

By: King of Hemphill, Bailes, Springer,
Flynn

H.B. No. 435

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 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 the 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 the 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 30.07, Penal Code, is amended by adding
9 Subsection (g) to read as follows:

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

13 SECTION 4. Section 46.01, Penal Code, is amended by adding
14 Subdivision (18) to read as follows:

15 (18) "Volunteer emergency services personnel"
16 includes a volunteer firefighter, an emergency medical services
17 volunteer as defined by Section 773.003, Health and Safety Code,
18 and any individual who, as a volunteer, provides services for the
19 benefit of the general public during emergency situations. The
20 term does not include a peace officer or reserve law enforcement
21 officer, as those terms are defined by Section 1701.001,
22 Occupations Code, who is performing law enforcement duties.

23 SECTION 5. Section 46.035, Penal Code, is amended by adding
24 Subsection (m) to read as follows:

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

1 SECTION 6. Section 46.15(a), Penal Code, is amended to read
2 as follows:

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

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

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

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

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

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

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

24 (B) authorized to carry a weapon under Section
25 76.0051, Government Code;

26 (4) an active judicial officer as defined by Section
27 411.201, Government Code, who is licensed to carry a handgun under

1 Subchapter H, Chapter 411, Government Code;

2 (5) an honorably retired peace officer, qualified
3 retired law enforcement officer, federal criminal investigator, or
4 former reserve law enforcement officer who holds a certificate of
5 proficiency issued under Section 1701.357, Occupations Code, and is
6 carrying a photo identification that is issued by a federal, state,
7 or local law enforcement agency, as applicable, and that verifies
8 that the officer is:

9 (A) an honorably retired peace officer;

10 (B) a qualified retired law enforcement officer;

11 (C) a federal criminal investigator; or

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

15 (6) a district attorney, criminal district attorney,
16 county attorney, or municipal attorney who is licensed to carry a
17 handgun under Subchapter H, Chapter 411, Government Code;

18 (7) an assistant district attorney, assistant
19 criminal district attorney, or assistant county attorney who is
20 licensed to carry a handgun under Subchapter H, Chapter 411,
21 Government Code;

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

24 (A) licensed to carry a handgun under Subchapter
25 H, Chapter 411, Government Code; and

26 (B) engaged in escorting the judicial officer;

27 [~~or~~]

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

3 (10) a person who is volunteer emergency services
4 personnel if the person is:

5 (A) carrying a handgun under the authority of
6 Subchapter H, Chapter 411, Government Code; and

7 (B) engaged in providing emergency services.

8 SECTION 7. The changes in law made by this Act to Sections
9 30.06 and 30.07 and Chapter 46, Penal Code, apply only to an offense
10 committed on or after the effective date of this Act. An offense
11 committed before the effective date of this Act is governed by the
12 law in effect when the offense was committed, and the former law is
13 continued in effect for that purpose. For purposes of this section,
14 an offense was committed before the effective date of this Act if
15 any element of the offense occurred before that date.

16 SECTION 8. This Act takes effect September 1, 2017.