87R14701 JSC-F

By:  White, et al. H.B. No. 821

Substitute the following for H.B. No. 821:

By:  Hefner C.S.H.B. No. 821

A BILL TO BE ENTITLED

AN ACT

relating to the eligibility for a license to carry a handgun.

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

SECTION 1.  Section 411.172(a), Government Code, is amended to read as follows:

(a)  A person is eligible for a license to carry a handgun if the person:

(1)  is a legal resident of this state for the six-month period preceding the date of application under this subchapter or is otherwise eligible for a license under Section 411.173(a);

(2)  is at least 21 years of age;

(3)  has not been convicted of a felony;

(4)  is not [~~charged with the commission of a Class A or Class B misdemeanor or equivalent offense, or of an offense under Section 42.01, Penal Code, or equivalent offense, or of a felony~~] under an [~~information or~~] indictment for:

(A)  a federal offense punishable by imprisonment for a term exceeding one year, other than antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices; or

(B)  an offense under state law punishable by imprisonment for a term of more than two years;

(5)  is not a fugitive from justice for a felony or a Class A or Class B misdemeanor or equivalent offense;

(6)  is not [~~a~~] chemically dependent on a controlled substance [~~person~~];

(7)  has not been involuntarily committed to a mental institution or adjudicated as a mental defective [~~is not incapable of exercising sound judgment with respect to the proper use and storage of a handgun~~];

(8)  [~~has not, in the five years preceding the date of application, been convicted of a Class A or Class B misdemeanor or equivalent offense or of an offense under Section 42.01, Penal Code, or equivalent offense;~~

[~~(9)~~]  is not prohibited by [~~fully qualified under~~] applicable federal or [~~and~~] state law from possessing a firearm [~~to purchase a handgun~~];

(9)  is not illegally or unlawfully in the United States;

(10)  has not been discharged from the United States armed forces under dishonorable conditions;

(11)  has not renounced the person's United States citizenship;

(12)  is not prohibited from possessing firearms for a misdemeanor crime of domestic violence under Section 46.04(b), Penal Code, or 18 U.S.C. Section 922(g)(9);

(13) [~~(10)  has not been finally determined to be delinquent in making a child support payment administered or collected by the attorney general;~~

[~~(11)  has not been finally determined to be delinquent in the payment of a tax or other money collected by the comptroller, the tax collector of a political subdivision of the state, or any agency or subdivision of the state;~~

[~~(12)~~]  is not currently prohibited from possessing a firearm [~~restricted~~] under:

(A)  a [~~court~~] protective order issued under Title 4, Family Code, or Subchapter A or B, Chapter 7B, Code of Criminal Procedure;

(B)  a protective order issued by another jurisdiction as provided by Chapter 88, Family Code; or

(C)  a magistrate's order for emergency protection under Article 17.292, Code of Criminal Procedure [~~subject to a restraining order affecting the spousal relationship, other than a restraining order solely affecting property interests;~~

[~~(13)  has not, in the 10 years preceding the date of application, been adjudicated as having engaged in delinquent conduct violating a penal law of the grade of felony~~]; and

(14)  has not made any material misrepresentation, or failed to disclose any material fact, in an application submitted pursuant to Section 411.174.

SECTION 2.  Sections 411.186(a), (c), and (d), Government Code, are amended to read as follows:

(a)  The department shall revoke a license under this section if the license holder:

(1)  was not entitled to the license at the time it was issued;

(2)  made a material misrepresentation or failed to disclose a material fact in an application submitted under this subchapter;

(3)  subsequently becomes ineligible for a license under Section 411.172[~~, unless the sole basis for the ineligibility is that the license holder is charged with the commission of a Class A or Class B misdemeanor or equivalent offense, or of an offense under Section 42.01, Penal Code, or equivalent offense, or of a felony under an information or indictment~~]; or

(4)  [~~is convicted of an offense under Section 46.035, Penal Code;~~

[~~(5)  is determined by the department to have engaged in conduct constituting a reason to suspend a license listed in Section 411.187(a) after the person's license has been previously suspended twice for the same reason; or~~

[~~(6)~~]  submits an application fee that is dishonored or reversed if the applicant fails to submit a cashier's check or money order made payable to the "Texas Department of Public Safety [~~of the State of Texas~~]" in the amount of the dishonored or reversed fee, plus $25, within 30 days of being notified by the department that the fee was dishonored or reversed.

