87R21967 JSC-D

By:  Schwertner S.B. No. 2224

A BILL TO BE ENTITLED

AN ACT

relating to provisions governing the carrying of a handgun or other firearm by a Texas resident who is 21 years of age or older and is not otherwise prohibited by state or federal law from possessing the firearm and to other provisions related to the carrying, possessing, transporting, or storing of a firearm and to handgun licensing; increasing criminal penalties; creating a criminal offense.

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

SECTION 1.  Sections 46.02(a) and (b), Penal Code, are amended to read as follows:

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

(1)  intentionally, knowingly, or recklessly carries on or about his or her person a handgun; [~~and~~]

(2)  at the time of the offense:

(A)  is younger than 21 years of age; or

(B)  is not a legal resident of this state; and

(3)  is not:

(A)  on the person's own premises or premises under the person's control; or

(B)  inside of or directly en route to a motor vehicle or watercraft that is owned by the person or under the person's control.

(b)  Except as provided by Subsection [~~(c) or~~] (d), an offense under this section is a Class A misdemeanor.

SECTION 2.  Sections 46.03(e-1), (e-2), and (f), Penal Code, are amended to read as follows:

(e-1)  It is a defense to prosecution under Subsection (a)(5) that the actor:

(1)  possessed, at the screening checkpoint for the secured area, a [~~concealed~~] handgun that the actor was not otherwise prohibited by state or federal law from possessing [~~licensed to carry under Subchapter H, Chapter 411, Government Code~~]; and

(2)  exited the screening checkpoint for the secured area immediately on [~~upon~~] completion of the required screening processes and notification that the actor possessed the handgun.

(e-2)  A peace officer investigating conduct that may constitute an offense under Subsection (a)(5) and that consists only of an actor's possession of a [~~concealed~~] handgun that the actor is not otherwise prohibited by state or federal law from possessing [~~licensed to carry under Subchapter H, Chapter 411, Government Code,~~] may not arrest the actor for the offense unless:

(1)  the officer advises the actor of the defense available under Subsection (e-1) and gives the actor an opportunity to exit the screening checkpoint for the secured area; and

(2)  the actor does not immediately exit the checkpoint on [~~upon~~] completion of the required screening processes.

(f)  Except as provided by Subsection (e-1), it is not a defense to prosecution under this section that the actor possessed a handgun and was:

(1)  licensed to carry a handgun under Subchapter H, Chapter 411, Government Code; or

(2)  not otherwise prohibited by state or federal law from possessing a firearm.

SECTION 3.  The heading to Section 46.035, Penal Code, is amended to read as follows:

Sec. 46.035.  UNLAWFUL CARRYING OF HANDGUN [~~BY LICENSE HOLDER~~].

SECTION 4.  Sections 46.035(a), (b), (c), and (d), Penal Code, are amended to read as follows:

(a)  A person [~~license holder~~] commits an offense if the person [~~license holder~~] carries a handgun [~~on or about the license holder's person under the authority of Subchapter H, Chapter 411, Government Code,~~] and intentionally displays the handgun in plain view of another person in a public place. It is an exception to the application of this subsection that the handgun was partially or wholly visible but was carried in a [~~shoulder or belt~~] holster [~~by the license holder~~].

(b)  A person [~~license holder~~] commits an offense if the person [~~license holder~~] intentionally, knowingly, or recklessly carries a handgun [~~under the authority of Subchapter H, Chapter 411, Government Code~~], regardless of whether the handgun is concealed or carried in a [~~shoulder or belt~~] holster[~~, on or about the license holder's person~~]:

(1)  on the premises of a business that has a permit or license issued under Chapter 25, 28, 32, 69, or 74, Alcoholic Beverage Code, if the business derives 51 percent or more of its income from the sale or service of alcoholic beverages for on-premises consumption, as determined by the Texas Alcoholic Beverage Commission under Section 104.06, Alcoholic Beverage Code;

(2)  on the premises where a high school, collegiate, or professional sporting event or interscholastic event is taking place, unless the person [~~license holder~~] is a participant in the event and a handgun is used in the event;

(3)  on the premises of a correctional facility;

(4)  on the premises of a hospital licensed under Chapter 241, Health and Safety Code, or on the premises of a nursing facility licensed under Chapter 242, Health and Safety Code, unless the person [~~license holder~~] has written authorization of the hospital or nursing facility administration, as appropriate;

(5)  in an amusement park; or

(6)  on the premises of a civil commitment facility.

