87R845 JSC/SCL-D

By:  Birdwell S.B. No. 737

A BILL TO BE ENTITLED

AN ACT

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

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

SECTION 1.  The heading to Section 112.001, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 112.001.  CERTAIN ACTIONS OF FIRST RESPONDERS [~~VOLUNTEER EMERGENCY SERVICES PERSONNEL~~].

SECTION 2.  Sections 112.001(a), (b), and (c), Civil Practice and Remedies Code, are amended to read as follows:

(a)  In this section:

(1)  "First responder" has the meaning assigned by Section 46.01, Penal Code.

(2)  "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 a first responder [~~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 a first responder [~~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 a first responder [~~volunteer emergency services personnel~~].

SECTION 3.  Subchapter H, Chapter 411, Government Code, is amended by adding Section 411.184 to read as follows:

Sec. 411.184.  ON-DUTY FIRST RESPONDER TRAINING COURSE. (a)  In this section, "first responder" has the meaning assigned by Section 46.01, Penal Code.

(b)  The director by rule shall establish minimum standards for a training course that a first responder who is a license holder may complete to receive a certification of completion from the department under this section. The training course must:

(1)  be administered by a qualified handgun instructor;

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

(3)  provide classroom training in:

(A)  self-defense;

(B)  de-escalation techniques;

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

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

(E)  the use of restraint holsters and methods to ensure the secure carrying of an openly carried handgun; and

(F)  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 and storing a handgun if the first responder, while on duty, is required to enter a location where carrying the handgun is prohibited by federal law or otherwise.

(c)  A first responder is responsible for paying to the course provider the costs of the training course under this section.

(d)  The director by rule shall approve devices to enable a first responder to secure and store a handgun if the first responder, while on duty, is required to enter a location where carrying the handgun is prohibited by federal law or otherwise.

(e)  The department shall issue a certificate of completion to a first responder who completes the training course described by Subsection (b).

(f)  A governmental entity that employs or otherwise supervises first responders may not adopt a rule or regulation that prohibits a first responder who holds a license to carry a handgun under this subchapter and who has received a certificate of completion from the department under Subsection (e) from:

(1)  carrying a concealed or holstered handgun while on duty; or

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

(g)  A first responder may discharge a handgun while on duty only in self-defense.

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

(i)  A governmental entity that employs or otherwise supervises 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.

(j)  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.

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

SECTION 4.  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 a first responder [~~volunteer emergency services personnel~~], as defined by Section 46.01, who:

(1)  received a certificate of completion for a training course under Section 411.184, Government Code, before engaging in the applicable conduct; and

(2)  was engaged in the actual discharge of the first responder's duties while carrying the handgun.

SECTION 5.  Section 30.07(g), Penal Code, is amended to read as follows:

(g)  It is a defense to prosecution under this section that the license holder is a first responder [~~volunteer emergency services personnel~~], as defined by Section 46.01, who:

(1)  received a certificate of completion for a training course under Section 411.184, Government Code, before engaging in the applicable conduct; and

(2)  was engaged in the actual discharge of the first responder's duties while carrying the handgun.

SECTION 6.  Section 46.01(18), Penal Code, is amended to read as follows:

(18)  "First responder" means a public safety employee or volunteer whose duties include responding rapidly to an emergency. The term includes fire protection personnel, including [~~"Volunteer emergency services personnel" includes a~~] volunteer firefighters, and emergency medical services personnel, including [~~firefighter, an~~] emergency medical services volunteers [~~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.

SECTION 7.  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 license holder [~~actor~~] is a first responder who:

(1)  was carrying the handgun in a concealed manner or in a shoulder or belt holster;

(2)  received a certificate of completion for a training course under Section 411.184, Government Code, before engaging in the applicable conduct; and

(3)  was [~~volunteer emergency services personnel~~] engaged in the actual discharge of the first responder's duties while carrying the handgun [~~providing emergency services~~].

SECTION 8.  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 or other qualified retired law enforcement officer, as defined by 18 U.S.C. Section 926C, 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 an honorably retired peace officer or other qualified retired law enforcement officer;

(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 first responder who [~~person who is volunteer emergency services personnel if the person is~~]:

(A)  is carrying the [~~a~~] handgun in a concealed manner or in a shoulder or belt holster;

(B)  holds a license to carry a handgun under [~~the authority of~~] Subchapter H, Chapter 411, Government Code;

(C)  received a certificate of completion for a training course under Section 411.184, Government Code, before engaging in the applicable conduct; and

(D)  is [~~(B)~~] engaged in the actual discharge of the first responder's duties while carrying the handgun [~~providing emergency services~~].

SECTION 9.  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, 2021.

SECTION 10.  A qualified handgun instructor may not offer the training course described by Section 411.184(b), Government Code, as added by this Act, before January 1, 2022.

SECTION 11.  Section 112.001, Civil Practice and Remedies Code, as amended by this Act, applies only to a cause of action that accrues on or after September 1, 2021. A cause of action that accrues before September 1, 2021, is governed by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

SECTION 12.  The changes in law made by this Act in amending Sections 30.06, 30.07, 46.035, and 46.15, Penal Code, apply only to an offense committed on or after September 1, 2022. An offense committed before September 1, 2022, is governed by the law in effect immediately before that date, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before September 1, 2022, if any element of the offense occurred before that date.

SECTION 13.  (a) Except as otherwise provided by Subsection (b) of this section, this Act takes effect September 1, 2021.

(b)  Sections 30.06, 30.07, 46.035, and 46.15, Penal Code, as amended by this Act, take effect September 1, 2022.