

By: Huffines
(Bohac)

S.B. No. 1408

A BILL TO BE ENTITLED

AN ACT

relating to the carrying of a handgun by certain first responders and volunteer emergency services personnel.

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" includes a volunteer firefighter, an emergency medical services volunteer as defined by Section 773.003, Health and Safety Code, and an individual who, as a volunteer, provides services for the benefit of the general public during emergency situations.

(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 a 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 a handgun under Subchapter H, Chapter 411, Government Code, is outside the course and scope of the individual's duties as

1 volunteer emergency services personnel.

2 (d) This section may not be construed to waive the immunity
3 from suit or liability of a governmental unit under Chapter 101 or
4 any other law.

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

7 Sec. 411.184. ON-DUTY FIRST RESPONDER TRAINING COURSE.

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

14 (b) The director by rule shall establish minimum standards
15 for a training course that a first responder who is a license holder
16 may complete to receive a certification of completion from the
17 department under this section. The training course must:

- 18 (1) be administered by a qualified handgun instructor;
19 (2) include not more than 20 hours of instruction;
20 (3) provide classroom training in:
21 (A) self-defense;
22 (B) de-escalation techniques;
23 (C) tactical thinking relating to cover for and
24 concealment of the license holder;
25 (D) methods to conceal a handgun and methods to
26 ensure the secure carrying of the concealed handgun; and
27 (E) consequences of improper use of a handgun;

1 (4) provide field instruction in the use of handguns,
2 including:

3 (A) instinctive or reactive shooting;

4 (B) tactical shooting;

5 (C) shooting while moving; and

6 (D) shooting in low light conditions;

7 (5) require physical demonstrations of proficiency in
8 techniques learned in training; and

9 (6) provide procedures for securing a handgun if the
10 first responder, while on duty, is required to enter a location
11 where carrying the handgun is prohibited by federal law or
12 otherwise.

13 (c) A first responder is responsible for paying to the
14 course provider the costs of the training course under this
15 section.

16 (d) The director by rule shall approve devices to enable a
17 first responder to secure a handgun if the first responder, while on
18 duty, is required to enter a location where carrying the handgun is
19 prohibited by federal law or otherwise.

20 (e) The department shall issue a certificate of completion
21 to a first responder who completes the training course described by
22 Subsection (b).

23 (f) A governmental entity that employs or otherwise
24 supervises first responders may not adopt a rule or regulation that
25 prohibits a first responder who holds a license to carry a handgun
26 under this subchapter and who has received a certificate of
27 completion from the department under Subsection (e) from:

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

2 (2) storing a handgun on the premises of or in a
3 vehicle owned or operated by the governmental entity if the handgun
4 is secured with a device approved by the department under
5 Subsection (d).

6 (g) A first responder may discharge a handgun while on duty
7 only in self-defense.

8 (h) This section does not create a cause of action or
9 liability.

10 (i) A governmental entity that employs or otherwise
11 supervises first responders is not liable in a civil action arising
12 from the discharge of a handgun by a first responder who is licensed
13 to carry a handgun under this subchapter.

14 (j) The discharge of a handgun by a first responder who is
15 licensed to carry a handgun under this subchapter is outside the
16 course and scope of the first responder's duties.

17 (k) This section may not be construed to waive the immunity
18 from suit or liability of a governmental entity that employs or
19 otherwise supervises first responders under Chapter 101, Civil
20 Practice and Remedies Code, or any other law.

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

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

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

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

3 (3) a district attorney, assistant district attorney,
4 criminal district attorney, assistant criminal district attorney,
5 county attorney, or assistant county attorney; or

6 (4) a first responder who:

7 (A) was carrying a concealed handgun and held a
8 license to carry a handgun under Subchapter H, Chapter [411](#),
9 Government Code;

10 (B) has received a certificate of completion for
11 a training course under Section [411.184](#), Government Code; and

12 (C) was engaged in the actual discharge of the
13 first responder's duties while carrying the handgun.

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

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

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

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

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

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

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

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

10 (B) authorized to carry a weapon under Section
11 76.0051, Government Code;

12 (4) an active judicial officer as defined by Section
13 411.201, Government Code, who is licensed to carry a handgun under
14 Subchapter H, Chapter 411, Government Code;

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

22 (A) an honorably retired peace officer;

23 (B) a qualified retired law enforcement officer;

24 (C) a federal criminal investigator; or

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

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

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

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

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

12 (B) engaged in escorting the judicial officer;
13 [~~or~~]

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

16 (10) a first responder who:

17 (A) is carrying a concealed handgun and holds a
18 license to carry a handgun under Subchapter H, Chapter 411,
19 Government Code;

20 (B) has received a certificate of completion for
21 a training course under Section 411.184, Government Code; and

22 (C) is engaged in the actual discharge of the
23 first responder's duties while carrying the handgun.

24 SECTION 5. The public safety director of the Department of
25 Public Safety shall adopt the rules necessary to implement Section
26 411.184, Government Code, as added by this Act, not later than
27 December 1, 2017.

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

4 SECTION 7. Chapter 112, Civil Practice and Remedies Code,
5 as added by this Act, applies only to a cause of action that accrues
6 on or after the effective date of this Act. A cause of action that
7 accrued before the effective date of this Act is governed by the law
8 applicable to the cause of action immediately before the effective
9 date of this Act, and that law is continued in effect for that
10 purpose.

11 SECTION 8. The change in law made by this Act in amending
12 Sections 46.035 and 46.15, Penal Code, applies only to an offense
13 committed on or after January 1, 2018. An offense committed before
14 January 1, 2018, is governed by the law in effect on the date the
15 offense was committed, and the former law is continued in effect for
16 that purpose. For purposes of this section, an offense was
17 committed before January 1, 2018, if any element of the offense
18 occurred before that date.

19 SECTION 9. This Act takes effect September 1, 2017.