(c)  A person [~~license holder~~] commits an offense if:

(1)  the person [~~license holder~~] intentionally, knowingly, or recklessly carries a handgun [~~under the authority of Subchapter H, Chapter 411, Government Code~~], regardless of whether the handgun is concealed or carried in a [~~shoulder or belt~~] holster, in the room or rooms where a meeting of a governmental entity is held; and

(2)  [~~if~~] the meeting described by Subdivision (1) is an open meeting subject to Chapter 551, Government Code, and the entity provided notice as required by that chapter.

(d)  A person [~~license holder~~] commits an offense if the person[~~, while intoxicated, the license holder~~] carries a handgun while the person is intoxicated [~~under the authority of Subchapter H, Chapter 411, Government Code~~], regardless of whether the handgun is concealed or carried in a [~~shoulder or belt~~] holster.

SECTION 5.  Section 46.02(a-1), Penal Code, is transferred to Section 46.035, Penal Code, redesignated as Section 46.035(d-1), Penal Code, and amended to read as follows:

(d-1) [~~(a-1)~~]  A person commits an offense if the person intentionally, knowingly, or recklessly carries [~~on or about his or her person~~] a handgun in a motor vehicle or watercraft that is owned by the person or under the person's control at any time in which:

(1)  the handgun is in plain view, unless the person is not otherwise prohibited by state or federal law from possessing the handgun [~~licensed to carry a handgun under Subchapter H, Chapter 411, Government Code,~~] and the handgun is carried in a [~~shoulder or belt~~] holster; or

(2)  the person is:

(A)  engaged in criminal activity, other than a Class C misdemeanor that is a violation of a law or ordinance regulating traffic or boating;

(B)  otherwise prohibited by law from possessing a firearm; or

(C)  a member of a criminal street gang, as defined by Section 71.01.

SECTION 6.  Section 46.04(e), Penal Code, is amended to read as follows:

(e)  An offense under Subsection (a) is a felony of the first [~~third~~] degree. An offense under Subsection (b) or (c) is a felony of the third degree [~~Class A misdemeanor~~].

SECTION 7.  Sections 46.15(a), (b), and (d), Penal Code, are amended to read as follows:

(a)  Sections 46.02, [~~and~~] 46.03, and 46.035(b) and (c) do not apply to:

(1)  peace officers or special investigators under Article 2.122, Code of Criminal Procedure, and none of those sections prohibit [~~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 none of those sections prohibit [~~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 none of those sections prohibit [~~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 person who is volunteer emergency services personnel if the person is:

(A)  licensed to carry [~~carrying~~] a handgun under [~~the authority of~~] Subchapter H, Chapter 411, Government Code; and

(B)  engaged in providing emergency services; or

(11)  a judge or justice of a federal court who is licensed to carry a handgun under Subchapter H, Chapter 411, Government Code.

