

By: Schofield

H.B. No. 3496

A BILL TO BE ENTITLED

AN ACT

relating to authorizing certain first responders to carry a concealed handgun while on duty and to the prosecution of certain related offenses; providing for a fee.

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

SECTION 1. Section 411.179(a), Government Code, as amended by Chapters 396 (S.B. 164) and 1302 (H.B. 3142), Acts of the 83rd Legislature, Regular Session, 2013, is reenacted and 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 color photograph of the license holder;

(4) the license holder's full name, date of birth, hair and eye color, height, weight, and signature;

(5) 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;

(6) the number of a driver's license or an identification certificate issued to the license holder by the

department; ~~and~~

(7) ~~(8)~~ the designation "VETERAN" if required under Subsection (e); and

(8) a designation for an on-duty first responder to carry a concealed handgun, if the license holder received that designation under Section 411.184.

SECTION 2. Subchapter H, Chapter 411, Government Code, is amended by adding Section 411.184 to read as follows:

Sec. 411.184. ON-DUTY FIRST RESPONDER DESIGNATION. (a) In this section, "first responder" means a public safety employee or volunteer whose duties include responding rapidly to an emergency. The term includes:

(1) commissioned law enforcement personnel;

(2) fire protection personnel, including volunteer firefighters; and

(3) emergency medical services personnel, including an emergency medical services volunteer.

(b) A first responder is eligible for an on-duty first responder designation on the first responder's license to carry a concealed handgun under this subchapter if the first responder submits to the department:

(1) on a form provided by the department, a completed application for the designation;

(2) evidence that the license holder:

(A) is a first responder; and

(B) has successfully completed a course described by Subsection (d); and

1 (3) the fee set by the director under Subsection (c).

2 (c) The director by rule shall:

3 (1) adopt an application form to be used to apply for a
4 designation under this section; and

5 (2) set a fee in an amount sufficient to cover the cost
6 of issuing licenses bearing a designation under this section.

7 (d) The director by rule shall establish minimum standards
8 for a training course for license holders seeking an on-duty first
9 responder designation, to be taken at the license holders' expense.
10 The training course must provide instruction, including field
11 demonstrations, about handling and using handguns while on duty and
12 in stressful situations.

13 (e) The department may grant a designation under this
14 section to a license holder who meets all the eligibility
15 requirements and submits the required application materials and fee
16 under Subsection (b). Not later than the 45th day after the date of
17 receipt of the application materials and fee, the department shall
18 issue the license with the designation or notify the license holder
19 in writing that the application for the designation was denied.

20 (f) On receipt of a license with a designation under this
21 section, the license holder shall return to the department any
22 license that was previously issued to the license holder.

23 (g) A license holder whose fee to apply for a designation
24 under this section is dishonored or reversed may reapply for the
25 designation at any time, provided the fee and an additional charge
26 of \$25 are paid by cashier's check or money order made payable to
27 the "Texas Department of Public Safety."

1 (h) A license holder who becomes ineligible for the
2 designation under this section because the license holder is no
3 longer employed or volunteering as a first responder promptly shall
4 notify the department. Not later than the 30th day after the date
5 of receipt of the notice, the department shall issue a license
6 without the designation to the license holder. The department may
7 not charge a fee for the issuance of a license as provided by this
8 subsection. A license holder who is no longer eligible for a
9 designation under this section:

10 (1) is not entitled to carry a concealed handgun in a
11 location in which the license holder was allowed to carry the
12 handgun only by virtue of the designation; and

13 (2) on receipt of the license without the designation,
14 promptly shall return the license with the designation to the
15 department.

16 (i) A designation under this section does not limit the
17 right of a first responder to carry a handgun or other weapon under
18 other law.

19 (j) A governmental entity that employs or otherwise
20 supervises first responders may not adopt a rule or regulation that
21 prohibits a first responder who holds a license bearing a
22 designation under this section from carrying a concealed handgun
23 while on duty.

24 (k) Except in cases of gross negligence, a governmental
25 entity that employs or otherwise supervises first responders is not
26 liable in a civil action for personal injury, death, property
27 damage, or any other damages resulting from or arising out of an

1 occurrence involving a handgun that the entity is required to allow
2 a first responder to carry under this section.

3 SECTION 3. Section 46.035(h-1), Penal Code, as added by
4 Chapter 1222 (H.B. 2300), Acts of the 80th Legislature, Regular
5 Session, 2007, is amended to read as follows:

6 (h-1) It is a defense to prosecution under Subsections
7 (b)(1), (2), (4), (5), and (6) [~~(4)-(6)~~], and (c) that at the time
8 of the commission of the offense, the actor was:

9 (1) a judge or justice of a federal court;

10 (2) an active judicial officer, as defined by Section
11 411.201, Government Code; [~~or~~]

12 (3) a district attorney, assistant district attorney,
13 criminal district attorney, assistant criminal district attorney,
14 county attorney, or assistant county attorney; or

15 (4) a first responder who:

16 (A) is carrying a concealed handgun and holds a
17 license to carry a concealed handgun under Subchapter H, Chapter
18 411, Government Code, that bears an on-duty first responder
19 designation under Section 411.184 of that code; and

20 (B) is engaged in the actual discharge of the
21 first responder's duties while carrying the concealed handgun.

22 SECTION 4. Section 46.15(a), Penal Code, is amended to read
23 as follows:

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

25 (1) peace officers or special investigators under
26 Article 2.122, Code of Criminal Procedure, and neither section
27 prohibits a peace officer or special investigator from carrying a

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

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

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

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

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

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

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

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

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

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

(10) a first responder who:

(A) is carrying a concealed handgun and holds a license to carry a concealed handgun under Subchapter H, Chapter 411, Government Code, that bears an on-duty first responder

1 designation under Section 411.184 of that code; and

2 (B) is engaged in the actual discharge of the
3 first responder's duties while carrying the concealed handgun.

4 SECTION 5. The public safety director of the Department of
5 Public Safety shall adopt the rules necessary to implement Section
6 411.184, Government Code, as added by this Act, not later than
7 December 1, 2015.

8 SECTION 6. The change in law made by this Act applies only
9 to an offense committed on or after the effective date of this Act.
10 An offense committed before the effective date of this Act is
11 governed by the law in effect on the date the offense was committed,
12 and the former law is continued in effect for that purpose. For
13 purposes of this section, an offense was committed before the
14 effective date of this Act if any element of the offense occurred
15 before that date.

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