

1-1 By: Bell (Senate Sponsor - Estes) H.B. No. 3142
 1-2 (In the Senate - Received from the House May 9, 2013;
 1-3 May 10, 2013, read first time and referred to Committee on
 1-4 Agriculture, Rural Affairs, and Homeland Security; May 17, 2013,
 1-5 reported favorably by the following vote: Yeas 3, Nays 0;
 1-6 May 17, 2013, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10			X	
1-11	X			
1-12			X	
1-13	X			

1-14 A BILL TO BE ENTITLED
 1-15 AN ACT

1-16 relating to handguns used to demonstrate proficiency in handgun use
 1-17 for purposes of obtaining a concealed handgun license.

1-18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-19 SECTION 1. Section 11.041(a), Alcoholic Beverage Code, is
 1-20 amended to read as follows:

1-21 (a) Each holder of a permit who is not otherwise required to
 1-22 display a sign under Section 411.204, Government Code, shall
 1-23 display in a prominent place on the permit holder's premises a sign
 1-24 giving notice that it is unlawful for a person to carry a weapon on
 1-25 the premises unless the weapon is a concealed handgun ~~[of the same~~
 1-26 ~~category]~~ the person is licensed to carry under Subchapter H,
 1-27 Chapter 411, Government Code.

1-28 SECTION 2. Section 11.61(e), Alcoholic Beverage Code, is
 1-29 amended to read as follows:

1-30 (e) Except as provided by Subsection (f) or (i), the
 1-31 commission or administrator shall cancel an original or renewal
 1-32 permit if it is found, after notice and hearing, that the permittee
 1-33 knowingly allowed a person to possess a firearm in a building on the
 1-34 licensed premises. This subsection does not apply to a person:

1-35 (1) who holds a security officer commission issued
 1-36 under Chapter 1702, Occupations Code, if:

1-37 (A) the person is engaged in the performance of
 1-38 the person's duties as a security officer;

1-39 (B) the person is wearing a distinctive uniform;
 1-40 and

1-41 (C) the weapon is in plain view;

1-42 (2) who is a peace officer;

1-43 (3) who is a permittee or an employee of a permittee if
 1-44 the person is supervising the operation of the premises; or

1-45 (4) who possesses a concealed handgun ~~[of the same~~
 1-46 ~~category]~~ the person is licensed to carry under Subchapter H,
 1-47 Chapter 411, Government Code, unless the person is on the premises
 1-48 of a business described by Section 46.035(b)(1), Penal Code.

1-49 SECTION 3. Section 61.11(a), Alcoholic Beverage Code, is
 1-50 amended to read as follows:

1-51 (a) Each holder of a license who is not otherwise required
 1-52 to display a sign under Section 411.204, Government Code, shall
 1-53 display in a prominent place on the license holder's premises a sign
 1-54 giving notice that it is unlawful for a person to carry a weapon on
 1-55 the premises unless the weapon is a concealed handgun ~~[of the same~~
 1-56 ~~category]~~ the person is licensed to carry under Subchapter H,
 1-57 Chapter 411, Government Code.

1-58 SECTION 4. Section 61.71(f), Alcoholic Beverage Code, is
 1-59 amended to read as follows:

1-60 (f) Except as provided by Subsection (g) or (j), the
 1-61 commission or administrator shall cancel an original or renewal

2-1 dealer's on-premises or off-premises license if it is found, after
 2-2 notice and hearing, that the licensee knowingly allowed a person to
 2-3 possess a firearm in a building on the licensed premises. This
 2-4 subsection does not apply to a person:

2-5 (1) who holds a security officer commission issued
 2-6 under Chapter 1702, Occupations Code, if:

2-7 (A) the person is engaged in the performance of
 2-8 the person's duties as a security officer;

2-9 (B) the person is wearing a distinctive uniform;
 2-10 and

2-11 (C) the weapon is in plain view;

2-12 (2) who is a peace officer;

2-13 (3) who is a licensee or an employee of a licensee if
 2-14 the person is supervising the operation of the premises; or

2-15 (4) who possesses a concealed handgun [~~of the same~~
 2-16 ~~category~~] the person is licensed to carry under Subchapter H,
 2-17 Chapter 411, Government Code, unless the person is on the premises
 2-18 of a business described by Section 46.035(b)(1), Penal Code.