(b)  Section 46.02 does not apply to a person who:

(1)  is in the actual discharge of official duties as a member of the armed forces or state military forces as defined by Section 437.001, Government Code, or as a guard employed by a penal institution;

(2)  is traveling;

(3)  is engaging in lawful hunting, fishing, or other sporting activity on the immediate premises where the activity is conducted, or is en route between the premises and the actor's residence, motor vehicle, or watercraft, if the weapon is a type commonly used in the activity;

(4)  holds a security officer commission issued by the Texas Private Security Board, if the person is engaged in the exclusive performance of the person's duties as an officer commissioned under Chapter 1702, Occupations Code, [~~or is traveling to or from the person's place of assignment~~] and is wearing the officer's uniform and carrying the officer's weapon in plain view;

(5)  acts as a personal protection officer and carries the person's security officer commission and personal protection officer authorization, if the person:

(A)  is engaged in the performance of the person's duties as a personal protection officer under Chapter 1702, Occupations Code[~~, or is traveling to or from the person's place of assignment~~]; and

(B)  is either:

(i)  wearing the uniform of a security officer, including any uniform or apparel described by Section 1702.323(d), Occupations Code, and carrying the officer's weapon in plain view; or

(ii)  not wearing the uniform of a security officer and carrying the officer's weapon in a concealed manner;

(6)  is carrying:

(A)  a license issued under Subchapter H, Chapter 411, Government Code, to carry a handgun; and

(B)  a handgun:

(i)  in a concealed manner; or

(ii)  in a [~~shoulder or belt~~] holster;

(7)  holds an alcoholic beverage permit or license or is an employee of a holder of an alcoholic beverage permit or license if the person is supervising the operation of the permitted or licensed premises; or

(8)  is a student in a law enforcement class engaging in an activity required as part of the class, if the weapon is a type commonly used in the activity and the person is:

(A)  on the immediate premises where the activity is conducted; or

(B)  en route between those premises and the person's residence and is carrying the weapon unloaded.

(d)  The provisions of Section 46.02 prohibiting the carrying of a firearm do not apply to a public security officer employed by the adjutant general under Section 437.053, Government Code, in performance of official duties [~~or while traveling to or from a place of duty~~].

SECTION 8.  Chapter 507, Business & Commerce Code, is amended to read as follows:

CHAPTER 507. LICENSE TO CARRY [~~CONCEALED~~] HANDGUN [~~LICENSES~~] AS VALID FORM [~~FORMS~~] OF PERSONAL IDENTIFICATION

Sec. 507.001.  [~~CONCEALED HANDGUN~~] LICENSE TO CARRY HANDGUN AS VALID PROOF OF IDENTIFICATION. (a) A person may not deny the holder of a [~~concealed~~] handgun license issued under Subchapter H, Chapter 411, Government Code, access to goods, services, or facilities, except as provided by Section 521.460, Transportation Code, or in regard to the operation of a motor vehicle, because the holder has or presents a [~~concealed~~] handgun license rather than a driver's license or other acceptable form of personal identification.

(b)  This section does not affect:

(1)  the requirement under Section 411.205, Government Code, that a person subject to that section present a driver's license or identification certificate or other proof of identity [~~in addition to a concealed handgun license~~]; or

(2)  the types of identification required under federal law to access airport premises or pass through airport security.

SECTION 9.  Section 125.0015(a), Civil Practice and Remedies Code, is amended to read as follows:

(a)  A person who maintains a place to which persons habitually go for the following purposes and who knowingly tolerates the activity and furthermore fails to make reasonable attempts to abate the activity maintains a common nuisance:

(1)  discharge of a firearm in a public place as prohibited by the Penal Code;

(2)  reckless discharge of a firearm as prohibited by the Penal Code;

(3)  engaging in organized criminal activity as a member of a combination as prohibited by the Penal Code;

(4)  delivery, possession, manufacture, or use of a substance or other item in violation of Chapter 481, Health and Safety Code;

(5)  gambling, gambling promotion, or communicating gambling information as prohibited by the Penal Code;

(6)  prostitution, promotion of prostitution, or aggravated promotion of prostitution as prohibited by the Penal Code;

(7)  compelling prostitution as prohibited by the Penal Code;

(8)  commercial manufacture, commercial distribution, or commercial exhibition of obscene material as prohibited by the Penal Code;

(9)  aggravated assault as described by Section 22.02, Penal Code;

