

By: White of Tyler

H.B. No. 164

A BILL TO BE ENTITLED

AN ACT

relating to the authority of a person who is licensed to carry a handgun to openly carry the handgun; providing penalties.

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

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 or unconcealed 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;

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, regardless of  
8 whether the handgun is carried in a concealed or unconcealed  
9 manner, of the same category the person is licensed to carry under  
10 Subchapter H, Chapter 411, Government Code, unless the person is on  
11 the premises of a business described by Section 46.035(b)(1), Penal  
12 Code.

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

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

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

24 (f) Except as provided by Subsection (g) or (j), the  
25 commission or administrator shall cancel an original or renewal  
26 dealer's on-premises or off-premises license if it is found, after  
27 notice and hearing, that the licensee knowingly allowed a person to

1 possess a firearm in a building on the licensed premises. This  
2 subsection does not apply to a person:

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

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

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

9 (C) the weapon is in plain view;

10 (2) who is a peace officer;

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

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

19 SECTION 5. Article 7A.05(c), Code of Criminal Procedure, is  
20 amended to read as follows:

21 (c) In a protective order, the court may suspend a license  
22 to carry a concealed or unconcealed handgun issued under Section  
23 411.177, Government Code, that is held by the alleged offender.

24 SECTION 6. Article 7B.06(c), Code of Criminal Procedure, is  
25 amended to read as follows:

26 (c) In a protective order, the court may suspend a license  
27 to carry a concealed or unconcealed handgun issued under Section

1 411.177, Government Code, that is held by the offender or alleged  
2 offender.

3 SECTION 7. Article 17.292(1), Code of Criminal Procedure,  
4 is amended to read as follows:

5 (1) In the order for emergency protection, the magistrate  
6 shall suspend a license to carry a concealed or unconcealed handgun  
7 issued under Subchapter H, Chapter 411, Government Code, that is  
8 held by the defendant.

9 SECTION 8. Article 17.293, Code of Criminal Procedure, is  
10 amended to read as follows:

11 Art. 17.293. DELIVERY OF ORDER FOR EMERGENCY PROTECTION TO  
12 OTHER PERSONS. The magistrate or the clerk of the magistrate's  
13 court issuing an order for emergency protection under Article  
14 17.292 that suspends a license to carry a concealed or unconcealed  
15 handgun shall immediately send a copy of the order to the  
16 appropriate division of the Department of Public Safety at its  
17 Austin headquarters. On receipt of the order suspending the  
18 license, the department shall:

19 (1) record the suspension of the license in the  
20 records of the department;

21 (2) report the suspension to local law enforcement  
22 agencies, as appropriate; and

23 (3) demand surrender of the suspended license from the  
24 license holder.

25 SECTION 9. Section 63.0101, Election Code, is amended to  
26 read as follows:

27 Sec. 63.0101. DOCUMENTATION OF PROOF OF IDENTIFICATION. The

1 following documentation is an acceptable form of photo  
2 identification under this chapter:

3 (1) a driver's license, election identification  
4 certificate, or personal identification card issued to the person  
5 by the Department of Public Safety that has not expired or that  
6 expired no earlier than 60 days before the date of presentation;

7 (2) a United States military identification card that  
8 contains the person's photograph that has not expired or that  
9 expired no earlier than 60 days before the date of presentation;

10 (3) a United States citizenship certificate issued to  
11 the person that contains the person's photograph;

12 (4) a United States passport issued to the person that  
13 has not expired or that expired no earlier than 60 days before the  
14 date of presentation; or

15 (5) a license to carry a concealed or unconcealed  
16 handgun issued to the person by the Department of Public Safety that  
17 has not expired or that expired no earlier than 60 days before the  
18 date of presentation.

19 SECTION 10. Section 2.005(b), Family Code, is amended to  
20 read as follows:

21 (b) The proof must be established by:

22 (1) a driver's license or identification card issued  
23 by this state, another state, or a Canadian province that is current  
24 or has expired not more than two years preceding the date the  
25 identification is submitted to the county clerk in connection with  
26 an application for a license;

27 (2) a United States passport;

1           (3) a current passport issued by a foreign country or a  
2 consular document issued by a state or national government;

3           (4) an unexpired Certificate of United States  
4 Citizenship, Certificate of Naturalization, United States Citizen  
5 Identification Card, Permanent Resident Card, Temporary Resident  
6 Card, Employment Authorization Card, or other document issued by  
7 the federal Department of Homeland Security or the United States  
8 Department of State including an identification photograph;

9           (5) an unexpired military identification card for  
10 active duty, reserve, or retired personnel with an identification  
11 photograph;

12           (6) an original or certified copy of a birth  
13 certificate issued by a bureau of vital statistics for a state or a  
14 foreign government;

15           (7) an original or certified copy of a Consular Report  
16 of Birth Abroad or Certificate of Birth Abroad issued by the United  
17 States Department of State;

18           (8) an original or certified copy of a court order  
19 relating to the applicant's name change or sex change;

20           (9) school records from a secondary school or  
21 institution of higher education;

22           (10) an insurance policy continuously valid for the  
23 two years preceding the date of the application for a license;

24           (11) a motor vehicle certificate of title;

25           (12) military records, including documentation of  
26 release or discharge from active duty or a draft record;

27           (13) an unexpired military dependent identification

1 card;

2 (14) an original or certified copy of the applicant's  
3 marriage license or divorce decree;

4 (15) a voter registration certificate;

5 (16) a pilot's license issued by the Federal Aviation  
6 Administration or another authorized agency of the United States;

7 (17) a license to carry a concealed or unconcealed  
8 handgun under Subchapter H, Chapter 411, Government Code;

9 (18) a temporary driving permit or a temporary  
10 identification card issued by the Department of Public Safety; or

11 (19) an offender identification card issued by the  
12 Texas Department of Criminal Justice.