2-19 SECTION 5. Section 411.177(a), Government Code, is amended
 2-20 to read as follows:

2-21 (a) The department shall issue a license to carry a
 2-22 concealed handgun to an applicant if the applicant meets all the
 2-23 eligibility requirements and submits all the application
 2-24 materials. [~~The department may issue a license to carry handguns~~
 2-25 ~~only of the categories for which the applicant has demonstrated~~
 2-26 ~~proficiency in the form and manner required by the department.~~] The
 2-27 department shall administer the licensing procedures in good faith
 2-28 so that any applicant who meets all the eligibility requirements
 2-29 and submits all the application materials shall receive a license.
 2-30 The department may not deny an application on the basis of a
 2-31 capricious or arbitrary decision by the department.

2-32 SECTION 6. Section 411.179(a), Government Code, is amended
 2-33 to read as follows:

2-34 (a) The department by rule shall adopt the form of the
 2-35 license. A license must include:

2-36 (1) a number assigned to the license holder by the
 2-37 department;

2-38 (2) a statement of the period for which the license is
 2-39 effective;

2-40 (3) [~~a statement of the category or categories of~~
 2-41 ~~handguns the license holder may carry as provided by Subsection~~
 2-42 ~~(b)~~];

2-43 [~~(4)~~] a color photograph of the license holder;

2-44 (4) [~~(5)~~] the license holder's full name, date of
 2-45 birth, hair and eye color, height, weight, and signature;

2-46 (5) [~~(6)~~] the license holder's residence address or,
 2-47 as provided by Subsection (d), the street address of the courthouse
 2-48 in which the license holder or license holder's spouse serves as a
 2-49 federal judge or the license holder serves as a state judge; and

2-50 (6) [~~(7)~~] the number of a driver's license or an
 2-51 identification certificate issued to the license holder by the
 2-52 department.

2-53 SECTION 7. Section 411.187(a), Government Code, is amended
 2-54 to read as follows:

2-55 (a) The department shall suspend a license under this
 2-56 section if the license holder:

2-57 (1) is charged with the commission of a Class A or
 2-58 Class B misdemeanor or equivalent offense, or of an offense under
 2-59 Section 42.01, Penal Code, or equivalent offense, or of a felony
 2-60 under an information or indictment;

2-61 (2) fails to notify the department of a change of
 2-62 address, name, or status as required by Section 411.181;

2-63 (3) [~~carries a concealed handgun under the authority~~
 2-64 ~~of this subchapter of a different category than the license holder~~
 2-65 ~~is licensed to carry~~];

2-66 [~~(4)~~] fails to return a previously issued license after
 2-67 a license is modified as required by Section 411.184(d);

2-68 (5) [~~(5)~~] commits an act of family violence and is the
 2-69 subject of an active protective order rendered under Title 4,

3-1 Family Code; or
 3-2 (4) ~~[(6)]~~ is arrested for an offense involving family
 3-3 violence or an offense under Section 42.072, Penal Code, and is the
 3-4 subject of an order for emergency protection issued under Article
 3-5 17.292, Code of Criminal Procedure.

3-6 SECTION 8. Sections 411.188(a) and (d), Government Code,
 3-7 are amended to read as follows:

3-8 (a) The director by rule shall establish minimum standards
 3-9 for handgun proficiency and shall develop a course to teach handgun
 3-10 proficiency and examinations to measure handgun proficiency. The
 3-11 course to teach handgun proficiency must contain training sessions
 3-12 divided into two parts. One part of the course must be classroom
 3-13 instruction and the other part must be range instruction and an
 3-14 actual demonstration by the applicant of the applicant's ability to
 3-15 safely and proficiently use a ~~[the applicable category of]~~ handgun.
 3-16 An applicant must be able to demonstrate, at a minimum, the degree
 3-17 of proficiency that is required to effectively operate a handgun of
 3-18 .32 caliber or above. The department shall distribute the
 3-19 standards, course requirements, and examinations on request to any
 3-20 qualified handgun instructor.

