87R5841 AJZ-D

By:  Goodwin H.B. No. 1039

A BILL TO BE ENTITLED

AN ACT

relating to the duties of the Department of Public Safety, peace officers, officers of the court, and licensed firearms dealers with respect to the possession or use of a suspended, revoked, or expired license to carry a handgun; creating a criminal offense.

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

SECTION 1.  Subchapter H, Chapter 411, Government Code, is amended by adding Section 411.1805 to read as follows:

Sec. 411.1805.  LIST OF SUSPENDED AND REVOKED LICENSES. (a) The department shall maintain a current list of license numbers with respect to each unexpired license to carry a handgun that is suspended or revoked under this subchapter.

(b)  The department shall post the list of license numbers on the department's Internet website. The department may not include any information that would otherwise identify the person to whom the license was issued.

(c)  The department shall remove the number of a suspended license from the list under this section not later than the fifth working day after the applicable period of suspension ends.

(d)  If a revoked license is reinstated, the department shall remove the number of that license from the list under this section not later than the fifth working day after the reinstatement occurs.

(e)  The department shall remove a number of a suspended or revoked license from the list under this section not later than the fifth working day after the license's expiration date.

(f)  The director may adopt rules to implement this section.

SECTION 2.  Section 411.186, Government Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b)  If a peace officer believes a reason listed in Subsection (a) to revoke a license exists, the officer shall prepare an affidavit on a form provided by the department stating the reason for the revocation of the license and giving the department all of the information available to the officer at the time of the preparation of the form. The officer shall attach the officer's reports relating to the license holder to the form and send the form and attachments to the appropriate division of the department at its Austin headquarters not later than the fifth working day after the date the form is prepared. The officer shall send a copy of the form and the attachments to the license holder. If the license holder has not surrendered the license or the license was not seized as evidence or otherwise in conjunction with a legal proceeding, the license holder shall surrender the license to the appropriate division of the department not later than the 10th day after the date the license holder receives the notice of revocation from the department, unless the license holder requests a hearing from the department. The license holder may request that the justice court in the justice court precinct in which the license holder resides review the revocation as provided by Section 411.180. If a request is made for the justice court to review the revocation and hold a hearing, the license holder shall surrender the license on the date an order of revocation is entered by the justice court.

(b-1)  If an officer of the court seizes or accepts surrender of a license under Section 411.2065, the officer shall submit the license to the department at its Austin headquarters not later than the fifth working day after the date the license is seized or surrendered. The officer shall include a copy of any court order, judgment, or other documentation relevant to the reason for the seizure or surrender of the license.

SECTION 3.  Section 411.187, Government Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b)  If a peace officer believes a reason listed in Subsection (a) to suspend a license exists, the officer shall prepare an affidavit on a form provided by the department stating the reason for the suspension of the license and giving the department all of the information available to the officer at the time of the preparation of the form. The officer shall attach the officer's reports relating to the license holder to the form and send the form and the attachments to the appropriate division of the department at its Austin headquarters not later than the fifth working day after the date the form is prepared. The officer shall send a copy of the form and the attachments to the license holder. If the license holder has not surrendered the license or the license was not seized as evidence or otherwise in conjunction with a legal proceeding, the license holder shall surrender the license to the appropriate division of the department not later than the 10th day after the date the license holder receives the notice of suspension from the department unless the license holder requests a hearing from the department. The license holder may request that the justice court in the justice court precinct in which the license holder resides review the suspension as provided by Section 411.180. If a request is made for the justice court to review the suspension and hold a hearing, the license holder shall surrender the license on the date an order of suspension is entered by the justice court.

(b-1)  If an officer of the court seizes or accepts surrender of a license under Section 411.2065, the officer shall submit the license to the department at its Austin headquarters not later than the fifth working day after the date the license is seized or surrendered. The officer shall include a copy of any court order, judgment, or other documentation relevant to the reason for the seizure or surrender of the license.

SECTION 4.  The heading to Section 411.206, Government Code, is amended to read as follows:

Sec. 411.206.  SEIZURE OF HANDGUN AND LICENSE BY PEACE OFFICER.

SECTION 5.  Section 411.206, Government Code, is amended by adding Subsection (a-1) to read as follows:

(a-1)  A peace officer may seize a license holder's suspended, revoked, or expired license. A peace officer who seizes a license under this subsection shall, not later than the fifth working day after the date of the seizure, return the license to the department or, if the officer seizes the license as evidence of an offense, notify the department that the license was seized.