(c)  A license holder whose license is revoked for a reason listed in Subsection (a)(1), (2), or (3) [~~Subsections (a)(1)-(5)~~] may reapply as a new applicant for the issuance of a license under this subchapter after the second anniversary of the date of the revocation if the cause for revocation does not exist on the date of the second anniversary. If the cause for revocation exists on the date of the second anniversary after the date of revocation, the license holder may not apply for a new license until the cause for revocation no longer exists and has not existed for a period of two years.

(d)  A license holder whose license is revoked under Subsection (a)(4) [~~(a)(6)~~] may reapply for an original or renewed license at any time, provided the application fee and a dishonored payment charge of $25 is paid by cashier's check or money order made payable to the "Texas Department of Public Safety."

SECTION 3.  Sections 411.187(a) and (c), Government Code, are amended to read as follows:

(a)  The department shall suspend a license under this section if the license holder:

(1)  is charged with the commission of an offense and, if convicted of the offense, the person would be ineligible under federal or state law to possess a firearm [~~a Class A or Class B misdemeanor or equivalent offense, or of an offense under Section 42.01, Penal Code, or equivalent offense, or of a felony under an information or indictment~~];

(2)  fails to notify the department of a change of address, name, or status as required by Section 411.181; or

(3)  [~~commits an act of family violence and~~] is the subject of an active protective order that causes the person to become ineligible under federal or state law to possess a firearm [~~rendered under Title 4, Family Code; or~~

[~~(4)  is arrested for an offense involving family violence or an offense under Section 42.072, Penal Code, and is the subject of an order for emergency protection issued under Article 17.292, Code of Criminal Procedure~~].

(c)  The department shall suspend a license under this section:

(1)  for 30 days, if the person's license is subject to suspension for a reason listed in Subsection (a)(2)[~~, (3), or (4), except as provided by Subdivision (2)~~];

(2)  [~~for not less than one year and not more than three years, if the person's license:~~

[~~(A)  is subject to suspension for a reason listed in Subsection (a), other than the reason listed in Subsection (a)(1); and~~

[~~(B)  has been previously suspended for the same reason;~~

[~~(3)~~]  until dismissal of the charges, if the person's license is subject to suspension for the reason listed in Subsection (a)(1); or

(3) [~~(4)~~]  for the duration of or the period specified by[~~:~~

[~~(A)~~]  the protective order [~~issued under Title 4, Family Code,~~] if the person's license is subject to suspension for the reason listed in Subsection (a)(3) [~~(a)(5); or~~

[~~(B)  the order for emergency protection issued under Article 17.292, Code of Criminal Procedure, if the person's license is subject to suspension for the reason listed in Subsection (a)(6)~~].

SECTION 4.  Section 411.201(c), Government Code, is amended to read as follows:

(c)  An active judicial officer is eligible for a license to carry a handgun under the authority of this subchapter.  A retired judicial officer is eligible for a license to carry a handgun under the authority of this subchapter if the officer meets the requirements under Section 411.172[~~:~~

[~~(1)  has not been convicted of a felony;~~

[~~(2)  has not, in the five years preceding the date of application, been convicted of a Class A or Class B misdemeanor or equivalent offense;~~

[~~(3)  is not charged with the commission of a Class A or Class B misdemeanor or equivalent offense or of a felony under an information or indictment;~~

[~~(4)  is not a chemically dependent person; and~~

[~~(5)  is not a person of unsound mind~~].

SECTION 5.  The following provisions of the Government Code are repealed:

(1)  Sections 411.171(2), (4), and (6);

(2)  Section 411.1711;

(3)  Sections 411.172(b), (b-1), (c), (d), (e), and (f); and

(4)  Section 411.206(c).

SECTION 6.  The changes in law made by this Act to Sections 411.172 and 411.201, Government Code, apply only to an application for the issuance, modification, or renewal of a license that is submitted to the Department of Public Safety on or after the effective date of this Act. An application submitted before the effective date of this Act is governed by the law in effect on the date the application was submitted, and the former law is continued in effect for that purpose.

SECTION 7.  The changes in law made by this Act to Sections 411.186 and 411.187, Government Code, apply only to an administrative or judicial determination concerning the revocation or suspension of a license to carry a handgun that is made on or after the effective date of this Act. An administrative or judicial determination made before the effective date of this Act is governed by the law in effect on the date the determination was made, and the former law is continued in effect for that purpose.

SECTION 8.  This Act takes effect September 1, 2021.