3-21 (d) Only a qualified handgun instructor may administer the
 3-22 proficiency examination to obtain or to renew a license. The
 3-23 proficiency examination must include:

3-24 (1) a written section on the subjects listed in
 3-25 Subsection (b); and

3-26 (2) a physical demonstration of proficiency in the use
 3-27 of one or more handguns ~~[of specific categories]~~ and in handgun
 3-28 safety procedures.

3-29 SECTION 9. Section 411.1882(a), Government Code, is amended
 3-30 to read as follows:

3-31 (a) A person who is serving in this state as a judge or
 3-32 justice of a federal court, as an active judicial officer, as
 3-33 defined by Section 411.201, or as a district attorney, assistant
 3-34 district attorney, criminal district attorney, assistant criminal
 3-35 district attorney, county attorney, or assistant county attorney
 3-36 may establish handgun proficiency for the purposes of this
 3-37 subchapter by obtaining from a handgun proficiency instructor
 3-38 approved by the Commission on Law Enforcement Officer Standards and
 3-39 Education for purposes of Section 1702.1675, Occupations Code, a
 3-40 sworn statement that ~~+~~

3-41 ~~[(1)]~~ indicates that the person, during the 12-month
 3-42 period preceding the date of the person's application to the
 3-43 department, demonstrated to the instructor proficiency in the use
 3-44 of handguns ~~+, and~~

3-45 ~~[(2) designates the categories of handguns with~~
 3-46 ~~respect to which the person demonstrated proficiency].~~

3-47 SECTION 10. Section 411.199(e), Government Code, is amended
 3-48 to read as follows:

3-49 (e) A retired peace officer who obtains a license under this
 3-50 subchapter must maintain ~~+, for the category of weapon licensed,~~
 3-51 the proficiency required for a peace officer under Section
 3-52 1701.355, Occupations Code. The department or a local law
 3-53 enforcement agency shall allow a retired peace officer of the
 3-54 department or agency an opportunity to annually demonstrate the
 3-55 required proficiency. The proficiency shall be reported to the
 3-56 department on application and renewal.

3-57 SECTION 11. Sections 62.082(d) and (e), Parks and Wildlife
 3-58 Code, are amended to read as follows:

3-59 (d) Section 62.081 does not apply to:

3-60 (1) an employee of the Lower Colorado River Authority;

3-61 (2) a person authorized to hunt under Subsection (c);

3-62 (3) a peace officer as defined by Article 2.12, Code of
 3-63 Criminal Procedure; or

3-64 (4) a person who:

3-65 (A) possesses a concealed handgun and a license
 3-66 issued under Subchapter H, Chapter 411, Government Code, to carry a
 3-67 concealed handgun ~~[of the same category as a handgun the person is~~
 3-68 ~~carrying]; or~~

3-69 (B) under circumstances in which the person would

4-1 be justified in the use of deadly force under Chapter 9, Penal Code,
4-2 shoots a handgun [~~of the same category as a handgun~~] the person is
4-3 licensed to carry under Subchapter H, Chapter 411, Government Code.

4-4 (e) A state agency, including the department, the
4-5 Department of Public Safety, and the Lower Colorado River
4-6 Authority, may not adopt a rule that prohibits a person who
4-7 possesses a license issued under Subchapter H, Chapter 411,
4-8 Government Code, from entering or crossing the land of the Lower
4-9 Colorado River Authority while:

4-10 (1) possessing a concealed handgun [~~of the same~~
4-11 ~~category as a handgun the person is licensed to carry~~]; or

4-12 (2) under circumstances in which the person would be
4-13 justified in the use of deadly force under Chapter 9, Penal Code,
4-14 shooting a handgun [~~of the same category as a handgun the person is~~
4-15 ~~licensed to carry~~].

