

**House Bill 3142**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

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

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

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

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

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

- (A) the person is engaged in the performance of the person's duties as a security officer;
- (B) the person is wearing a distinctive uniform; and
- (C) the weapon is in plain view;

(2) who is a peace officer;

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

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

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SECTION 1. Same as House version.

SECTION 2. Same as House version.

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Penal Code.

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

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

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

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

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

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

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

(C) the weapon is in plain view;

(2) who is a peace officer;

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

(4) who possesses a concealed handgun ~~[of the same~~

SECTION 3. Same as House version.

SECTION 4. Same as House version.

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~~category]~~ the person is licensed to carry under Subchapter H, Chapter 411, Government Code, unless the person is on the premises of a business described by Section 46.035(b)(1), Penal Code.

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

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

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

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

- (1) a number assigned to the license holder by the department;
- (2) a statement of the period for which the license is effective;
- (3) ~~[a statement of the category or categories of handguns the license holder may carry as provided by Subsection (b);~~

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

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SECTION 5. Same as House version.

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- ~~(4)~~ ~~(5)~~ the license holder's full name, date of birth, hair and eye color, height, weight, and signature;
- ~~(5)~~ ~~(6)~~ the license holder's residence address or, as provided by Subsection (d), the street address of the courthouse in which the license holder or license holder's spouse serves as a federal judge or the license holder serves as a state judge; and
- ~~(6)~~ ~~(7)~~ the number of a driver's license or an identification certificate issued to the license holder by the department.

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

- (a) The department shall suspend a license under this section if the license holder:
- (1) is charged with the commission of a Class A or Class B misdemeanor or equivalent offense, or of an offense under Section 42.01, Penal Code, or equivalent offense, or of a felony under an information or indictment;
  - (2) fails to notify the department of a change of address, name, or status as required by Section 411.181;
  - (3) ~~carries a concealed handgun under the authority of this subchapter of a different category than the license holder is licensed to carry;~~
  - ~~(4) fails to return a previously issued license after a license is modified as required by Section 411.184(d);~~
  - ~~(5)~~ commits an act of family violence and is the subject of an active protective order rendered under Title 4, Family Code; or
  - ~~(4)~~ ~~(6)~~ is arrested for an offense involving family violence or an offense under Section 42.072, Penal Code, and is the subject of an order for emergency protection issued under Article 17.292, Code of Criminal Procedure.

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SECTION 7. Same as House version.

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

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

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

- (1) a written section on the subjects listed in Subsection (b); and
- (2) a physical demonstration of proficiency in the use of one or more handguns ~~of specific categories~~ and in handgun safety procedures.

SECTION 9. Section 411.1882(a), 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

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Section 411.201, or as 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[  
[(4)] 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].

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

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

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

(d) Section 62.081 does not apply to:

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

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- (2) a person authorized to hunt under Subsection (c);
- (3) a peace officer as defined by Article 2.12, Code of Criminal Procedure; or
- (4) a person who:
  - (A) possesses a concealed handgun and a license issued under Subchapter H, Chapter 411, Government Code, to carry a concealed handgun [~~of the same category as a handgun the person is carrying~~]; or
  - (B) under circumstances in which the person would be justified in the use of deadly force under Chapter 9, Penal Code, shoots a handgun [~~of the same category as a handgun~~] the person is licensed to carry under Subchapter H, Chapter 411, Government Code.
- (e) A state agency, including the department, the Department of Public Safety, and the Lower Colorado River Authority, may not adopt a rule that prohibits a person who possesses a license issued under Subchapter H, Chapter 411, Government Code, from entering or crossing the land of the Lower Colorado River Authority while:
  - (1) possessing a concealed handgun [~~of the same category as a handgun the person is licensed to carry~~]; or
  - (2) under circumstances in which the person would be justified in the use of deadly force under Chapter 9, Penal Code, shooting a handgun [~~of the same category as a handgun the person is licensed to carry~~].

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

- (f) It is a defense to prosecution under this section that:
  - (1) the basis on which entry on the property or land or in the building was forbidden is that entry with a handgun was

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forbidden; and

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

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

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

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

(2) is traveling;

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

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

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

(A) is engaged in the performance of the person's duties as a personal protection officer under Chapter 1702, Occupations

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Code, or is traveling to or from the person's place of assignment; and

(B) is either:

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

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

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

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

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

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

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

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

(1) Section 411.171(1);

(2) Section 411.179(b);

(3) Section 411.184; and

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

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SECTION 14. Same as House version.

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

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

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

No equivalent provision.

SECTION 15. Same as House version.

SECTION 16. Same as House version.

