

By: Bohac

H.B. No. 2735

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the carrying of a handgun by certain first responders
3 and volunteer emergency services personnel; providing for a fee.

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

5 SECTION 1. Section 411.179(a), Government Code, is amended
6 to read as follows:

7 (a) The department by rule shall adopt the form of the
8 license. A license must include:

9 (1) a number assigned to the license holder by the
10 department;

11 (2) a statement of the period for which the license is
12 effective;

13 (3) a color photograph of the license holder;

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

16 (5) the license holder's residence address or, as
17 provided by Subsection (d), the street address of the courthouse in
18 which the license holder or license holder's spouse serves as a
19 federal judge or the license holder serves as a state judge;

20 (6) the number of a driver's license or an
21 identification certificate issued to the license holder by the
22 department; ~~and~~

23 (7) the designation "VETERAN" if required under
24 Subsection (e); and

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

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

6 Sec. 411.184. ON-DUTY FIRST RESPONDER DESIGNATION. (a) In
7 this section, "first responder" means a public safety employee or
8 volunteer whose duties include responding rapidly to an emergency.
9 The term includes fire protection personnel, including volunteer
10 firefighters, and emergency medical services personnel, including
11 emergency medical services volunteers. The term does not include
12 commissioned law enforcement personnel.

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

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

19 (2) evidence that the license holder:

20 (A) is a first responder; and

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

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

24 (c) The director by rule shall:

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

27 (2) set a fee in an amount sufficient to cover the cost

1 of issuing licenses bearing a designation under this section.

2 (d) The director by rule shall establish minimum standards
3 for a training course for a license holder seeking an on-duty first
4 responder designation, to be taken at the license holder's expense.

5 The training course must:

6 (1) be administered by a qualified handgun instructor;

7 (2) include not less than 40 hours of instruction;

8 (3) provide classroom training in:

9 (A) de-escalation techniques;

10 (B) tactical thinking relating to cover for and
11 concealment of the license holder;

12 (C) methods to conceal a handgun and methods to
13 ensure the secure carrying of an openly carried handgun; and

14 (D) consequences of improper use of a handgun;

15 (4) provide field instruction in the use of handguns,
16 including:

17 (A) instinctive or reactive shooting;

18 (B) tactical shooting;

19 (C) shooting while moving; and

20 (D) shooting in low light conditions; and

21 (5) require physical demonstrations of proficiency in
22 techniques learned in training.

23 (e) The department may grant a designation under this
24 section to a license holder who meets all the eligibility
25 requirements and submits the required application materials and fee
26 under Subsection (b). Not later than the 60th day after the date of
27 receipt of the application materials and fee, the department shall

1 issue the license with the designation or notify the license holder
2 in writing that the application for the designation was denied.

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

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

11 (h) A license holder who becomes ineligible for the
12 designation under this section because the license holder is no
13 longer employed or volunteering as a first responder promptly shall
14 notify the department. Not later than the 30th day after the date
15 of receipt of the notice, the department shall issue a license
16 without the designation to the license holder. A license holder who
17 is no longer eligible for a designation under this section:

18 (1) is not entitled to carry a handgun in a location in
19 which the license holder was allowed to carry the handgun only by
20 virtue of the designation; and

21 (2) on receipt of the license without the designation,
22 promptly shall return the license with the designation to the
23 department.

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

27 (j) The director by rule shall approve devices to enable a

1 first responder to secure a handgun if the first responder, while on
2 duty, is required to enter a location where carrying the handgun is
3 prohibited by federal law or otherwise.

4 (k) A governmental entity that employs or otherwise
5 supervises first responders may not adopt a rule or regulation that
6 prohibits a first responder who holds a license bearing a
7 designation under this section from:

8 (1) carrying a handgun while on duty; or

9 (2) storing a handgun on the premises of or in a
10 vehicle owned or operated by the governmental entity if the handgun
11 is secured with a device approved by the department under
12 Subsection (j).

13 (l) This section does not create a cause of action or
14 liability.

15 (m) A governmental entity that employs or otherwise
16 supervises first responders is not liable in a civil action arising
17 from the discharge of a handgun by a first responder who is licensed
18 to carry a handgun under this subchapter.