13 SECTION 11. Section 58.003(m), Family Code, is amended to  
14 read as follows:

15 (m) On request of the Department of Public Safety, a  
16 juvenile court shall reopen and allow the department to inspect the  
17 files and records of the juvenile court relating to an applicant for  
18 a license to carry a concealed or unconcealed handgun under  
19 Subchapter H, Chapter 411, Government Code.

20 SECTION 12. Section 85.022(d), Family Code, is amended to  
21 read as follows:

22 (d) In a protective order, the court shall suspend a license  
23 to carry a concealed or unconcealed handgun issued under Subchapter  
24 H, Chapter 411, Government Code, that is held by a person found to  
25 have committed family violence.

26 SECTION 13. Section 85.042(e), Family Code, is amended to  
27 read as follows:

1 (e) The clerk of the court issuing an original or modified  
2 protective order under Section 85.022 that suspends a license to  
3 carry a concealed or unconcealed handgun shall send a copy of the  
4 order to the appropriate division of the Department of Public  
5 Safety at its Austin headquarters. On receipt of the order  
6 suspending the license, the department shall:

7 (1) record the suspension of the license in the  
8 records of the department;

9 (2) report the suspension to local law enforcement  
10 agencies, as appropriate; and

11 (3) demand surrender of the suspended license from the  
12 license holder.

13 SECTION 14. The heading to Section 411.047, Government  
14 Code, is amended to read as follows:

15 Sec. 411.047. REPORTING RELATED TO CERTAIN [~~CONCEALED~~]  
16 HANDGUN INCIDENTS.

17 SECTION 15. Section 411.0625, Government Code, is amended  
18 to read as follows:

19 Sec. 411.0625. PASS FOR EXPEDITED ACCESS TO CAPITOL. (a)  
20 The department shall allow a person to enter the Capitol and the  
21 Capitol Extension, including any public space in the Capitol or  
22 Capitol Extension, in the same manner as the department allows  
23 entry to a person who presents a concealed or unconcealed handgun  
24 license under Subchapter H if the person:

25 (1) obtains from the department a Capitol access pass;  
26 and

27 (2) presents the pass to the appropriate law



1 enforcement official when entering the building or a space within  
2 the building.

3 (b) To be eligible for a Capitol access pass, a person must  
4 meet the eligibility requirements applicable to a license to carry  
5 a concealed or unconcealed handgun under Subchapter H, other than  
6 requirements regarding evidence of handgun proficiency.

7 (c) The department shall adopt rules to establish a  
8 procedure by which a resident of the state may apply for and be  
9 issued a Capitol access pass. Rules adopted under this section must  
10 include provisions for eligibility, application, approval,  
11 issuance, and renewal that:

12 (1) require the department to conduct the same  
13 background check on an applicant for a Capitol access pass that is  
14 conducted on an applicant for a concealed or unconcealed handgun  
15 license under Subchapter H;

16 (2) enable the department to conduct the background  
17 check described by Subdivision (1); and

18 (3) establish application and renewal fees in amounts  
19 sufficient to cover the cost of administering this section, not to  
20 exceed the amounts of similar fees required for a concealed or  
21 unconcealed handgun license under Section [411.174](#).

22 SECTION 16. The heading to Subchapter H, Chapter 411,  
23 Government Code, is amended to read as follows:

24 SUBCHAPTER H. LICENSE TO CARRY A CONCEALED  
25 OR UNCONCEALED HANDGUN

26 SECTION 17. Section [411.171](#), Government Code, is amended by  
27 adding Subdivision (8) to read as follows:

1           (8) "Unconcealed handgun" means a loaded or unloaded  
2 handgun carried upon the person in a shoulder or belt holster that  
3 is wholly or partially visible.