SECTION \_\_. Section 229.001, Local Government Code, is amended to read as follows:

Sec. 229.001. FIREARMS; AIR GUNS; EXPLOSIVES. (a) Notwithstanding any other law, including Section 43.002 of this code and Chapter 251, Agriculture Code, a municipality may not adopt regulations relating to:

- (1) the transfer, private ownership, keeping, transportation, licensing, or registration of firearms, air guns, ammunition, or firearm or air gun supplies; or
- (2) the discharge of a firearm or air gun at a sport shooting

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range.

(b) Subsection (a) does not affect the authority a municipality has under another law to:

(1) require residents or public employees to be armed for personal or national defense, law enforcement, or another lawful purpose;

(2) regulate the discharge of firearms or air guns within the limits of the municipality, other than at a sport shooting range;

(3) regulate the use of property, the location of a business, or uses at a business under the municipality's fire code, zoning ordinance, or land-use regulations as long as the code, ordinance, or regulations are not used to circumvent the intent of Subsection (a) or Subdivision (5) of this subsection;

(4) regulate the use of firearms or air guns in the case of an insurrection, riot, or natural disaster if the municipality finds the regulations necessary to protect public health and safety;

(5) regulate the storage or transportation of explosives to protect public health and safety, except that 25 pounds or less of black powder for each private residence and 50 pounds or less of black powder for each retail dealer are not subject to regulation;

(6) regulate the carrying of a firearm or air gun by a person other than a person licensed to carry a concealed handgun under Subchapter H, Chapter 411, Government Code, at a:

(A) public park;

(B) public meeting of a municipality, county, or other governmental body;

(C) political rally, parade, or official political meeting; or

(D) nonfirearms-related school, college, or professional athletic event; [Ø]

(7) regulate the hours of operation of a sport shooting range, except that the hours of operation may not be more limited

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than the least limited hours of operation of any other business in the municipality other than a business permitted or licensed to sell or serve alcoholic beverages for on-premises consumption; or

(8) regulate the carrying of an air gun by a minor on:

(A) public property; or

(B) private property without consent of the property owner.

(c) The exception provided by Subsection (b)(6) does not apply if the firearm or air gun is in or is carried to or from an area designated for use in a lawful hunting, fishing, or other sporting event and the firearm or air gun is of the type commonly used in the activity.

(d) The exception provided by Subsection (b)(4) does not authorize the seizure or confiscation of any firearm, air gun, or ammunition from an individual who is lawfully carrying or possessing the firearm, air gun, or ammunition.

(e) In this section:

(1) "Air gun" means any gun that discharges a pellet, BB, or paintball by means of compressed air, gas propellant, or a spring.

(2) "Sport[~~-,sport~~] shooting range" has the meaning assigned by Section 250.001. [FA1]

No equivalent provision.

SECTION \_\_. Subchapter B, Chapter 235, Local Government Code, is amended by adding Section 235.020 to read as follows:

Sec. 235.020. DEFINITION. In this subchapter, "air gun" has the meaning assigned by Section 229.001. [FA1]

No equivalent provision.

SECTION \_\_. Section 235.022, Local Government Code, is

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amended to read as follows:

Sec. 235.022. **AUTHORITY TO REGULATE.** To promote the public safety, the commissioners court of a county by order may prohibit or otherwise regulate the discharge of firearms and air guns on lots that are 10 acres or smaller and are located in the unincorporated area of the county in a subdivision. [FA1]

No equivalent provision.

SECTION \_\_. Section 235.023, Local Government Code, is amended to read as follows:

Sec. 235.023. **PROHIBITED REGULATIONS.** This subchapter does not authorize the commissioners court to regulate the transfer, ownership, possession, or transportation of firearms or air guns and does not authorize the court to require the registration of firearms or air guns. [FA1]

No equivalent provision.

SECTION \_\_. Section 236.001, Local Government Code, is amended to read as follows:

Sec. 236.001. **DEFINITIONS** [~~DEFINITION~~]. In this chapter:

(1) "Air gun" has the meaning assigned by Section 229.001.

(2) "Sport[~~,"sport~~] shooting range" has the meaning assigned by Section 250.001. [FA1]

No equivalent provision.

SECTION \_\_. Section 236.002, Local Government Code, is amended to read as follows:

Sec. 236.002. **FIREARMS; AIR GUNS; SPORT SHOOTING RANGE.** Notwithstanding any other law, including Chapter 251, Agriculture Code, a county may not

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adopt regulations relating to:

- (1) the transfer, private ownership, keeping, transportation, licensing, or registration of firearms, air guns, ammunition, or firearm or air gun supplies; or
- (2) the discharge of a firearm or air gun at a sport shooting range. [FA1]

No equivalent provision.

SECTION \_\_. Section 236.003, Local Government Code, is amended to read as follows:

Sec. 236.003. REGULATION OF OUTDOOR SPORT SHOOTING RANGE. Notwithstanding Section 236.002, a county may regulate the discharge of a firearm or air gun at an outdoor sport shooting range as provided by Subchapter B, Chapter 235. [FA1]