19 (n) The discharge of a handgun by a first responder who is
20 licensed to carry a handgun under this subchapter is outside the
21 course and scope of the first responder's duties.

22 (o) This section may not be construed to waive the immunity
23 from suit or liability of a governmental entity that employs or
24 otherwise supervises first responders under Chapter 101, Civil
25 Practice and Remedies Code, or any other law.

26 SECTION 3. Section 46.035(h-1), Penal Code, as added by
27 Chapter 1222 (H.B. 2300), Acts of the 80th Legislature, Regular

1 Session, 2007, is amended to read as follows:

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

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

6 (2) an active judicial officer, as defined by Section
7 [411.201](#), Government Code; [~~or~~]

8 (3) a district attorney, assistant district attorney,
9 criminal district attorney, assistant criminal district attorney,
10 county attorney, or assistant county attorney; or

11 (4) a first responder who:

12 (A) was carrying a handgun and held a license to
13 carry a handgun under Subchapter H, Chapter [411](#), Government Code,
14 bearing an on-duty first responder designation under Section
15 [411.184](#) of that code; and

16 (B) was engaged in the actual discharge of the
17 first responder's duties while carrying the handgun.

18 SECTION 4. Section [46.15](#)(a), Penal Code, is amended to read
19 as follows:

20 (a) Sections [46.02](#) and [46.03](#) do not apply to:

21 (1) peace officers or special investigators under
22 Article [2.122](#), Code of Criminal Procedure, and neither section
23 prohibits a peace officer or special investigator from carrying a
24 weapon in this state, including in an establishment in this state
25 serving the public, regardless of whether the peace officer or
26 special investigator is engaged in the actual discharge of the
27 officer's or investigator's duties while carrying the weapon;

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

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

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

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

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

14 (B) authorized to carry a weapon under Section
15 76.0051, Government Code;

16 (4) an active judicial officer as defined by Section
17 411.201, Government Code, who is licensed to carry a handgun under
18 Subchapter H, Chapter 411, Government Code;

19 (5) an honorably retired peace officer, qualified
20 retired law enforcement officer, federal criminal investigator, or
21 former reserve law enforcement officer who holds a certificate of
22 proficiency issued under Section 1701.357, Occupations Code, and is
23 carrying a photo identification that is issued by a federal, state,
24 or local law enforcement agency, as applicable, and that verifies
25 that the officer is:

26 (A) an honorably retired peace officer;

27 (B) a qualified retired law enforcement officer;

1 (C) a federal criminal investigator; or

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

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

8 (7) an assistant district attorney, assistant
9 criminal district attorney, or assistant county attorney who is
10 licensed to carry a handgun under Subchapter H, Chapter 411,
11 Government Code;

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

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

16 (B) engaged in escorting the judicial officer;
17 ~~[or]~~

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

20 (10) a first responder who:

21 (A) is carrying a handgun and holds a license to
22 carry a handgun under Subchapter H, Chapter 411, Government Code,
23 that bears an on-duty first responder designation under Section
24 411.184 of that code; and

25 (B) is engaged in the actual discharge of the
26 first responder's duties while carrying the handgun.

27 SECTION 5. The public safety director of the Department of

1 Public Safety shall adopt the rules necessary to implement Section
2 411.184, Government Code, as added by this Act, not later than
3 December 1, 2017.

4 SECTION 6. (a) A qualified handgun instructor may not
5 offer the training course described by Section 411.184(d),
6 Government Code, as added by this Act, before January 1, 2018.

7 (b) The Department of Public Safety may not accept an
8 application for or grant a designation under Section 411.184,
9 Government Code, as added by this Act, before January 1, 2018.

10 SECTION 7. The change in law made by this Act in amending
11 Sections 46.035 and 46.15, Penal Code, applies only to an offense
12 committed on or after January 1, 2018. An offense committed before
13 January 1, 2018, is governed by the law in effect on the date the
14 offense was committed, and the former law is continued in effect for
15 that purpose. For purposes of this section, an offense was
16 committed before January 1, 2018, if any element of the offense
17 occurred before that date.

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