(10)  sexual assault as described by Section 22.011, Penal Code;

(11)  aggravated sexual assault as described by Section 22.021, Penal Code;

(12)  robbery as described by Section 29.02, Penal Code;

(13)  aggravated robbery as described by Section 29.03, Penal Code;

(14)  unlawfully carrying a weapon as described by Section 46.02, Penal Code, or unlawfully carrying a firearm as described by Section 46.03 or 46.035, Penal Code;

(15)  murder as described by Section 19.02, Penal Code;

(16)  capital murder as described by Section 19.03, Penal Code;

(17)  continuous sexual abuse of young child or children as described by Section 21.02, Penal Code;

(18)  massage therapy or other massage services in violation of Chapter 455, Occupations Code;

(19)  employing a minor at a sexually oriented business as defined by Section 243.002, Local Government Code;

(20)  trafficking of persons as described by Section 20A.02, Penal Code;

(21)  sexual conduct or performance by a child as described by Section 43.25, Penal Code;

(22)  employment harmful to a child as described by Section 43.251, Penal Code;

(23)  criminal trespass as described by Section 30.05, Penal Code;

(24)  disorderly conduct as described by Section 42.01, Penal Code;

(25)  arson as described by Section 28.02, Penal Code;

(26)  criminal mischief as described by Section 28.03, Penal Code, that causes a pecuniary loss of $500 or more; or

(27)  a graffiti offense in violation of Section 28.08, Penal Code.

SECTION 10.  Section 37.005(c), Education Code, is amended to read as follows:

(c)  A student who is enrolled in a grade level below grade three may not be placed in out-of-school suspension unless while on school property or while attending a school-sponsored or school-related activity on or off of school property, the student engages in:

(1)  conduct that contains the elements of an offense related to weapons under Section 46.02 or 46.05, Penal Code, or to firearms under Section 46.03 or 46.035, Penal Code;

(2)  conduct that contains the elements of a violent offense under Section 22.01, 22.011, 22.02, or 22.021, Penal Code; or

(3)  selling, giving, or delivering to another person or possessing, using, or being under the influence of any amount of:

(A)  marihuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.;

(B)  a dangerous drug, as defined by Chapter 483, Health and Safety Code; or

(C)  an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code.

SECTION 11.  Section 37.007(a), Education Code, is amended to read as follows:

(a)  Except as provided by Subsection (k), a student shall be expelled from a school if the student, on school property or while attending a school-sponsored or school-related activity on or off of school property:

(1)  engages in conduct that contains the elements of [~~the offense of unlawfully carrying weapons under Section 46.02, Penal Code, or elements of~~] an offense relating to [~~prohibited~~] weapons under Section 46.02 or 46.05, Penal Code, or to firearms under Section 46.03 or 46.035, Penal Code;

(2)  engages in conduct that contains the elements of the offense of:

(A)  aggravated assault under Section 22.02, Penal Code, sexual assault under Section 22.011, Penal Code, or aggravated sexual assault under Section 22.021, Penal Code;

(B)  arson under Section 28.02, Penal Code;

(C)  murder under Section 19.02, Penal Code, capital murder under Section 19.03, Penal Code, or criminal attempt, under Section 15.01, Penal Code, to commit murder or capital murder;

(D)  indecency with a child under Section 21.11, Penal Code;

(E)  aggravated kidnapping under Section 20.04, Penal Code;

(F)  aggravated robbery under Section 29.03, Penal Code;

(G)  manslaughter under Section 19.04, Penal Code;

(H)  criminally negligent homicide under Section 19.05, Penal Code; or

(I)  continuous sexual abuse of young child or children under Section 21.02, Penal Code; or

(3)  engages in conduct specified by Section 37.006(a)(2)(C) or (D), if the conduct is punishable as a felony.

