

**House Bill 435**  
Senate Amendments  
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HOUSE VERSION

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 from suit or liability of a governmental unit under Chapter 101 or any other law.

No equivalent provision.

SENATE VERSION (IE)

SECTION 1. Same as House version.

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SECTION \_\_. Section 411.179(c), Government Code, is amended to read as follows:

(c) In adopting the form of the license under Subsection (a), the department shall establish a procedure for the license of a qualified handgun instructor or of the attorney general or a judge, justice, United States attorney, assistant United States

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attorney, assistant attorney general, prosecuting attorney, or assistant prosecuting attorney, as described by Section 46.15(a)(4), [or] (6), or (7), Penal Code, to indicate on the license the license holder's status as a qualified handgun instructor or as the attorney general or a judge, justice, United States attorney, assistant United States attorney, assistant attorney general, district attorney, criminal district attorney, or county attorney. In establishing the procedure, the department shall require sufficient documentary evidence to establish the license holder's status under this subsection. [FA1(3)]

No equivalent provision.

SECTION \_\_. Section 411.1882(a), Government Code, is amended to read as follows:

(a) A person who is serving in this state as the attorney general or as a judge or justice of a federal court, as an active judicial officer as defined by Section 411.201, as a United States attorney, assistant United States attorney, assistant attorney general, district attorney, assistant district attorney, criminal district attorney, assistant criminal district attorney, county attorney, or assistant county attorney, as a supervision officer as defined by [Section 2,] Article 42A.001 [42.12], Code of Criminal Procedure, or as a juvenile probation officer may establish handgun proficiency for the purposes of this subchapter by obtaining from a handgun proficiency instructor approved by the Texas Commission on Law Enforcement for purposes of Section 1702.1675, Occupations Code, a sworn statement that indicates that the person, during the 12-month period preceding the date of the person's application to the department, demonstrated to the instructor proficiency in the use of handguns. [FA1(3)]

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No equivalent provision.

SECTION \_\_. Section 411.201(h), Government Code, is amended to read as follows:

(h) The department shall issue a license to carry a handgun under the authority of this subchapter to a United States attorney or an assistant United States attorney, or to an [elected] attorney elected or employed to represent [representing] the state in the prosecution of felony cases, who meets the requirements of this section for an active judicial officer. The department shall waive any fee required for the issuance of an original, duplicate, or renewed license 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 in the prosecution of felony cases. [FA1(3)]

No equivalent provision.

SECTION \_\_. The heading to Section 411.209, Government Code, is amended to read as follows:

Sec. 411.209. **WRONGFUL EXCLUSION OF [CONCEALED] HANDGUN LICENSE HOLDER.** [FA2]

No equivalent provision.

SECTION \_\_. Section 411.209, Government Code, is amended by amending Subsections (a) and (d) and adding Subsection (i) to read as follows:

(a) Except as provided by Subsection (i), a [A] state agency or a political subdivision of the state may not provide notice by a communication described by Section 30.06, Penal Code, or by any sign expressly referring to that law or to a [~~concealed handgun~~] license to carry a handgun, that a license holder carrying a handgun under the authority of this subchapter is prohibited from entering or remaining on a

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premises or other place owned or leased by the governmental entity unless license holders are prohibited from carrying a handgun on the premises or other place by Section 46.03 or 46.035, Penal Code.

(d) A resident [~~citizen~~] of this state or a person licensed to carry a [~~concealed~~] handgun under this subchapter may file a complaint with the attorney general that a state agency or political subdivision is in violation of Subsection (a) if the resident [~~citizen~~] or person provides the agency or subdivision a written notice that describes the violation and specific location of the sign found to be in violation and the agency or subdivision does not cure the violation before the end of the third business day after the date of receiving the written notice. A complaint filed under this subsection must include evidence of the violation and a copy of the written notice.

(i) Subsection (a) does not apply to a written notice provided by a state hospital under Section 552.002, Health and Safety Code. [FA2]

No equivalent provision.

SECTION \_\_. Subchapter A, Chapter 552, Health and Safety Code, is amended by adding Section 552.002 to read as follows:

Sec. 552.002. CARRYING OF HANDGUN BY LICENSE HOLDER IN STATE HOSPITAL. (a) In this section:

(1) "License holder" has the meaning assigned by Section 46.035(f), Penal Code.

(2) "State hospital" means the following facilities:

(A) the Austin State Hospital;

(B) the Big Spring State Hospital;

(C) the El Paso Psychiatric Center;

(D) the Kerrville State Hospital;

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(E) the North Texas State Hospital;  
(F) the Rio Grande State Center;  
(G) the Rusk State Hospital;  
(H) the San Antonio State Hospital;  
(I) the Terrell State Hospital; and  
(J) the Waco Center for Youth.

(3) "Written notice" means a sign that is posted on property and that:

(A) includes in both English and Spanish written language identical to the following: "Pursuant to Section 552.002, Health and Safety Code (carrying of handgun by license holder in state hospital), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun";

(B) appears in contrasting colors with block letters at least one inch in height; and

(C) is displayed in a conspicuous manner clearly visible to the public at each entrance to the property.

(b) A state hospital may prohibit a license holder from carrying a handgun under the authority of Subchapter H, Chapter 411, Government Code, on the property of the hospital by providing written notice.

(c) A license holder who carries a handgun under the authority of Subchapter H, Chapter 411, Government Code, on the property of a state hospital at which written notice is provided is liable for a civil penalty in the amount of:

(1) \$100 for the first violation; or  
(2) \$500 for the second or subsequent violation.

