

## **BILL ANALYSIS**

Senate Research Center  
85R17406 ADM-F

C.S.S.B. 1807  
By: Huffman  
State Affairs  
3/30/2017  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Currently, elected attorneys who meet certain requirements may have their license to carry (LTC) fee waived. Attorneys employed to represent the State of Texas in the prosecution of felony cases also may have this fee waived. Due to the nature of the cases in which these individuals act as prosecutor, many federal felony prosecutors are threatened by the people they prosecute. Additionally, the prosecutor's personal information is often readily available, leaving the prosecutors vulnerable to personal safety threats.

S.B. 1807 adds United States attorneys and assistant United States attorneys to the list of individuals to whom an LTC must be issued, if certain requirements are met, and for whom the fee must be waived.

S.B. 1807 would also provide a defense to prosecution under Section 46.035(h-1), Penal Code, in situations in which the actor in question was a United States attorney or an assistant United States attorney.

S.B. 1807 would also exempt United States attorneys and assistant United States attorneys from Sections 46.02 and 46.03, Penal Code. (Original Author's / Sponsor's Statement of Intent)

C.S.S.B. 1807 amends current law relating to the application of certain handgun license laws to certain federal and state attorneys and to the authority of those attorneys to carry certain weapons.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 411.179(c), Government Code, as follows:

(c) Requires the Texas Department of Public Safety (DPS), in adopting a certain form of the license to carry (LTC) a handgun, to establish a procedure for the license of a United States attorney or assistant United States attorney, among certain others, to indicate on the LTC the holder's status as a qualified handgun instructor or as a United States attorney or assistant United States attorney, among certain other designations.

SECTION 2. Amends Section 411.1882(a), Government Code, as follows:

(a) Authorizes certain persons, including a United States attorney or an assistant United States attorney, as defined by Article 42A.001 (Definitions), Code of Criminal Procedure, rather than Section 2, Article 42.12, Code of Criminal Procedure, to establish handgun proficiency for the purposes of this subchapter (License to Carry a Handgun) by obtaining from a certain handgun proficiency instructor a sworn statement that indicates that the person, during the 12-month period preceding the date of the person's application to DPS, demonstrated to the instructor proficiency in the use of handguns.

SECTION 3. Amends Section 411.201(h), Government Code, as follows:

(h) Requires DPS to issue a handgun LTC under the authority of this subchapter to a United States attorney or an assistant United States attorney or to an attorney elected or employed to represent the state in the prosecution of felony cases, rather than an elected attorney representing the state, who meets the requirements of this section (Active and Retired Judicial Officers) for an active judicial officer. Requires DPS to waive any fee required for the issuance of an original, duplicate, or renewed LTC under this subchapter for an applicant who is a United States attorney or an assistant United States attorney or who is an attorney elected or employed to represent the state or the federal government in the prosecution of felony cases. Makes a nonsubstantive change.

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

(h-1) Provides that it is a defense to prosecution under certain subsections that at the time of the commission of the offense, the actor was a United States attorney or assistant United States attorney, among certain other officials.

SECTION 5. Amends Section 46.15(a), Penal Code, to provide that Sections 46.02 (Unlawful Carrying Weapons) and 46.03 (Places Weapons Prohibited) do not apply to a United States attorney or an assistant United States attorney, among certain others, who are licensed to carry a handgun under Subchapter H, Chapter 411 (Department of Public Safety of the State of Texas), Government Code.

SECTION 6. (a) Provides that, to the extent of any conflict, this Act prevails over another Act of the 85th Legislature, Regular Session, 2017, relating to nonsubstantive additions to and corrections in enacted codes.

(b) Makes application of Sections 46.035 and 46.15, Penal Code, as amended by this Act, prospective.

SECTION 7. Effective date: September 1, 2017.