SECTION 12.  Section 51.220(g), Education Code, is amended to read as follows:

(g)  A public junior college employee's status as a school marshal becomes inactive on:

(1)  expiration of the employee's school marshal license under Section 1701.260, Occupations Code;

(2)  suspension or revocation of the employee's license to carry a [~~concealed~~] handgun issued under Subchapter H, Chapter 411, Government Code;

(3)  termination of the employee's employment with the public junior college; or

(4)  notice from the governing board of the public junior college that the employee's services as school marshal are no longer required.

SECTION 13.  Section 231.302(c-1), Family Code, is amended to read as follows:

(c-1)  For purposes of issuing a license to carry a [~~concealed~~] handgun under Subchapter H, Chapter 411, Government Code, the Department of Public Safety is not required to request, and an applicant is not required to provide, the applicant's social security number.

SECTION 14.  Section 411.0625(c), Government Code, is amended to read as follows:

(c)  The department shall adopt rules to establish a procedure by which a resident of the state may apply for and be issued a Capitol access pass.  Rules adopted under this section must include provisions for eligibility, application, approval, issuance, and renewal that:

(1)  require the department to conduct the same background check on an applicant for a Capitol access pass that is conducted on an applicant for a license to carry a handgun under Subchapter H;

(2)  enable the department to conduct the background check described by Subdivision (1); and

(3)  establish application and renewal fees in amounts sufficient to cover the cost of administering this section[~~, not to exceed the amounts of similar fees required under Section 411.174 for a license to carry a handgun~~].

SECTION 15.  The heading to Subchapter H, Chapter 411, Government Code, is amended to read as follows:

SUBCHAPTER H. LICENSE TO CARRY [~~A~~] HANDGUN AND OTHER PROVISIONS RELATING TO CARRYING OF FIREARMS

SECTION 16.  Section 411.173(a), Government Code, is amended to read as follows:

(a)  The department by rule shall establish a procedure for a person who meets the eligibility requirements of this subchapter other than the residency requirement established by Section 411.172(a)(1) to obtain a license under this subchapter if the person is a legal resident of another state or if the person relocates to this state with the intent to establish residency in this state. [~~The procedure must include payment of a fee in an amount sufficient to recover the average cost to the department of obtaining a criminal history record check and investigation on a nonresident applicant.~~] A license issued in accordance with the procedure established under this subsection:

(1)  remains in effect until the license expires under Section 411.183; and

(2)  may be renewed under Section 411.185.

SECTION 17.  Section 411.174(a), Government Code, is amended to read as follows:

(a)  An applicant for a license to carry a handgun must submit to the director's designee described by Section 411.176:

(1)  a completed application on a form provided by the department that requires only the information listed in Subsection (b);

(2)  one or more photographs of the applicant that meet the requirements of the department;

(3)  a certified copy of the applicant's birth certificate or certified proof of age;

(4)  proof of residency in this state;

(5)  two complete sets of legible and classifiable fingerprints of the applicant taken by a person appropriately trained in recording fingerprints who is employed by a law enforcement agency or by a private entity designated by a law enforcement agency as an entity qualified to take fingerprints of an applicant for a license under this subchapter;

(6)  [~~a nonrefundable application and license fee of $40 paid to the department;~~

[~~(7)~~]  evidence of handgun proficiency, in the form and manner required by the department;

(7) [~~(8)~~]  an affidavit signed by the applicant stating that the applicant:

(A)  has read and understands each provision of this subchapter that creates an offense under the laws of this state and each provision of the laws of this state related to use of deadly force; and

(B)  fulfills all the eligibility requirements listed under Section 411.172; and

(8) [~~(9)~~]  a form executed by the applicant that authorizes the director to make an inquiry into any noncriminal history records that are necessary to determine the applicant's eligibility for a license under Section 411.172(a).

