

House Bill 508
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

No equivalent provision.

SENATE VERSION (IE)

SECTION __. Subsection (a), Section 411.1882, Government Code, is amended to read as follows:

(a) A person who is serving in this state as a judge or justice of a federal court, as an active judicial officer, as defined by Section 411.201, or as the holder of a statewide office, as defined by Section 1.005, Elections Code, a member of the house of representatives or the senate, the state prosecuting attorney or an assistant state prosecuting attorney, an assistant attorney general, United States attorney, assistant United States attorney, special assistant United States attorney, [a] district attorney, assistant district attorney, criminal district attorney, assistant criminal district attorney, county attorney, or assistant county attorney may establish handgun proficiency for the purposes of this subchapter by obtaining from a handgun proficiency instructor approved by the Commission on Law Enforcement Officer Standards and Education for purposes of Section 1702.1675, Occupations Code, a sworn statement that:

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

(2) designates the categories of handguns with respect to which the person demonstrated proficiency. [FA1(4)]

CONFERENCE

No equivalent provision.

SECTION __. Subdivision (1), Subsection (a), Section 411.201, Government Code, is amended to read as follows:

(1) "Active judicial officer" means:

(A) a person serving as a judge or justice of the supreme court, the court of criminal appeals, a court of appeals, a district court, a criminal district court, a constitutional county

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court, a statutory county court, a justice court, or a municipal court;
(B) a federal judge who is a resident of this state; or
(C) a person appointed and serving as:
(i) an associate judge under Chapter 201, Family Code, or Chapter 54 or 54A; or
(ii) a master or magistrate under Chapter 54. [FA1(4)]

SECTION 1. Same as House version.

SECTION 1. Subchapter H, Chapter 411, Government Code, is amended by adding Section 411.209 to read as follows:
Sec. 411.209. WRONGFUL EXCLUSION OF CONCEALED HANDGUN LICENSE HOLDER. (a) A state agency or a political subdivision of the state may not provide notice by a communication described by Section 30.06, Penal Code, or by any sign expressly referring to that law or to a concealed handgun license, that a license holder carrying a handgun under the authority of this subchapter is prohibited from entering or remaining on a premises or other place owned or leased by the governmental entity unless license holders are prohibited from carrying a handgun on the premises or other place by Section 46.03 or 46.035, Penal Code.
(b) A state agency or a political subdivision of the state that violates Subsection (a) is liable for a civil penalty of:
(1) not less than \$1,000 and not more than \$1,500 for the first violation; and
(2) not less than \$10,000 and not more than \$10,500 for the second or a subsequent violation.
(c) Each day of a continuing violation of Subsection (a) constitutes a separate violation.
(d) A citizen of this state or a person licensed to carry a

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concealed handgun under this subchapter may file a complaint with the attorney general that a state agency or political subdivision is in violation of Subsection (a). A complaint filed under this subsection must include evidence of the violation.

(e) A civil penalty collected by the attorney general under this section shall be deposited to the credit of the compensation to victims of crime fund established under Subchapter B, Chapter 56, Code of Criminal Procedure.

(f) Before a suit may be brought against a state agency or a political subdivision of the state for a violation of Subsection (a), the attorney general must investigate the complaint to determine whether legal action is warranted. If legal action is warranted, the attorney general must give the chief administrative officer of the agency or political subdivision charged with the violation a written notice that:

(1) describes the violation and specific location of the sign found to be in violation;

(2) states the amount of the proposed penalty for the violation; and

(3) gives the agency or political subdivision 15 days from receipt of the notice to remove the sign and cure the violation to avoid the penalty, unless the agency or political subdivision was found liable by a court for previously violating Subsection (a).

(g) If the attorney general determines that legal action is warranted and that the state agency or political subdivision has not cured the violation within the 15-day period provided by Subsection (f)(3), the attorney general or the appropriate county or district attorney may sue to collect the civil penalty provided by Subsection (b). The attorney general may also file a petition for a writ of mandamus or apply for other appropriate equitable relief. A suit or petition under this

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subsection may be filed in a district court in Travis County or in a county in which the principal office of the state agency or political subdivision is located. The attorney general may recover reasonable expenses incurred in obtaining relief under this subsection, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition costs.
(h) Sovereign immunity to suit is waived and abolished to the extent of liability created by this section.

