86R5913 JSC-D

By:  Bohac H.B. No. 1123

A BILL TO BE ENTITLED

AN ACT

relating to the carrying of a handgun by certain first responders; authorizing a fee.

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

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

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

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

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

(3)  a color photograph of the license holder;

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

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

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

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

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

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

Sec. 411.184.  ON-DUTY FIRST RESPONDER DESIGNATION. (a) In this section:

(1)  "Emergency medical services provider" and "first responder organization" have the meanings assigned by Section 773.003, Health and Safety Code.

(2)  "First responder" means a public safety employee whose duties include responding rapidly to an emergency. The term includes fire protection personnel and emergency medical services personnel, including a physician who is an emergency medical services medical director. The term does not include:

(A)  commissioned law enforcement personnel; or

(B)  volunteer emergency services personnel, as defined by Section 46.01, Penal Code.

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

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

(2)  evidence that the license holder:

(A)  is a first responder; and

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

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

(c)  The director by rule shall:

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

(2)  set a fee in an amount sufficient to cover the cost of issuing licenses bearing a designation under this section.

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

(1)  be administered by a qualified handgun instructor;

(2)  include not less than 20 hours of instruction;

(3)  provide classroom training in:

(A)  de-escalation techniques;

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

(C)  methods to conceal a handgun and methods to ensure the secure carrying of a concealed handgun; and

(D)  consequences of improper use of a handgun;

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

(A)  instinctive or reactive shooting;

(B)  tactical shooting;

(C)  shooting while moving; and

(D)  shooting in low light conditions;

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

(6)  provide procedures for securing a handgun and a list of devices approved for that purpose, for circumstances under which the license holder, while on duty:

(A)  is required to enter a location where carrying the handgun is prohibited by federal law or otherwise; or

(B)  chooses not to carry a handgun at a specific location.

(e)  The department may grant a designation under this section to a license holder who meets all the eligibility requirements and submits the required application materials and fee under Subsection (b). Not later than the 60th day after the date of receipt of the application materials and fee, the department shall issue the license with the designation or notify the license holder in writing that the application for the designation was denied.

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

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

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

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

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

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

(j)  The director by rule shall approve devices to enable a first responder to secure a handgun if the first responder, while on duty:

(1)  is required to enter a location where carrying the handgun is prohibited by federal law or otherwise; or

(2)  chooses not to carry a handgun at a specific location.

(k)  A governmental entity, emergency medical services provider, or first responder organization that employs or otherwise supervises first responders may not adopt a rule or regulation that prohibits a first responder who holds a license bearing a designation under this section from:

(1)  carrying a handgun while on duty; or

(2)  storing a handgun on the premises of or in a vehicle owned or operated by the entity, provider, or organization if the handgun is secured with a device approved by the department under Subsection (j).

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

(m)  A governmental entity, emergency medical services provider, or first responder organization that employs first responders is not liable in a civil action arising from the discharge of a handgun by a first responder who is licensed to carry a handgun under this subchapter, provided that the entity, provider, or organization reasonably provides for the safety of the first responders.

(n)  A first responder may discharge a handgun while on duty only under circumstances in which the first responder would be justified in using deadly force under Section 9.32 or 9.33, Penal Code. This subsection does not:

(1)  create a cause of action against a first responder for failure to discharge a firearm; or

(2)  limit the liability of a first responder who improperly discharges a firearm.

(o)  Notwithstanding Subsection (n), the discharge of a handgun by a first responder who is licensed to carry a handgun under this subchapter is outside the course and scope of the first responder's duties.

(p)  This section may not be construed to waive the immunity from suit or liability of a governmental entity, emergency medical services provider, or first responder organization that employs or otherwise supervises first responders under Chapter 101, Civil Practice and Remedies Code, or any other law.

SECTION 3.  Section 30.06(f), Penal Code, is amended to read as follows:

(f)  It is a defense to prosecution under this section that the license holder is:

(1)  volunteer emergency services personnel, as defined by Section 46.01; or

(2)  a first responder who:

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

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

SECTION 4.  Section 46.035(m), Penal Code, is amended to read as follows:

(m)  It is a defense to prosecution under Subsections (b) and (c) that the actor is:

(1)  volunteer emergency services personnel engaged in providing emergency services; or

(2)  a first responder who:

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

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

SECTION 5.  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

(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;

(7)  an assistant United States attorney, assistant attorney 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;

(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;

(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; or

(11)  a first responder who:

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

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

SECTION 6.  The public safety director of the Department of Public Safety shall adopt the rules necessary to implement Section 411.184, Government Code, as added by this Act, not later than December 1, 2019.

SECTION 7.  (a) A qualified handgun instructor may not offer the training course described by Section 411.184(d), Government Code, as added by this Act, before January 1, 2020.

(b)  The Department of Public Safety may not accept an application for or grant a designation under Section 411.184, Government Code, as added by this Act, before January 1, 2020.

SECTION 8.  The change in law made by this Act in amending Sections 46.035 and 46.15, Penal Code, applies only to an offense committed on or after January 1, 2020. An offense committed before January 1, 2020, is governed by the law in effect on the date 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 January 1, 2020, if any element of the offense occurred before that date.

SECTION 9.  This Act takes effect September 1, 2019.