SECTION 18.  Section 411.177, Government Code, is amended by adding Subsection (e) to read as follows:

(e) For the purpose of reciprocity with other states, the department shall issue a license under this subchapter to each applicant who meets all the eligibility requirements and submits all the application materials, regardless of whether the applicant may legally carry a handgun without a license in this state under Chapter 46, Penal Code, or other state law.

SECTION 19.  Section 411.179, Government Code, is amended by amending Subsections (c) and (e) and adding Subsection (f) to read as follows:

(c)  In adopting the form of the license under Subsection (a), the department shall establish a procedure for the license of a qualified handgun instructor or of the attorney general or a judge, justice, United States attorney, assistant United States attorney, assistant attorney general, prosecuting attorney, or assistant prosecuting attorney, as described by Section 46.15(a)(4), (6), [~~or~~] (7), or (11), Penal Code, to indicate on the license the license holder's status as a qualified handgun instructor or as the attorney general or a judge, justice, United States attorney, assistant United States attorney, assistant attorney general, prosecuting [~~district~~] attorney, or assistant prosecuting [~~criminal district~~] attorney[~~, or county attorney~~]. In establishing the procedure, the department shall require sufficient documentary evidence to establish the license holder's status under this subsection.

(e)  [~~In this subsection, "veteran" has the meaning assigned by Section 411.1951.~~] The department shall include the designation "VETERAN" on the face of any original, duplicate, modified, or renewed license under this subchapter or on the reverse side of the license, as determined by the department, if the license is issued to a veteran who:

(1)  requests the designation; and

(2)  provides proof sufficient to the department of the veteran's military service and honorable discharge.

(f)  For purposes of Subsection (e), "veteran" means a person who:

(1)  has served in:

(A)  the army, navy, air force, coast guard, or marine corps of the United States;

(B)  the Texas military forces as defined by Section 437.001; or

(C)  an auxiliary service of one of those branches of the armed forces; and

(2)  has been honorably discharged from the branch of the service in which the person served.

SECTION 20.  Section 411.181(h), Government Code, is amended to read as follows:

(h)  If a license holder is required under this section to apply for a duplicate license and the license expires not later than the 60th day after the date of the loss, theft, or destruction of the license, the applicant may renew the license with the modified information included on the new license. [~~The applicant must pay only the nonrefundable renewal fee.~~]

SECTION 21.  Section 411.185, Government Code, is amended by amending Subsection (a) and adding Subsection (h) to read as follows:

(a)  To renew a license, a license holder must, on or before the date the license expires, submit to the department by mail or, in accordance with the procedure adopted under Subsection (f), on the Internet:

(1)  a renewal application on a form provided by the department;

[~~(2)  payment of a nonrefundable renewal fee of $40;~~] and

(2) [~~(3)~~]  the informational form described by Subsection (c) signed or electronically acknowledged by the applicant.

(h)  For the purpose of reciprocity with other states, the department shall renew the license of each license holder who meets all the eligibility requirements to continue to hold a license and who submits all the renewal materials described by Subsection (a), regardless of whether the license holder may legally carry a handgun without a license in this state under Chapter 46, Penal Code, or other state law.

SECTION 22.  Sections 411.186(a) and (c), 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;

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

(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 "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) [~~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.

SECTION 23.  Section 411.190(c), Government Code, is amended to read as follows:

(c)  In the manner applicable to a person who applies for a license to carry a handgun, the department shall conduct a background check of a person who applies for certification as a qualified handgun instructor or approved online course provider. If the background check indicates that the applicant for certification would not qualify to receive a handgun license, the department may not certify the applicant as a qualified handgun instructor or approved online course provider. If the background check indicates that the applicant for certification would qualify to receive a handgun license, the department shall provide handgun instructor or online course provider training to the applicant. The applicant shall pay a fee of $100 to the department for the training. The applicant must take and successfully complete the training offered by the department and pay the training fee before the department may certify the applicant as a qualified handgun instructor or approved online course provider. The department shall issue a license to carry a handgun under [~~the authority of~~] this subchapter to any person who is certified as a qualified handgun instructor or approved online course provider [~~and who pays to the department a fee of $40 in addition to the training fee~~]. The department by rule may prorate or waive the training fee for an employee of another governmental entity.