4           SECTION 18. Sections 411.172(a), (b-1), (g), and (h),  
5 Government Code, are amended to read as follows:

6           (a) A person is eligible for a license to carry a concealed  
7 or unconcealed handgun if the person:

8           (1) is a legal resident of this state for the six-month  
9 period preceding the date of application under this subchapter or  
10 is otherwise eligible for a license under Section 411.173(a);

11           (2) is at least 21 years of age;

12           (3) has not been convicted of a felony;

13           (4) is not charged with the commission of a Class A or  
14 Class B misdemeanor or equivalent offense, or of an offense under  
15 Section 42.01, Penal Code, or equivalent offense, or of a felony  
16 under an information or indictment;

17           (5) is not a fugitive from justice for a felony or a  
18 Class A or Class B misdemeanor or equivalent offense;

19           (6) is not a chemically dependent person;

20           (7) is not incapable of exercising sound judgment with  
21 respect to the proper use and storage of a handgun;

22           (8) has not, in the five years preceding the date of  
23 application, been convicted of a Class A or Class B misdemeanor or  
24 equivalent offense or of an offense under Section 42.01, Penal  
25 Code, or equivalent offense;

26           (9) is fully qualified under applicable federal and  
27 state law to purchase a handgun;

1           (10) has not been finally determined to be delinquent  
2 in making a child support payment administered or collected by the  
3 attorney general;

4           (11) has not been finally determined to be delinquent  
5 in the payment of a tax or other money collected by the comptroller,  
6 the tax collector of a political subdivision of the state, or any  
7 agency or subdivision of the state;

8           (12) is not currently restricted under a court  
9 protective order or subject to a restraining order affecting the  
10 spousal relationship, other than a restraining order solely  
11 affecting property interests;

12           (13) has not, in the 10 years preceding the date of  
13 application, been adjudicated as having engaged in delinquent  
14 conduct violating a penal law of the grade of felony; and

15           (14) has not made any material misrepresentation, or  
16 failed to disclose any material fact, in an application submitted  
17 pursuant to Section [411.174](#).

18           (b-1) An offense is not considered a felony for purposes of  
19 Subsection (b) if, at the time of a person's application for a  
20 license to carry a concealed or unconcealed handgun, the offense:

21           (1) is not designated by a law of this state as a  
22 felony; and

23           (2) does not contain all the elements of any offense  
24 designated by a law of this state as a felony.

25           (g) Notwithstanding Subsection (a)(2), a person who is at  
26 least 18 years of age but not yet 21 years of age is eligible for a  
27 license to carry a concealed or unconcealed handgun if the person:

1           (1) is a member or veteran of the United States armed  
2 forces, including a member or veteran of the reserves or national  
3 guard;

4           (2) was discharged under honorable conditions, if  
5 discharged from the United States armed forces, reserves, or  
6 national guard; and

7           (3) meets the other eligibility requirements of  
8 Subsection (a) except for the minimum age required by federal law to  
9 purchase a handgun.

10          (h) The issuance of a license to carry a concealed or  
11 unconcealed handgun to a person eligible under Subsection (g) does  
12 not affect the person's ability to purchase a handgun or ammunition  
13 under federal law.

14          SECTION 19. Section [411.173\(b\)](#), Government Code, is amended  
15 to read as follows:

16          (b) The governor shall negotiate an agreement with any other  
17 state that provides for the issuance of a license to carry a  
18 concealed or unconcealed handgun under which a license issued by  
19 the other state is recognized in this state or shall issue a  
20 proclamation that a license issued by the other state is recognized  
21 in this state if the attorney general of the State of Texas  
22 determines that a background check of each applicant for a license  
23 issued by that state is initiated by state or local authorities or  
24 an agent of the state or local authorities before the license is  
25 issued. For purposes of this subsection, "background check" means a  
26 search of the National Crime Information Center database and the  
27 Interstate Identification Index maintained by the Federal Bureau of

1 Investigation.

2 SECTION 20. Section 411.174(a), Government Code, is amended  
3 to read as follows:

4 (a) An applicant for a license to carry a concealed or  
5 unconcealed handgun must submit to the director's designee  
6 described by Section 411.176:

7 (1) a completed application on a form provided by the  
8 department that requires only the information listed in Subsection  
9 (b);

10 (2) one or more photographs of the applicant that meet  
11 the requirements of the department;

12 (3) a certified copy of the applicant's birth  
13 certificate or certified proof of age;

14 (4) proof of residency in this state;

15 (5) two complete sets of legible and classifiable  
16 fingerprints of the applicant taken by a person appropriately  
17 trained in recording fingerprints who is employed by a law  
18 enforcement agency or by a private entity designated by a law  
19 enforcement agency as an entity qualified to take fingerprints of  
20 an applicant for a license under this subchapter;

21 (6) a nonrefundable application and license fee of  
22 \$140 paid to the department;

23 (7) evidence of handgun proficiency, in the form and  
24 manner required by the department;

25 (8) an affidavit signed by the applicant stating that  
26 the applicant:

27 (A) has read and understands each provision of

1 this subchapter that creates an offense under the laws of this state  
2 and each provision of the laws of this state related to use of  
3 deadly force; and

4 (B) fulfills all the eligibility requirements  
5 listed under Section 411.172; and

6 (9) a form executed by the applicant that authorizes  
7 the director to make an inquiry into any noncriminal history  
8 records that are necessary to determine the applicant's eligibility  
9 for a license under Section 411.172(a).

10 SECTION 21. Section 411.177(a), Government Code, is amended  
11 to read as follows:

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

24 SECTION 22. Section 411.185(d), Government Code, is amended  
25 to read as follows:

26 (d) The director by rule shall adopt a procedure by which a  
27 license holder who satisfies the eligibility criteria may renew a

1 license by mail. The materials for renewal by mail must include a  
2 form to be signed and returned to the department by the applicant  
3 that describes state law regarding:

4 (1) the use of deadly force; and

5 (2) the places where it is unlawful for the holder of a  
6 license issued under this subchapter to carry a concealed or  
7 unconcealed handgun.