(d) The attorney general or an appropriate prosecuting attorney may sue to collect a civil penalty under this section.

[FA2]

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

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

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

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

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

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

No equivalent provision.

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SECTION 2. Same as House version.

SECTION 3. Same as House version.

SECTION 4. Same as House version.

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

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

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commission of the offense, the actor was:  
(1) a judge or justice of a federal court;  
(2) an active judicial officer, as defined by Section 411.201, Government Code; or  
(3) the attorney general or a United States attorney, assistant United States attorney, assistant attorney general, district attorney, assistant district attorney, criminal district attorney, assistant criminal district attorney, county attorney, or assistant county attorney. [FA1(3)]

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

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

SECTION 5. Same as House version.

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

(a) Sections 46.02 and 46.03 do not apply to:  
(1) peace officers or special investigators under Article 2.122, Code of Criminal Procedure, and neither section prohibits a peace officer or special investigator from carrying a weapon in this state, including in an establishment in this state serving the public, regardless of whether the peace officer or special investigator is engaged in the actual discharge of the officer's or investigator's duties while carrying the weapon;  
(2) parole officers and neither section prohibits an officer from carrying a weapon in this state if the officer is:  
(A) engaged in the actual discharge of the officer's duties while carrying the weapon; and

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

(a) Sections 46.02 and 46.03 do not apply to:  
(1) peace officers or special investigators under Article 2.122, Code of Criminal Procedure, and neither section prohibits a peace officer or special investigator from carrying a weapon in this state, including in an establishment in this state serving the public, regardless of whether the peace officer or special investigator is engaged in the actual discharge of the officer's or investigator's duties while carrying the weapon;  
(2) parole officers and neither section prohibits an officer from carrying a weapon in this state if the officer is:  
(A) engaged in the actual discharge of the officer's duties while carrying the weapon; and

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- (B) in compliance with policies and procedures adopted by the Texas Department of Criminal Justice regarding the possession of a weapon by an officer while on duty;
- (3) community supervision and corrections department officers appointed or employed under Section 76.004, Government Code, and neither section prohibits an officer from carrying a weapon in this state if the officer is:
- (A) engaged in the actual discharge of the officer's duties while carrying the weapon; and
- (B) authorized to carry a weapon under Section 76.0051, Government Code;
- (4) an active judicial officer as defined by Section 411.201, Government Code, who is licensed to carry a handgun under Subchapter H, Chapter 411, Government Code;
- (5) an honorably retired peace officer, qualified retired law enforcement officer, federal criminal investigator, or former reserve law enforcement officer who holds a certificate of proficiency issued under Section 1701.357, Occupations Code, and is carrying a photo identification that is issued by a federal, state, or local law enforcement agency, as applicable, and that verifies that the officer is:
- (A) an honorably retired peace officer;
- (B) a qualified retired law enforcement officer;
- (C) a federal criminal investigator; or
- (D) a former reserve law enforcement officer who has served in that capacity not less than a total of 15 years with one or more state or local law enforcement agencies;
- (6) a district attorney, criminal district attorney, county attorney, or municipal attorney who is licensed to carry a handgun under Subchapter H, Chapter 411, Government Code;
- (7) an assistant district attorney, assistant criminal district

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- (B) in compliance with policies and procedures adopted by the Texas Department of Criminal Justice regarding the possession of a weapon by an officer while on duty;
- (3) community supervision and corrections department officers appointed or employed under Section 76.004, Government Code, and neither section prohibits an officer from carrying a weapon in this state if the officer is:
- (A) engaged in the actual discharge of the officer's duties while carrying the weapon; and
- (B) authorized to carry a weapon under Section 76.0051, Government Code;
- (4) an active judicial officer as defined by Section 411.201, Government Code, who is licensed to carry a handgun under Subchapter H, Chapter 411, Government Code;
- (5) an honorably retired peace officer, qualified retired law enforcement officer, federal criminal investigator, or former reserve law enforcement officer who holds a certificate of proficiency issued under Section 1701.357, Occupations Code, and is carrying a photo identification that is issued by a federal, state, or local law enforcement agency, as applicable, and that verifies that the officer is:
- (A) an honorably retired peace officer;
- (B) a qualified retired law enforcement officer;
- (C) a federal criminal investigator; or
- (D) a former reserve law enforcement officer who has served in that capacity not less than a total of 15 years with one or more state or local law enforcement agencies;
- (6) the attorney general or a United States attorney, district attorney, criminal district attorney, county attorney, or municipal attorney who is licensed to carry a handgun under Subchapter H, Chapter 411, Government Code; [FA1(1)]
- (7) an assistant United States attorney, assistant attorney

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attorney, or assistant county attorney who is licensed to carry a handgun under Subchapter H, Chapter 411, Government Code;

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

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

(B) engaged in escorting the judicial officer; [Ø]

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

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

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

(B) engaged in providing emergency services.

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

No equivalent provision.

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general, assistant district attorney, assistant criminal district attorney, or assistant county attorney who is licensed to carry a handgun under Subchapter H, Chapter 411, Government Code; [FA1(2)]

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

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

(B) engaged in escorting the judicial officer; [Ø]

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

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

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

(B) engaged in providing emergency services.

SECTION 7. Same as House version.

SECTION \_\_. 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

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in enacted codes. [FA1(3)]

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

SECTION 8. Same as House version.