SECTION 24.  Section 411.200, Government Code, is amended to read as follows:

Sec. 411.200.  APPLICATION TO LICENSED SECURITY OFFICERS. This subchapter does not exempt a license holder who is also employed as a security officer and licensed under Chapter 1702, Occupations Code, from the duty to comply with Chapter 1702, Occupations Code, or from the duty to refrain from committing a firearms offense under Chapter 46 [~~Section 46.02~~], Penal Code.

SECTION 25.  Sections 411.201(c), (d), (e), and (h), Government Code, are 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:

(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.

(d)  An applicant for a license who is an active or retired judicial officer must submit to the department:

(1)  a completed application, including all required affidavits, on a form prescribed by the department;

(2)  one or more photographs of the applicant that meet the requirements of the department;

(3)  two complete sets of legible and classifiable fingerprints of the applicant, including one set taken by a person employed by a law enforcement agency who is appropriately trained in recording fingerprints;

(4)  evidence of handgun proficiency, in the form and manner required by the department for an applicant under this section;

[~~(5)  a nonrefundable application and license fee of $25;~~] and

(5) [~~(6)~~]  if the applicant is a retired judicial officer, a form executed by the applicant that authorizes the department to make an inquiry into any noncriminal history records that are necessary to determine the applicant's eligibility for a license under this subchapter.

(e)  On receipt of all the application materials required by this section, the department shall:

(1)  if the applicant is an active judicial officer, issue a license to carry a handgun under [~~the authority of~~] this subchapter; or

(2)  if the applicant is a retired judicial officer, conduct an appropriate background investigation to determine the applicant's eligibility for the license and, if the applicant is eligible, issue a license to carry a handgun under [~~the authority of~~] this subchapter.

(h)  The department shall issue a license to carry a handgun under [~~the authority of~~] this subchapter to a United States attorney or an assistant United States attorney, or to an attorney elected or employed to represent the state in the prosecution of felony cases, who meets the requirements of this section for an active judicial officer. [~~The department shall waive any fee required for the issuance of an original, duplicate, or renewed license under this subchapter for an applicant who is a United States attorney or an assistant United States attorney or who is an attorney elected or employed to represent the state in the prosecution of felony cases.~~]

SECTION 26.  Section 411.203, Government Code, is amended to read as follows:

Sec. 411.203.  RIGHTS OF EMPLOYERS. (a) This subchapter does not prevent or otherwise limit the right of a public or private employer to prohibit persons who are licensed under this subchapter or not otherwise prohibited by state or federal law from possessing a firearm from carrying a handgun or other firearm on the premises of the business.

(b)  In this section, "premises" has the meaning assigned by Section 46.035(f) [~~46.035(f)(3)~~], Penal Code.

SECTION 27.  Section 411.204(c), Government Code, is amended to read as follows:

(c)  The sign required under Subsections (a) and (b) must give notice in both English and Spanish that it is unlawful for a person, regardless of whether the person is licensed under this subchapter, to carry a handgun on the premises. The sign must appear in contrasting colors with block letters at least one inch in height and must include on its face the number "51" printed in solid red at least five inches in height. The sign shall be displayed in a conspicuous manner clearly visible to the public.

SECTION 28.  Section 411.205, Government Code, is amended to read as follows:

Sec. 411.205.  REQUIREMENT TO DISPLAY IDENTIFICATION AND HANDGUN LICENSE. If a person [~~license holder~~] is carrying a handgun [~~on or about the license holder's person~~] when a magistrate or a peace officer demands that the person [~~license holder~~] display identification, the person [~~license holder~~] shall display [~~both~~] the person's [~~license holder's~~] driver's license or identification certificate issued by the department or other proof of identity. If the person is a license holder under this subchapter and is carrying the person's handgun license, the person also shall display [~~and~~] the person's [~~license holder's~~] handgun license.