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

10 (a) The department shall suspend a license under this  
11 section if the license holder:

12 (1) is charged with the commission of a Class A or  
13 Class B misdemeanor or equivalent offense, or of an offense under  
14 Section 42.01, Penal Code, or equivalent offense, or of a felony  
15 under an information or indictment;

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

18 (3) carries a concealed or unconcealed handgun under  
19 the authority of this subchapter of a different category than the  
20 license holder is licensed to carry;

21 (4) fails to return a previously issued license after  
22 a license is modified as required by Section 411.184(d);

23 (5) commits an act of family violence and is the  
24 subject of an active protective order rendered under Title 4,  
25 Family Code; or

26 (6) is arrested for an offense involving family  
27 violence or an offense under Section 42.072, Penal Code, and is the

1 subject of an order for emergency protection issued under Article  
2 [17.292](#), Code of Criminal Procedure.

3 SECTION 24. Section [411.188](#)(g), Government Code, is amended  
4 to read as follows:

5 (g) A person who wishes to obtain or renew a license to carry  
6 a concealed or unconcealed handgun must apply in person to a  
7 qualified handgun instructor to take the appropriate course in  
8 handgun proficiency and demonstrate handgun proficiency as  
9 required by the department.

10 SECTION 25. Section [411.1881](#)(a), Government Code, is  
11 amended to read as follows:

12 (a) Notwithstanding any other provision of this subchapter,  
13 a person may not be required to complete the range instruction  
14 portion of a handgun proficiency course to obtain or renew a  
15 concealed or unconcealed handgun license issued under this  
16 subchapter if the person:

17 (1) is currently serving in or is honorably discharged  
18 from:

19 (A) the army, navy, air force, coast guard, or  
20 marine corps of the United States or an auxiliary service or reserve  
21 unit of one of those branches of the armed forces; or

22 (B) the state military forces, as defined by  
23 Section [431.001](#); and

24 (2) has, within the five years preceding the date of  
25 the person's application for an original or renewed license, as  
26 applicable, completed a course of training in handgun proficiency  
27 or familiarization as part of the person's service with the armed



1 forces or state military forces.

2 SECTION 26. Sections 411.190(c) and (f), Government Code,  
3 are amended to read as follows:

4 (c) In the manner applicable to a person who applies for a  
5 license to carry a concealed or unconcealed handgun, the department  
6 shall conduct a background check of a person who applies for  
7 certification as a qualified handgun instructor. If the background  
8 check indicates that the applicant for certification would not  
9 qualify to receive a handgun license, the department may not  
10 certify the applicant as a qualified handgun instructor. If the  
11 background check indicates that the applicant for certification  
12 would qualify to receive a handgun license, the department shall  
13 provide handgun instructor training to the applicant. The applicant  
14 shall pay a fee of \$100 to the department for the training. The  
15 applicant must take and successfully complete the training offered  
16 by the department and pay the training fee before the department may  
17 certify the applicant as a qualified handgun instructor. The  
18 department shall issue a license to carry a concealed or  
19 unconcealed handgun under the authority of this subchapter to any  
20 person who is certified as a qualified handgun instructor and who  
21 pays to the department a fee of \$100 in addition to the training  
22 fee. The department by rule may prorate or waive the training fee  
23 for an employee of another governmental entity.

24 (f) If the department determines that a reason exists to  
25 revoke, suspend, or deny a license to carry a concealed or  
26 unconcealed handgun with respect to a person who is a qualified  
27 handgun instructor or an applicant for certification as a qualified

1 handgun instructor, the department shall take that action against  
2 the person's:

3 (1) license to carry a concealed or unconcealed  
4 handgun if the person is an applicant for or the holder of a license  
5 issued under this subchapter; and

6 (2) certification as a qualified handgun instructor.

7 SECTION 27. Section 411.198(a), Government Code, is amended  
8 to read as follows:

9 (a) On written approval of the director, the department may  
10 issue to a law enforcement officer an alias license to carry a  
11 concealed or unconcealed handgun to be used in supervised  
12 activities involving criminal investigations.

13 SECTION 28. Sections 411.201(c), (d), (e), and (h),  
14 Government Code, are amended to read as follows:

15 (c) An active judicial officer is eligible for a license to  
16 carry a concealed or unconcealed handgun under the authority of  
17 this subchapter. A retired judicial officer is eligible for a  
18 license to carry a concealed or unconcealed handgun under the  
19 authority of this subchapter if the officer:

20 (1) has not been convicted of a felony;

21 (2) has not, in the five years preceding the date of  
22 application, been convicted of a Class A or Class B misdemeanor or  
23 equivalent offense;

24 (3) is not charged with the commission of a Class A or  
25 Class B misdemeanor or equivalent offense or of a felony under an  
26 information or indictment;

27 (4) is not a chemically dependent person; and

1           (5) is not a person of unsound mind.