4-16 SECTION 12. Section 30.05(f), Penal Code, is amended to
4-17 read as follows:

4-18 (f) It is a defense to prosecution under this section that:

4-19 (1) the basis on which entry on the property or land or
4-20 in the building was forbidden is that entry with a handgun was
4-21 forbidden; and

4-22 (2) the person was carrying a concealed handgun and a
4-23 license issued under Subchapter H, Chapter 411, Government Code, to
4-24 carry a concealed handgun [~~of the same category the person was~~
4-25 ~~carrying~~].

4-26 SECTION 13. Section 46.15(b), Penal Code, is amended to
4-27 read as follows:

4-28 (b) Section 46.02 does not apply to a person who:

4-29 (1) is in the actual discharge of official duties as a
4-30 member of the armed forces or state military forces as defined by
4-31 Section 431.001, Government Code, or as a guard employed by a penal
4-32 institution;

4-33 (2) is traveling;

4-34 (3) is engaging in lawful hunting, fishing, or other
4-35 sporting activity on the immediate premises where the activity is
4-36 conducted, or is en route between the premises and the actor's
4-37 residence, motor vehicle, or watercraft, if the weapon is a type
4-38 commonly used in the activity;

4-39 (4) holds a security officer commission issued by the
4-40 Texas Private Security Board, if the person is engaged in the
4-41 performance of the person's duties as an officer commissioned under
4-42 Chapter 1702, Occupations Code, or is traveling to or from the
4-43 person's place of assignment and is wearing the officer's uniform
4-44 and carrying the officer's weapon in plain view;

4-45 (5) acts as a personal protection officer and carries
4-46 the person's security officer commission and personal protection
4-47 officer authorization, if the person:

4-48 (A) is engaged in the performance of the person's
4-49 duties as a personal protection officer under Chapter 1702,
4-50 Occupations Code, or is traveling to or from the person's place of
4-51 assignment; and

4-52 (B) is either:

4-53 (i) wearing the uniform of a security
4-54 officer, including any uniform or apparel described by Section
4-55 1702.323(d), Occupations Code, and carrying the officer's weapon in
4-56 plain view; or

4-57 (ii) not wearing the uniform of a security
4-58 officer and carrying the officer's weapon in a concealed manner;

4-59 (6) is carrying a concealed handgun and a valid
4-60 license issued under Subchapter H, Chapter 411, Government Code, to
4-61 carry a concealed handgun [~~of the same category as the handgun the~~
4-62 ~~person is carrying~~];

4-63 (7) holds an alcoholic beverage permit or license or
4-64 is an employee of a holder of an alcoholic beverage permit or
4-65 license if the person is supervising the operation of the permitted
4-66 or licensed premises; or

4-67 (8) is a student in a law enforcement class engaging in
4-68 an activity required as part of the class, if the weapon is a type
4-69 commonly used in the activity and the person is:

5-1 (A) on the immediate premises where the activity
5-2 is conducted; or
5-3 (B) en route between those premises and the
5-4 person's residence and is carrying the weapon unloaded.

5-5 SECTION 14. The following provisions of the Government Code
5-6 are repealed:

- 5-7 (1) Section 411.171(1);
- 5-8 (2) Section 411.179(b);
- 5-9 (3) Section 411.184; and
- 5-10 (4) Sections 411.188(e) and (h).

5-11 SECTION 15. (a) The change in law made by this Act to
5-12 Subchapter H, Chapter 411, Government Code, applies only to a
5-13 license issued or renewed under that subchapter on or after the
5-14 effective date of this Act.

5-15 (b) The changes in law made by this Act to the Alcoholic
5-16 Beverage Code, Parks and Wildlife Code, and Penal Code, apply only
5-17 to civil or criminal proceedings involving the carrying of a
5-18 handgun on or after the effective date of this Act by a person
5-19 licensed to carry a concealed handgun under Subchapter H, Chapter
5-20 411, Government Code, as amended by this Act.

5-21 SECTION 16. This Act takes effect immediately if it
5-22 receives a vote of two-thirds of all the members elected to each
5-23 house, as provided by Section 39, Article III, Texas Constitution.
5-24 If this Act does not receive the vote necessary for immediate
5-25 effect, this Act takes effect September 1, 2013.

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