

By: Bohac

H.B. No. 1123

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the carrying of a handgun by certain first responders;  
3 authorizing 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:

8           (1) "Emergency medical services provider" and "first  
9 responder organization" have the meanings assigned by Section  
10 773.003, Health and Safety Code.

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

16                   (A) commissioned law enforcement personnel; or

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

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

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

25           (2) evidence that the license holder:

26                   (A) is a first responder; and

27                   (B) has successfully completed a course

1 described by Subsection (d); and

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

3 (c) The director by rule shall:

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

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

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

11 The training course must:

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

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

14 (3) provide classroom training in:

15 (A) de-escalation techniques;

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

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

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

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

23 (A) instinctive or reactive shooting;

24 (B) tactical shooting;

25 (C) shooting while moving; and

26 (D) shooting in low light conditions;

27 (5) require physical demonstrations of proficiency in

1 techniques learned in training; and

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

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

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

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

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

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

24 (h) A license holder who becomes ineligible for the  
25 designation under this section because the license holder is no  
26 longer employed as a first responder promptly shall notify the  
27 department. Not later than the 30th day after the date of receipt

1 of the notice, the department shall issue a license without the  
2 designation to the license holder. A license holder who is no  
3 longer eligible for a designation under this section:

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

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

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

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

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

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

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

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

26 (2) storing a handgun on the premises of or in a  
27 vehicle owned or operated by the entity, provider, or organization

1 if the handgun is secured with a device approved by the department  
2 under Subsection (j).

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

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

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

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

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

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

24 (p) This section may not be construed to waive the immunity  
25 from suit or liability of a governmental entity, emergency medical  
26 services provider, or first responder organization that employs or  
27 otherwise supervises first responders under Chapter 101, Civil

1 Practice and Remedies Code, or any other law.

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

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

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

8 (2) a first responder who:

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

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

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

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

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

21 (2) a first responder who:

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

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

1 SECTION 5. Section 46.15(a), Penal Code, is amended to read  
2 as follows:

3 (a) Sections 46.02 and 46.03 do not apply to:

4 (1) peace officers or special investigators under  
5 Article 2.122, Code of Criminal Procedure, and neither section  
6 prohibits a peace officer or special investigator from carrying a  
7 weapon in this state, including in an establishment in this state  
8 serving the public, regardless of whether the peace officer or  
9 special investigator is engaged in the actual discharge of the  
10 officer's or investigator's duties while carrying the weapon;

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

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

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

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

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

24 (B) authorized to carry a weapon under Section  
25 76.0051, Government Code;

26 (4) an active judicial officer as defined by Section  
27 411.201, Government Code, who is licensed to carry a handgun under



1 Subchapter H, Chapter 411, Government Code;

2 (5) an honorably retired peace officer, qualified  
3 retired law enforcement officer, federal criminal investigator, or  
4 former reserve law enforcement officer who holds a certificate of  
5 proficiency issued under Section 1701.357, Occupations Code, and is  
6 carrying a photo identification that is issued by a federal, state,  
7 or local law enforcement agency, as applicable, and that verifies  
8 that the officer is:

9 (A) an honorably retired peace officer;

10 (B) a qualified retired law enforcement officer;

11 (C) a federal criminal investigator; or

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

15 (6) the attorney general or a United States attorney,  
16 district attorney, criminal district attorney, county attorney, or  
17 municipal attorney who is licensed to carry a handgun under  
18 Subchapter H, Chapter 411, Government Code;

19 (7) an assistant United States attorney, assistant  
20 attorney general, assistant district attorney, assistant criminal  
21 district attorney, or assistant county attorney who is licensed to  
22 carry a handgun under Subchapter H, Chapter 411, Government Code;

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

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

27 (B) engaged in escorting the judicial officer;

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

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

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

7 (B) engaged in providing emergency services; or

8 (11) a first responder who:

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

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

15 SECTION 6. The public safety director of the Department of  
16 Public Safety shall adopt the rules necessary to implement Section  
17 411.184, Government Code, as added by this Act, not later than  
18 December 1, 2019.

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

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

25 SECTION 8. The change in law made by this Act in amending  
26 Sections 46.035 and 46.15, Penal Code, applies only to an offense  
27 committed on or after January 1, 2020. An offense committed before

1 January 1, 2020, is governed by the law in effect on the date the  
2 offense was committed, and the former law is continued in effect for  
3 that purpose. For purposes of this section, an offense was  
4 committed before January 1, 2020, if any element of the offense  
5 occurred before that date.

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