2           (d) An applicant for a license who is an active or retired  
3 judicial officer must submit to the department:

4           (1) a completed application, including all required  
5 affidavits, on a form prescribed by the department;

6           (2) one or more photographs of the applicant that meet  
7 the requirements of the department;

8           (3) two complete sets of legible and classifiable  
9 fingerprints of the applicant, including one set taken by a person  
10 employed by a law enforcement agency who is appropriately trained  
11 in recording fingerprints;

12           (4) evidence of handgun proficiency, in the form and  
13 manner required by the department for an applicant under this  
14 section;

15           (5) a nonrefundable application and license fee set by  
16 the department in an amount reasonably designed to cover the  
17 administrative costs associated with issuance of a license to carry  
18 a concealed or unconcealed handgun under this subchapter; and

19           (6) if the applicant is a retired judicial officer, a  
20 form executed by the applicant that authorizes the department to  
21 make an inquiry into any noncriminal history records that are  
22 necessary to determine the applicant's eligibility for a license  
23 under this subchapter.

24           (e) On receipt of all the application materials required by  
25 this section, the department shall:

26           (1) if the applicant is an active judicial officer,  
27 issue a license to carry a concealed or unconcealed handgun under

1 the authority of this subchapter; or

2 (2) if the applicant is a retired judicial officer,  
3 conduct an appropriate background investigation to determine the  
4 applicant's eligibility for the license and, if the applicant is  
5 eligible, issue a license to carry a concealed or unconcealed  
6 handgun under the authority of this subchapter.

7 (h) The department shall issue a license to carry a  
8 concealed or unconcealed handgun under the authority of this  
9 subchapter to an elected attorney representing the state in the  
10 prosecution of felony cases who meets the requirements of this  
11 section for an active judicial officer. The department shall waive  
12 any fee required for the issuance of an original, duplicate, or  
13 renewed license under this subchapter for an applicant who is an  
14 attorney elected or employed to represent the state in the  
15 prosecution of felony cases.

16 SECTION 29. Section [411.203](#), Government Code, is amended to  
17 read as follows:

18 Sec. 411.203. RIGHTS OF EMPLOYERS. This subchapter does not  
19 prevent or otherwise limit the right of a public or private employer  
20 to prohibit persons who are licensed under this subchapter from  
21 carrying a concealed handgun or an unconcealed handgun on the  
22 premises of the business. In this section, "premises" has the  
23 meaning assigned by Section [46.035\(f\)\(3\)](#), Penal Code.

24 SECTION 30. Section [12.092\(b\)](#), Health and Safety Code, is  
25 amended to read as follows:

26 (b) The medical advisory board shall assist the Department  
27 of Public Safety of the State of Texas in determining whether:

1           (1) an applicant for a driver's license or a license  
2 holder is capable of safely operating a motor vehicle; or

3           (2) an applicant for or holder of a license to carry a  
4 concealed or unconcealed handgun under the authority of Subchapter  
5 H, Chapter 411, Government Code, is capable of exercising sound  
6 judgment with respect to the proper use and storage of a handgun.

7           SECTION 31. Sections 52.061 and 52.062, Labor Code, are  
8 amended to read as follows:

9           Sec. 52.061. RESTRICTION ON PROHIBITING EMPLOYEE ACCESS TO  
10 OR STORAGE OF FIREARM OR AMMUNITION. A public or private employer  
11 may not prohibit an employee who holds a license to carry a  
12 concealed or unconcealed handgun under Subchapter H, Chapter 411,  
13 Government Code, who otherwise lawfully possesses a firearm, or who  
14 lawfully possesses ammunition from transporting or storing a  
15 firearm or ammunition the employee is authorized by law to possess  
16 in a locked, privately owned motor vehicle in a parking lot, parking  
17 garage, or other parking area the employer provides for employees.

18           Sec. 52.062. EXCEPTIONS. (a) Section 52.061 does not:

19           (1) authorize a person who holds a license to carry a  
20 concealed or unconcealed handgun under Subchapter H, Chapter 411,  
21 Government Code, who otherwise lawfully possesses a firearm, or who  
22 lawfully possesses ammunition to possess a firearm or ammunition on  
23 any property where the possession of a firearm or ammunition is  
24 prohibited by state or federal law; or

25           (2) apply to:

26           (A) a vehicle owned or leased by a public or  
27 private employer and used by an employee in the course and scope of

1 the employee's employment, unless the employee is required to  
2 transport or store a firearm in the official discharge of the  
3 employee's duties;

4 (B) a school district;

5 (C) an open-enrollment charter school, as  
6 defined by Section 5.001, Education Code;

7 (D) a private school, as defined by Section  
8 22.081, Education Code;

9 (E) property owned or controlled by a person,  
10 other than the employer, that is subject to a valid, unexpired oil,  
11 gas, or other mineral lease that contains a provision prohibiting  
12 the possession of firearms on the property; or

13 (F) property owned or leased by a chemical  
14 manufacturer or oil and gas refiner with an air authorization under  
15 Chapter 382, Health and Safety Code, and on which the primary  
16 business conducted is the manufacture, use, storage, or  
17 transportation of hazardous, combustible, or explosive materials,  
18 except in regard to an employee who holds a license to carry a  
19 concealed or unconcealed handgun under Subchapter H, Chapter 411,  
20 Government Code, and who stores a firearm or ammunition the  
21 employee is authorized by law to possess in a locked, privately  
22 owned motor vehicle in a parking lot, parking garage, or other  
23 parking area the employer provides for employees that is outside of  
24 a secured and restricted area:

25 (i) that contains the physical plant;

26 (ii) that is not open to the public; and

27 (iii) the ingress into which is constantly

1 monitored by security personnel.

