
8 conducted, or is en route between the premises and the actor's
9 residence, motor vehicle, or watercraft, if the weapon is a type
10 commonly used in the activity;

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

17 (5) acts as a personal protection officer and carries
18 the person's security officer commission and personal protection
19 officer authorization, if the person:

20 (A) is engaged in the performance of the person's
21 duties as a personal protection officer under Chapter 1702,
22 Occupations Code, or is traveling to or from the person's place of
23 assignment; and

24 (B) is either:

25 (i) wearing the uniform of a security
26 officer, including any uniform or apparel described by Section
27 1702.323(d), Occupations Code, and carrying the officer's weapon in

1 plain view; or

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

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

8 (7) holds an alcoholic beverage permit or license or
9 is an employee of a holder of an alcoholic beverage permit or
10 license if the person is supervising the operation of the permitted
11 or licensed premises; or

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

15 (A) on the immediate premises where the activity
16 is conducted; or

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

19 SECTION 14. The following provisions of the Government Code
20 are repealed:

21 (1) Section 411.171(1);

22 (2) Section 411.179(b);

23 (3) Section 411.184; and

24 (4) Sections 411.188(e) and (h).

25 SECTION 15. (a) The change in law made by this Act to
26 Subchapter H, Chapter 411, Government Code, applies only to a
27 license issued or renewed under that subchapter on or after the

1 effective date of this Act.

2 (b) The changes in law made by this Act to the Alcoholic
3 Beverage Code, Parks and Wildlife Code, and Penal Code, apply only
4 to civil or criminal proceedings involving the carrying of a
5 handgun on or after the effective date of this Act by a person
6 licensed to carry a concealed handgun under Subchapter H, Chapter
7 411, Government Code, as amended by this Act.

8 SECTION 16. This Act takes effect immediately if it
9 receives a vote of two-thirds of all the members elected to each
10 house, as provided by Section 39, Article III, Texas Constitution.
11 If this Act does not receive the vote necessary for immediate
12 effect, this Act takes effect September 1, 2013.