

By: King of Hemphill, Springer, Burns,  
Simpson, Guillen, et al.

H.B. No. 353

A BILL TO BE ENTITLED

AN ACT

relating to the application of certain weapons laws to and  
liability for certain actions of volunteer emergency services  
personnel licensed to carry a concealed handgun.

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

SECTION 1. Title 5, Civil Practice and Remedies Code, is  
amended by adding Chapter 112 to read as follows:

CHAPTER 112. LIMITATION OF LIABILITY FOR GOVERNMENTAL UNITS

Sec. 112.001. CERTAIN ACTIONS OF VOLUNTEER EMERGENCY  
SERVICES PERSONNEL. (a) In this section:

(1) "Governmental unit" has the meaning assigned by  
Section 101.001.

(2) "Volunteer emergency services personnel" has the  
meaning assigned by Section 46.01, Penal Code.

(b) A governmental unit is not liable in a civil action  
arising from the discharge of a handgun by an individual who is  
volunteer emergency services personnel and licensed to carry a  
concealed handgun under Subchapter H, Chapter 411, Government Code.

(c) The discharge of a handgun by an individual who is  
volunteer emergency services personnel and licensed to carry a  
concealed handgun under Subchapter H, Chapter 411, Government Code,  
is outside the course and scope of the individual's duties as  
volunteer emergency services personnel.

(d) This section may not be construed to waive the immunity

1 from suit or liability of a governmental unit under Chapter 101 or  
2 any other law.

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

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

8 SECTION 3. Section 46.01, Penal Code, is amended by adding  
9 Subdivision (18) to read as follows:

10 (18) "Volunteer emergency services personnel"  
11 includes a volunteer firefighter, an emergency medical services  
12 volunteer as defined by Section 773.003, Health and Safety Code,  
13 and other individuals who, as a volunteer, provide services for the  
14 benefit of the general public during emergency situations. The  
15 term does not include a peace officer or reserve law enforcement  
16 officer, as defined by Section 1701.001, Occupations Code, who is  
17 performing law enforcement duties.

18 SECTION 4. Section 46.035, Penal Code, is amended by adding  
19 Subsection (1) to read as follows:

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

23 SECTION 5. Section 46.15(a), Penal Code, is amended to read  
24 as follows:

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

26 (1) peace officers or special investigators under  
27 Article 2.122, Code of Criminal Procedure, and neither section

1 prohibits a peace officer or special investigator from carrying a  
2 weapon in this state, including in an establishment in this state  
3 serving the public, regardless of whether the peace officer or  
4 special investigator is engaged in the actual discharge of the  
5 officer's or investigator's duties while carrying the weapon;

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

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

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

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

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

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

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

24 (5) an honorably retired peace officer, qualified  
25 retired law enforcement officer, federal criminal investigator, or  
26 former reserve law enforcement officer who holds a certificate of  
27 proficiency issued under Section 1701.357, Occupations Code, and is

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

4 (A) an honorably retired peace officer;

5 (B) a qualified retired law enforcement officer;

6 (C) a federal criminal investigator; or

7 (D) a former reserve law enforcement officer who  
8 has served in that capacity not less than a total of 15 years with  
9 one or more state or local law enforcement agencies;

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

13 (7) an assistant district attorney, assistant  
14 criminal district attorney, or assistant county attorney who is  
15 licensed to carry a concealed handgun under Subchapter H, Chapter  
16 411, Government Code;

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

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

21 (B) engaged in escorting the judicial officer;  
22 ~~[or]~~

23 (9) a juvenile probation officer who is authorized to  
24 carry a firearm under Section 142.006, Human Resources Code; or

25 (10) a person who is volunteer emergency services  
26 personnel if the person is:

27 (A) licensed to carry a concealed handgun under

1 Subchapter H, Chapter 411, Government Code; and

2 (B) engaged in providing emergency services.

3       SECTION 6. The changes in law made by this Act to Section  
4 30.06 and Chapter 46, Penal Code, apply only to an offense committed  
5 on or after the effective date of this Act. An offense committed  
6 before the effective date of this Act is governed by the law in  
7 effect when the offense was committed, and the former law is  
8 continued in effect for that purpose. For purposes of this section,  
9 an offense was committed before the effective date of this Act if  
10 any element of the offense occurred before that date.

11       SECTION 7. This Act takes effect September 1, 2015.