2 (b) Section 52.061 does not prohibit an employer from  
3 prohibiting an employee who holds a license to carry a concealed or  
4 unconcealed handgun under Subchapter H, Chapter 411, Government  
5 Code, or who otherwise lawfully possesses a firearm, from  
6 possessing a firearm the employee is otherwise authorized by law to  
7 possess on the premises of the employer's business. In this  
8 subsection, "premises" has the meaning assigned by Section  
9 46.035(f)(3), Penal Code.

10 SECTION 32. Section 118.011(b), Local Government Code, is  
11 amended to read as follows:

12 (b) The county clerk may set and collect the following fee  
13 from any person:

14 (1) Returned Check (Sec. 118.0215) . . . . .  
15 . . . . . not less than \$15 or more than \$30

16 (2) Records Management and Preservation Fee (Sec.  
17 118.0216) . . . . . not more than \$5

18 (3) Mental Health Background Check for License to  
19 Carry a Concealed or Unconcealed Handgun [~~Weapon~~] (Sec.  
20 118.0217) . . . . . not more than \$2

21 SECTION 33. Section 118.0217(a), Local Government Code, is  
22 amended to read as follows:

23 (a) The fee for a "mental health background check for  
24 license to carry a concealed or unconcealed handgun [~~weapon~~]" is  
25 for a check, conducted by the county clerk at the request of the  
26 Texas Department of Public Safety, of the county records involving  
27 the mental condition of a person who applies for a license to carry

1 a concealed or unconcealed handgun under Subchapter H, Chapter 411,  
2 Government Code. The fee, not to exceed \$2, will be paid from the  
3 application fee submitted to the Department of Public Safety  
4 according to Section 411.174(a)(6), Government Code.

5 SECTION 34. Section 229.001(b), Local Government Code, is  
6 amended to read as follows:

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

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

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

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

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

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

27 (6) regulate the carrying of a firearm by a person



1 other than a person licensed to carry a concealed or unconcealed  
2 handgun under Subchapter H, Chapter 411, Government Code, at a:

3 (A) public park;

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

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

8 (D) nonfirearms-related school, college, or  
9 professional athletic event; or

10 (7) regulate the hours of operation of a sport  
11 shooting range, except that the hours of operation may not be more  
12 limited than the least limited hours of operation of any other  
13 business in the municipality other than a business permitted or  
14 licensed to sell or serve alcoholic beverages for on-premises  
15 consumption.

16 SECTION 35. Sections 62.082(d) and (e), Parks and Wildlife  
17 Code, are amended to read as follows:

18 (d) Section 62.081 does not apply to:

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

20 (2) a person authorized to hunt under Subsection (c);

21 (3) a peace officer as defined by Article 2.12, Code of  
22 Criminal Procedure; or

23 (4) a person who:

24 (A) possesses a [~~concealed~~] handgun, regardless  
25 of whether the handgun is carried in a concealed or unconcealed  
26 manner, and a license issued under Subchapter H, Chapter 411,  
27 Government Code, to carry a concealed or unconcealed handgun of the

1 same category as a handgun the person is carrying; or

2 (B) under circumstances in which the person would  
3 be justified in the use of deadly force under Chapter 9, Penal Code,  
4 shoots a handgun of the same category as a handgun the person is  
5 licensed to carry under Subchapter H, Chapter 411, Government Code.

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

12 (1) possessing a [~~concealed~~] handgun, regardless of  
13 whether the handgun is carried in a concealed or unconcealed  
14 manner, of the same category as a handgun the person is licensed to  
15 carry; or

16 (2) under circumstances in which the person would be  
17 justified in the use of deadly force under Chapter 9, Penal Code,  
18 shooting a handgun of the same category as a handgun the person is  
19 licensed to carry.

20 SECTION 36. Section 284.001(e), Parks and Wildlife Code, is  
21 amended to read as follows:

22 (e) This section does not limit the ability of a license  
23 holder to carry a concealed or unconcealed handgun under the  
24 authority of Subchapter H, Chapter 411, Government Code.

25 SECTION 37. Section 30.05(f), Penal Code, is amended to  
26 read as follows:

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

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

4           (2) the person was carrying a [~~concealed~~] handgun,  
5 regardless of whether the handgun was carried in a concealed or  
6 unconcealed manner, and a license issued under Subchapter H,  
7 Chapter 411, Government Code, to carry a concealed or unconcealed  
8 handgun of the same category the person was carrying.

