

1-1 By: King of Hemphill, et al. (Senate Sponsor - Perry) H.B. No. 435
 1-2 (In the Senate - Received from the House May 3, 2017;
 1-3 May 12, 2017, read first time and referred to Committee on State
 1-4 Affairs; May 18, 2017, reported favorably by the following vote:
 1-5 Yeas 9, Nays 0; May 18, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the application of certain weapons laws to and
 1-20 liability for certain actions of volunteer emergency services
 1-21 personnel licensed to carry a handgun.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Title 5, Civil Practice and Remedies Code, is
 1-24 amended by adding Chapter 112 to read as follows:

1-25 CHAPTER 112. LIMITATION OF LIABILITY FOR GOVERNMENTAL UNITS

1-26 Sec. 112.001. CERTAIN ACTIONS OF VOLUNTEER EMERGENCY
 1-27 SERVICES PERSONNEL. (a) In this section:

1-28 (1) "Governmental unit" has the meaning assigned by
 1-29 Section 101.001.

1-30 (2) "Volunteer emergency services personnel" has the
 1-31 meaning assigned by Section 46.01, Penal Code.

1-32 (b) A governmental unit is not liable in a civil action
 1-33 arising from the discharge of a handgun by an individual who is
 1-34 volunteer emergency services personnel and licensed to carry the
 1-35 handgun under Subchapter H, Chapter 411, Government Code.

1-36 (c) The discharge of a handgun by an individual who is
 1-37 volunteer emergency services personnel and licensed to carry the
 1-38 handgun under Subchapter H, Chapter 411, Government Code, is
 1-39 outside the course and scope of the individual's duties as
 1-40 volunteer emergency services personnel.

1-41 (d) This section may not be construed to waive the immunity
 1-42 from suit or liability of a governmental unit under Chapter 101 or
 1-43 any other law.

1-44 SECTION 2. Section 30.06, Penal Code, is amended by adding
 1-45 Subsection (f) to read as follows:

1-46 (f) It is a defense to prosecution under this section that
 1-47 the license holder is volunteer emergency services personnel, as
 1-48 defined by Section 46.01.

1-49 SECTION 3. Section 30.07, Penal Code, is amended by adding
 1-50 Subsection (g) to read as follows:

1-51 (g) It is a defense to prosecution under this section that
 1-52 the license holder is volunteer emergency services personnel, as
 1-53 defined by Section 46.01.

1-54 SECTION 4. Section 46.01, Penal Code, is amended by adding
 1-55 Subdivision (18) to read as follows:

1-56 (18) "Volunteer emergency services personnel"
 1-57 includes a volunteer firefighter, an emergency medical services
 1-58 volunteer as defined by Section 773.003, Health and Safety Code,
 1-59 and any individual who, as a volunteer, provides services for the
 1-60 benefit of the general public during emergency situations. The
 1-61 term does not include a peace officer or reserve law enforcement

2-1 officer, as those terms are defined by Section 1701.001,
 2-2 Occupations Code, who is performing law enforcement duties.

2-3 SECTION 5. Section 46.035, Penal Code, is amended by adding
 2-4 Subsection (m) to read as follows:

2-5 (m) It is a defense to prosecution under Subsections (b) and
 2-6 (c) that the actor is volunteer emergency services personnel
 2-7 engaged in providing emergency services.

2-8 SECTION 6. Section 46.15(a), Penal Code, is amended to read
 2-9 as follows:

2-10 (a) Sections 46.02 and 46.03 do not apply to:

2-11 (1) peace officers or special investigators under
 2-12 Article 2.122, Code of Criminal Procedure, and neither section
 2-13 prohibits a peace officer or special investigator from carrying a
 2-14 weapon in this state, including in an establishment in this state
 2-15 serving the public, regardless of whether the peace officer or
 2-16 special investigator is engaged in the actual discharge of the
 2-17 officer's or investigator's duties while carrying the weapon;

2-18 (2) parole officers and neither section prohibits an
 2-19 officer from carrying a weapon in this state if the officer is:

2-20 (A) engaged in the actual discharge of the
 2-21 officer's duties while carrying the weapon; and

2-22 (B) in compliance with policies and procedures
 2-23 adopted by the Texas Department of Criminal Justice regarding the
 2-24 possession of a weapon by an officer while on duty;

2-25 (3) community supervision and corrections department
 2-26 officers appointed or employed under Section 76.004, Government
 2-27 Code, and neither section prohibits an officer from carrying a
 2-28 weapon in this state if the officer is:

2-29 (A) engaged in the actual discharge of the
 2-30 officer's duties while carrying the weapon; and

2-31 (B) authorized to carry a weapon under Section
 2-32 76.0051, Government Code;

2-33 (4) an active judicial officer as defined by Section
 2-34 411.201, Government Code, who is licensed to carry a handgun under
 2-35 Subchapter H, Chapter 411, Government Code;

2-36 (5) an honorably retired peace officer, qualified
 2-37 retired law enforcement officer, federal criminal investigator, or
 2-38 former reserve law enforcement officer who holds a certificate of
 2-39 proficiency issued under Section 1701.357, Occupations Code, and is
 2-40 carrying a photo identification that is issued by a federal, state,
 2-41 or local law enforcement agency, as applicable, and that verifies
 2-42 that the officer is:

2-43 (A) an honorably retired peace officer;

2-44 (B) a qualified retired law enforcement officer;

2-45 (C) a federal criminal investigator; or

2-46 (D) a former reserve law enforcement officer who
 2-47 has served in that capacity not less than a total of 15 years with
 2-48 one or more state or local law enforcement agencies;

2-49 (6) a district attorney, criminal district attorney,
 2-50 county attorney, or municipal attorney who is licensed to carry a
 2-51 handgun under Subchapter H, Chapter 411, Government Code;

2-52 (7) an assistant district attorney, assistant
 2-53 criminal district attorney, or assistant county attorney who is
 2-54 licensed to carry a handgun under Subchapter H, Chapter 411,
 2-55 Government Code;

2-56 (8) a bailiff designated by an active judicial officer
 2-57 as defined by Section 411.201, Government Code, who is:

2-58 (A) licensed to carry a handgun under Subchapter
 2-59 H, Chapter 411, Government Code; and

2-60 (B) engaged in escorting the judicial officer;
 2-61 [~~or~~]

2-62 (9) a juvenile probation officer who is authorized to
 2-63 carry a firearm under Section 142.006, Human Resources Code; or

2-64 (10) a person who is volunteer emergency services
 2-65 personnel if the person is:

2-66 (A) carrying a handgun under the authority of
 2-67 Subchapter H, Chapter 411, Government Code; and

2-68 (B) engaged in providing emergency services.

2-69 SECTION 7. The changes in law made by this Act to Sections

3-1 30.06 and 30.07 and Chapter 46, Penal Code, apply only to an offense
3-2 committed on or after the effective date of this Act. An offense
3-3 committed before the effective date of this Act is governed by the
3-4 law in effect when the offense was committed, and the former law is
3-5 continued in effect for that purpose. For purposes of this section,
3-6 an offense was committed before the effective date of this Act if
3-7 any element of the offense occurred before that date.

3-8 SECTION 8. This Act takes effect September 1, 2017.

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