SECTION 2. Section 46.035(c), Penal Code, is amended to read as follows:
(c) A license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun under the authority of Subchapter H, Chapter 411, Government Code, regardless of whether the handgun is concealed, in the room or rooms where a [at any] meeting of a governmental entity is held and if the meeting is an open meeting subject to Chapter 551, Government Code, and the entity provided notice as required by that chapter.

No equivalent provision.

SECTION 2. Same as House version.

SECTION __. Subsection (h-1), Section 46.035, Penal Code, as added by Chapters 1214 (H.B. 1889) and 1222 (H.B. 2300), Acts of the 80th Legislature, Regular Session, 2007, is reenacted and amended to read as follows:
(h-1) It is a defense to prosecution under Subsections (b) and (c) that the actor, at the time of the commission of the offense, was:
(1) a judge or justice of a federal court;
(2) an active judicial officer, as defined by Section 411.201, Government Code; [✖]

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~~(3) [(2)]~~ a bailiff designated by the active judicial officer and engaged in escorting the officer; or
(4) the holder of a statewide office, as defined by Section 1.005, Elections Code, a member of the house of representatives or the senate, the state prosecuting attorney, an assistant state prosecuting attorney, an assistant attorney general, or a United States attorney, assistant United States attorney, special assistant United States attorney, [(3)—a] district attorney, assistant district attorney, criminal district attorney, assistant criminal district attorney, county attorney, or assistant county attorney. [FA1(4)]

SECTION __. Subsection (a), Section 46.15, Penal Code, is amended to read as follows:
(a) Sections 46.02 and 46.03 do not apply to:
(1) peace officers or special investigators under Article 2.122, Code of Criminal Procedure, and neither section prohibits a peace officer or special investigator from carrying a weapon in this state, including in an establishment in this state serving the public, regardless of whether the peace officer or special investigator is engaged in the actual discharge of the officer's or investigator's duties while carrying the weapon;
(2) parole officers and neither section prohibits an officer from carrying a weapon in this state if the officer is:
(A) engaged in the actual discharge of the officer's duties while carrying the weapon; and
(B) in compliance with policies and procedures adopted by the Texas Department of Criminal Justice regarding the possession of a weapon by an officer while on duty;
(3) community supervision and corrections department officers appointed or employed under Section 76.004, Government Code, and neither section prohibits an officer

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from carrying a weapon in this state if the officer is:

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

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

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

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

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

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

(6) the holder of a statewide office, as defined by Section 1.005, Elections Code, a member of the house of representatives or the senate, the state prosecuting attorney, or United States attorney, or a district attorney, criminal district attorney, county attorney, or municipal attorney who is licensed to carry a concealed handgun under Subchapter H, Chapter 411, Government Code;

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

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

(A) licensed to carry a concealed handgun under Chapter 411,

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Government Code; and
(B) engaged in escorting the judicial officer; or
(9) a juvenile probation officer who is authorized to carry a
firearm under Section 142.006, Human Resources Code.
[FA1(4)]

SECTION 3. The change in law made by this Act in amending Section 46.035(c), Penal Code, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 3. (a) The change in law made by this Act in amending Subsections (c) and (h-1), Section 46.035, and Subsection (a), Section 46.15, Penal Code, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date. [FA1(1)-(2)]
(b) The change in law made by this Act to Subdivision (1), Subsection (a), Section 411.201, Government Code, applies only to an application to obtain or renew a license to carry a concealed handgun submitted on or after the effective date of this Act. An application submitted before the effective date of this Act is governed by the law in effect when the application was submitted, and the former law is continued in effect for that purpose. [FA1(3)]

SECTION 4. This Act takes effect September 1, 2013.

SECTION 4. Same as House version.