9           SECTION 38. Section 30.06(a), Penal Code, is amended to  
10 read as follows:

11           (a) A license holder commits an offense if the license  
12 holder:

13           (1) carries a concealed handgun under the authority of  
14 Subchapter H, Chapter 411, Government Code, on property of another  
15 without effective consent; and

16           (2) received notice that:

17           (A) entry on the property by a license holder  
18 with a concealed handgun was forbidden; or

19           (B) remaining on the property with a concealed  
20 handgun was forbidden and failed to depart.

21           SECTION 39. Chapter 30, Penal Code, is amended by adding  
22 Section 30.07 to read as follows:

23           Sec. 30.07. TRESPASS BY HOLDER OF LICENSE TO CARRY  
24 UNCONCEALED HANDGUN. (a) A license holder commits an offense if  
25 the license holder:

26           (1) openly carries a handgun in an unconcealed manner  
27 under the authority of Subchapter H, Chapter 411, Government Code,

1 on property of another without effective consent; and

2 (2) received notice that:

3 (A) entry on the property by a license holder  
4 openly carrying an unconcealed handgun was forbidden; or

5 (B) remaining on the property while openly  
6 carrying an unconcealed handgun was forbidden and failed to depart.

7 (b) For purposes of this section, a person receives notice  
8 if the owner of the property or someone with apparent authority to  
9 act for the owner provides notice to the person by oral or written  
10 communication.

11 (c) In this section:

12 (1) "Entry" has the meaning assigned by Section  
13 30.05(b).

14 (2) "License holder" has the meaning assigned by  
15 Section 46.035(f).

16 (3) "Written communication" means:

17 (A) a card or other document on which is written  
18 language identical to the following: "Pursuant to Section 30.07,  
19 Penal Code (trespass by holder of license to carry an unconcealed  
20 handgun), a person licensed under Subchapter H, Chapter 411,  
21 Government Code, may not enter this property with an unconcealed  
22 handgun that is carried openly"; or

23 (B) a sign posted on the property that:

24 (i) includes the language described by  
25 Paragraph (A) in both English and Spanish;

26 (ii) appears in contrasting colors with  
27 block letters at least one inch in height; and

1                    (iii) is displayed in a conspicuous manner  
2 clearly visible to the public at each entrance to the property.

3            (d) An offense under this section is a Class A misdemeanor.

4            (e) It is an exception to the application of this section  
5 that the property on which the license holder openly carries the  
6 unconcealed handgun is owned or leased by a governmental entity and  
7 is not a premises or other place on which the license holder is  
8 prohibited from carrying the handgun under Section 46.03 or 46.035.

9            SECTION 40. Section 46.02(a-1), Penal Code, is amended to  
10 read as follows:

11            (a-1) A person commits an offense if the person  
12 intentionally, knowingly, or recklessly carries on or about his or  
13 her person a handgun in a motor vehicle or watercraft that is owned  
14 by the person or under the person's control at any time in which:

15                    (1) the handgun is in plain view, unless the handgun is  
16 carried on the person in an unconcealed manner and the person is  
17 licensed to carry a handgun under Subchapter H, Chapter 411,  
18 Government Code; or

19                    (2) the person is:

20                            (A) engaged in criminal activity, other than a  
21 Class C misdemeanor that is a violation of a law or ordinance  
22 regulating traffic or boating;

23                            (B) prohibited by law from possessing a firearm;  
24 or

25                            (C) a member of a criminal street gang, as  
26 defined by Section 71.01.

27            SECTION 41. Section 46.03(f), Penal Code, is amended to

1 read as follows:

2 (f) It is not a defense to prosecution under this section  
3 that the actor possessed a handgun, regardless of whether the  
4 handgun was carried in a concealed or unconcealed manner, and was  
5 licensed to carry a concealed or unconcealed handgun under  
6 Subchapter H, Chapter 411, Government Code.

7 SECTION 42. Sections 46.035(a), (b), (c), (d), and (i),  
8 Penal Code, are amended to read as follows:

9 (a) A license holder commits an offense if the license  
10 holder carries a handgun on or about the license holder's person  
11 under the authority of Subchapter H, Chapter 411, Government Code,  
12 and intentionally fails to conceal the handgun, unless the license  
13 holder is carrying the handgun in a shoulder or belt holster.

14 (b) A license holder commits an offense if the license  
15 holder intentionally, knowingly, or recklessly carries a handgun  
16 under the authority of Subchapter H, Chapter 411, Government Code,  
17 regardless of whether the handgun is concealed or carried in a  
18 shoulder or belt holster, on or about the license holder's person:

19 (1) on the premises of a business that has a permit or  
20 license issued under Chapter 25, 28, 32, 69, or 74, Alcoholic  
21 Beverage Code, if the business derives 51 percent or more of its  
22 income from the sale or service of alcoholic beverages for  
23 on-premises consumption, as determined by the Texas Alcoholic  
24 Beverage Commission under Section 104.06, Alcoholic Beverage Code;

25 (2) on the premises where a high school, collegiate,  
26 or professional sporting event or interscholastic event is taking  
27 place, unless the license holder is a participant in the event and a

1 handgun is used in the event;

2 (3) on the premises of a correctional facility;

3 (4) on the premises of a hospital licensed under  
4 Chapter 241, Health and Safety Code, or on the premises of a nursing  
5 home licensed under Chapter 242, Health and Safety Code, unless the  
6 license holder has written authorization of the hospital or nursing  
7 home administration, as appropriate;

8 (5) in an amusement park; or

9 (6) on the premises of a church, synagogue, or other  
10 established place of religious worship.

