

## **BILL ANALYSIS**

C.S.H.B. 353  
By: King, Ken  
Homeland Security & Public Safety  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Concerned parties note that certain areas often have emergency medical services and firefighter services that are entirely volunteer-based. Currently, a concealed handgun license holder who is an emergency services volunteer is not authorized to carry a concealed handgun in certain restricted areas. As a result, if a license holder carrying a concealed handgun who is an emergency services volunteer is called to duty on a restricted premises, such as a school, the license holder would be required to remove the handgun before being allowed on the premises to perform emergency services duties, causing unnecessary delays and potentially heightening risk in a time-sensitive situation or in a situation where the possession of a handgun may be beneficial.

C.S.H.B. 353 seeks to alleviate concerns regarding the legality of carrying a concealed handgun based on the location of the emergency and to provide greater protection for volunteer emergency services personnel responding to an emergency occurring in a dangerous or high risk area.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 353 amends the Penal Code to establish as a defense to prosecution for the offense of trespass by a concealed handgun license holder who carries a handgun on another's property without effective consent that the license holder is volunteer emergency services personnel and to establish as a defense to prosecution for the offense of unlawful carrying of a handgun by a license holder on certain premises or at any meeting of a governmental entity that the license holder is volunteer emergency services personnel engaged in providing emergency services. The bill exempts a concealed handgun license holder who is volunteer emergency services personnel engaged in providing emergency services from the offenses of unlawful carrying of a weapon and possessing or going with a weapon in a place where weapons are prohibited.

C.S.H.B. 353 amends the Civil Practice and Remedies Code to exempt from statutory provisions relating to tort claims a claim arising from the discharge of a handgun by an individual who is volunteer emergency services personnel and licensed to carry a concealed handgun.

## **EFFECTIVE DATE**

September 1, 2015.

## **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 353 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

### **INTRODUCED**

No equivalent provision.

SECTION 1. Section 30.06(e), Penal Code, is amended to read as follows:

(e) It is an exception to the application of this section that:

(1) the property on which the license holder carries a handgun is owned or leased by a governmental entity and is not a premises or other place on which the license holder is prohibited from carrying the handgun under Section 46.03 or 46.035;

or

(2) the license holder is volunteer emergency services personnel, as defined by Section 46.01, engaged in providing emergency services in a county with a population of 50,000 or less.

SECTION 2. Section 46.01, Penal Code, is amended.

SECTION 3. Section 46.035, Penal Code, is amended by adding Subsection (l) to read as follows:

### **HOUSE COMMITTEE SUBSTITUTE**

SECTION 1. Subchapter C, Chapter 101, Civil Practice and Remedies Code, is amended by adding Section 101.068 to read as follows:

Sec. 101.068. CERTAIN ACTIONS OF VOLUNTEER EMERGENCY SERVICES PERSONNEL. This chapter does not apply to a claim arising from the discharge of a handgun by an individual who is volunteer emergency services personnel as defined by Section 46.01, Penal Code, and licensed to carry a concealed handgun under Subchapter H, Chapter 411, Government Code.

SECTION 2. Section 30.06, Penal Code, is amended by adding Subsection (f) to read as follows:

(f) It is a defense to prosecution under this section that the license holder is volunteer emergency services personnel, as defined by Section 46.01.

SECTION 3. Same as introduced version.

SECTION 4. Section 46.035, Penal Code, is amended by adding Subsection (l) to read as follows:

(l) Subsections (b) and (c) do not apply if the actor is volunteer emergency services personnel engaged in providing emergency services in a county with a population of 50,000 or less.

SECTION 4. Section 46.15(a), 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 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) 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, qualified retired law enforcement officer, federal criminal investigator, or former reserve law enforcement officer who holds a certificate of proficiency issued under Section 1701.357, Occupations Code, and

(l) It is a defense to prosecution under Subsections (b) and (c) that the actor is volunteer emergency services personnel engaged in providing emergency services.

SECTION 5. Section 46.15(a), 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 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) 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, qualified retired law enforcement officer, federal criminal investigator, or former reserve law enforcement officer who holds a certificate of proficiency issued under Section 1701.357, Occupations Code, and is

is carrying a photo identification that is issued by a federal, state, or local law enforcement agency, as applicable, and that verifies that the officer is:

- (A) an honorably retired peace officer;
- (B) a qualified retired law enforcement officer;
- (C) a federal criminal investigator; or
- (D) a former reserve law enforcement officer who has served in that capacity not less than a total of 15 years with one or more state or local law enforcement agencies;
- (6) 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 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, Government Code; and
  - (B) engaged in escorting the judicial officer; [øf]
- (9) a juvenile probation officer who is authorized to carry a firearm under Section 142.006, Human Resources Code; or
- (10) a person who is volunteer emergency services personnel if the person is:
  - (A) licensed to carry a concealed handgun under Subchapter H, Chapter 411, Government Code; and
  - (B) engaged in providing emergency services in a county with a population of 50,000 or less.

SECTION 5. The change in law made by this Act 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 when 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.

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- (A) an honorably retired peace officer;
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- (C) a federal criminal investigator; or
- (D) a former reserve law enforcement officer who has served in that capacity not less than a total of 15 years with one or more state or local law enforcement agencies;
- (6) 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 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, Government Code; and
  - (B) engaged in escorting the judicial officer; [øf]
- (9) a juvenile probation officer who is authorized to carry a firearm under Section 142.006, Human Resources Code; or
- (10) a person who is volunteer emergency services personnel if the person is:
  - (A) licensed to carry a concealed handgun under Subchapter H, Chapter 411, Government Code; and
  - (B) engaged in providing emergency services.

SECTION 6. The changes in law made by this Act to Section 30.06 and Chapter 46, Penal Code, apply 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 when 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 6. This Act takes effect  
September 1, 2015.

SECTION 7. Same as introduced version.