SECTION 6.  Subchapter H, Chapter 411, Government Code, is amended by adding Section 411.2065 to read as follows:

Sec. 411.2065.  SEIZURE OF LICENSE BY AND SURRENDER OF LICENSE TO COURT OFFICER. (a) If a license holder is convicted of or charged with an offense or becomes the subject of a protective order and that conviction, charge, or order disqualifies the person from possessing a firearm or continuing to hold a license under this chapter, an officer of the court shall accept voluntary surrender of the license or otherwise seize the license, as appropriate.

(b)  An officer who seizes or accepts surrender of a license under this section shall, not later than the fifth working day after the date of the seizure or acceptance, submit to the department the license and copies of the relevant court documentation as provided by Section 411.186(b-1) or 411.187(b-1), as applicable.

SECTION 7.  Chapter 411, Government Code, is amended by adding Subchapter H-1 to read as follows:

SUBCHAPTER H-1. REQUIREMENTS FOR CERTAIN FIREARM TRANSFERS

Sec. 411.221.  DEFINITIONS. In this subchapter:

(1)  "License" means a license to carry a handgun issued under Subchapter H.

(2)  "Licensed firearms dealer" means a person who is licensed as a firearms dealer under 18 U.S.C. Section 923.

Sec. 411.222.  REQUIREMENTS FOR CERTAIN FIREARM TRANSFERS. (a) A licensed firearms dealer may not sell or otherwise transfer a firearm to a person who presents an apparently valid unexpired license as evidence that the person is not prohibited by state or federal law from possessing a firearm unless the dealer first verifies that the license is not currently suspended or revoked.

(b)  The licensed firearms dealer may verify the status of the person's license under Subsection (a) either by direct communication with the department or by referencing the list of suspended or revoked licenses that is maintained on the department's Internet website under Section 411.1805.

(c)  If the licensed firearms dealer determines under Subsection (a) that the license is suspended or revoked, the dealer:

(1)  may not consider the fact that the person previously held a valid license and the fact that the person no longer holds a valid license in determining whether transferring a firearm to that person is prohibited by state or federal law; and

(2)  not later than the fifth working day after the date of the determination, shall notify the department that:

(A)  during the applicable transaction, the person presented a license to the dealer in lieu of submitting to the national instant criminal background check in accordance with 18 U.S.C. Section 922; and

(B)  the license was suspended or revoked.

SECTION 8.  Section 46.06(a), Penal Code, is amended to read as follows:

(a)  A person commits an offense if the person:

(1)  sells, rents, leases, loans, or gives a handgun to any person knowing that the person to whom the handgun is to be delivered intends to use it unlawfully or in the commission of an unlawful act;

(2)  intentionally or knowingly sells, rents, leases, or gives or offers to sell, rent, lease, or give to any child younger than 18 years of age any firearm, club, or location-restricted knife;

(3)  intentionally, knowingly, or recklessly sells a firearm or ammunition for a firearm to any person who is intoxicated;

(4)  knowingly sells a firearm or ammunition for a firearm to any person who has been convicted of a felony before the fifth anniversary of the later of the following dates:

(A)  the person's release from confinement following conviction of the felony; or

(B)  the person's release from supervision under community supervision, parole, or mandatory supervision following conviction of the felony;

(5)  sells, rents, leases, loans, or gives a handgun to any person knowing that an active protective order is directed to the person to whom the handgun is to be delivered; [~~or~~]

(6)  knowingly purchases, rents, leases, or receives as a loan or gift from another a handgun while an active protective order is directed to the actor; or

(7)  knows that the person's license to carry a handgun has been suspended or revoked and, for the purpose of obtaining a firearm, knowingly presents the suspended or revoked license as evidence that the person is not prohibited by state or federal law from possessing a firearm.

SECTION 9.  The Department of Public Safety shall establish the list required under Section 411.1805, Government Code, as added by this Act, and publish the list on the department's Internet website not later than January 1, 2022.

SECTION 10.  Subchapter H-1, Chapter 411, Government Code, as added by this Act, applies only to a firearm transfer that occurs on or after January 1, 2022.

SECTION 11.  Section 46.06, Penal Code, as amended by this Act, applies 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 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 the effective date of this Act if any element of the offense occurred before that date.

SECTION 12.  This Act takes effect September 1, 2021.