11 (c) A license holder commits an offense if the license  
12 holder intentionally, knowingly, or recklessly carries a handgun  
13 under the authority of Subchapter H, Chapter 411, Government Code,  
14 regardless of whether the handgun is concealed or carried in a  
15 shoulder or belt holster, at any meeting of a governmental entity.

16 (d) A license holder commits an offense if, while  
17 intoxicated, the license holder carries a handgun under the  
18 authority of Subchapter H, Chapter 411, Government Code, regardless  
19 of whether the handgun is concealed or carried in a shoulder or belt  
20 holster.

21 (i) Subsections (b)(4), (b)(5), (b)(6), and (c) do not apply  
22 if the actor was not given effective notice under Section 30.06 or  
23 30.07.

24 SECTION 43. Sections 46.15(a) and (b), Penal Code, are  
25 amended to read as follows:

26 (a) Sections 46.02 and 46.03 do not apply to:

27 (1) peace officers or special investigators under

1 Article 2.122, Code of Criminal Procedure, and neither section  
2 prohibits a peace officer or special investigator from carrying a  
3 weapon in this state, including in an establishment in this state  
4 serving the public, regardless of whether the peace officer or  
5 special investigator is engaged in the actual discharge of the  
6 officer's or investigator's duties while carrying the weapon;

7 (2) parole officers and neither section prohibits an  
8 officer from carrying a weapon in this state if the officer is:

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

11 (B) in compliance with policies and procedures  
12 adopted by the Texas Department of Criminal Justice regarding the  
13 possession of a weapon by an officer while on duty;

14 (3) community supervision and corrections department  
15 officers appointed or employed under Section 76.004, Government  
16 Code, and neither section prohibits an officer from carrying a  
17 weapon in this state if the officer is:

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

20 (B) authorized to carry a weapon under Section  
21 76.0051, Government Code;

22 (4) an active judicial officer as defined by Section  
23 411.201, Government Code, who is licensed to carry a concealed or  
24 unconcealed handgun under Subchapter H, Chapter 411, Government  
25 Code;

26 (5) an honorably retired peace officer or federal  
27 criminal investigator who holds a certificate of proficiency issued



1 under Section 1701.357, Occupations Code, and is carrying a photo  
2 identification that:

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

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

8 (6) a district attorney, criminal district attorney,  
9 county attorney, or municipal attorney who is licensed to carry a  
10 concealed or unconcealed handgun under Subchapter H, Chapter 411,  
11 Government Code;

12 (7) an assistant district attorney, assistant  
13 criminal district attorney, or assistant county attorney who is  
14 licensed to carry a concealed or unconcealed handgun under  
15 Subchapter H, Chapter 411, Government Code;

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

18 (A) licensed to carry a concealed or unconcealed  
19 handgun under Chapter 411, Government Code; and

20 (B) engaged in escorting the judicial officer; or

21 (9) a juvenile probation officer who is authorized to  
22 carry a firearm under Section 142.006, Human Resources Code.

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

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

1           (2) is traveling;

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

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

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

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

20           (B) is either:

21           (i) wearing the uniform of a security  
22 officer, including any uniform or apparel described by Section  
23 [1702.323\(d\)](#), Occupations Code, and carrying the officer's weapon in  
24 plain view; or

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

27           (6) is carrying a ~~concealed~~ handgun, regardless of

1 whether the handgun is carried in a concealed or unconcealed  
2 manner, and a valid license issued under Subchapter H, Chapter 411,  
3 Government Code, to carry a concealed or unconcealed handgun of the  
4 same category as the handgun the person is carrying;

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

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

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

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

16 SECTION 44. The change in law made by this Act relating to  
17 the authority of a license holder to carry an unconcealed handgun  
18 applies to the carrying of a handgun on or after the effective date  
19 of this Act by any person who:

20 (1) holds a license issued under Subchapter H, Chapter  
21 411, Government Code, regardless of whether the person's license  
22 was issued before, on, or after the effective date of this Act; or

23 (2) applies for the issuance of a license under that  
24 subchapter, regardless of whether the person applied for the  
25 license before, on, or after the effective date of this Act.

26 SECTION 45. The changes in law made by this Act to Sections  
27 [30.05](#), [30.06](#), [46.02](#), [46.03](#), [46.035](#), and [46.15](#), Penal Code, apply

1 only to an offense committed on or after the effective date of this  
2 Act. An offense committed before the effective date of this Act is  
3 governed by the law in effect when the offense was committed, and  
4 the former law is continued in effect for that purpose. For  
5 purposes of this section, an offense was committed before the  
6 effective date of this Act if any element of the offense occurred  
7 before that date.

8 SECTION 46. This Act takes effect September 1, 2013.