SECTION 29.  The heading to Section 411.206, Government Code, is amended to read as follows:

Sec. 411.206.  SEIZURE OF HANDGUN AND HANDGUN LICENSE.

SECTION 30.  Sections 411.206(a) and (c), Government Code, are amended to read as follows:

(a)  If a peace officer arrests and takes into custody a person [~~license holder~~] who is carrying a handgun [~~under the authority of this subchapter~~], the officer shall seize the person's [~~license holder's~~] handgun. The peace officer also shall seize the person's handgun [~~and~~] license as evidence if the person holds a handgun license under this subchapter and is carrying the license at the time of the arrest.

(c)  Any judgment of conviction entered by any court for an offense under Section 46.035, Penal Code, must contain the handgun license number of the convicted person, if the person is a handgun license holder. A certified copy of the judgment is conclusive and sufficient evidence to justify revocation of a license under Section 411.186(a)(4).

SECTION 31.  Sections 411.207(a), (b), and (c), Government Code, are amended to read as follows:

(a)  A peace officer who is acting in the lawful discharge of the officer's official duties may disarm a person, including a license holder, who is carrying a handgun at any time the officer reasonably believes it is necessary for the protection of the person [~~license holder~~], officer, or another individual. The peace officer shall return the handgun to the person [~~license holder~~] before discharging the person [~~license holder~~] from the scene if the officer determines that the person:

(1)  [~~license holder~~] is not a threat to the officer, the person [~~license holder~~], or another individual;

(2)  [~~and if the license holder~~] has not violated any provision of this subchapter or committed any other violation that results in the arrest of the person; and

(3)  is not prohibited from possessing a firearm [~~license holder~~].

(b)  A peace officer who is acting in the lawful discharge of the officer's official duties may [~~temporarily~~] disarm a person only temporarily, regardless of whether the person is a license holder, when the person [~~a license holder~~] enters a nonpublic, secure portion of a law enforcement facility. The[~~, if the~~] law enforcement agency shall provide [~~provides~~] a gun locker where the peace officer can secure the person's [~~license holder's~~] handgun. The peace officer shall secure the handgun in the locker and shall return the handgun to the person [~~license holder~~] immediately after the person [~~license holder~~] leaves the nonpublic, secure portion of the law enforcement facility.

(c)  A law enforcement facility shall prominently display at each entrance to a nonpublic, secure portion of the facility a sign that gives notice in both English and Spanish that, under this section, a peace officer may temporarily disarm a person, regardless of whether the person is a license holder, when the person [~~license holder~~] enters the nonpublic, secure portion of the facility. The sign must appear in contrasting colors with block letters at least one inch in height. The sign shall be displayed in a clearly visible and conspicuous manner.

SECTION 32.  Section 12.092(b), Health and Safety Code, is amended to read as follows:

(b)  The medical advisory board shall assist the Department of Public Safety of the State of Texas in determining whether:

(1)  an applicant for a driver's license or a license holder is capable of safely operating a motor vehicle; or

(2)  an applicant for or holder of a license to carry a handgun under [~~the authority of~~] Subchapter H, Chapter 411, Government Code, or an applicant for or holder of a commission as a security officer under Chapter 1702, Occupations Code, is capable of exercising sound judgment with respect to the proper use and storage of a handgun.

SECTION 33.  The heading to Section 552.002, Health and Safety Code, is amended to read as follows:

Sec. 552.002.  CARRYING OF HANDGUN [~~BY LICENSE HOLDER~~] IN STATE HOSPITAL.

SECTION 34.  Sections 552.002(a), (b), and (c), Health and Safety Code, are amended to read as follows:

(a)  In this section:

(1)  [~~"License holder" has the meaning assigned by Section 46.035(f), Penal Code.~~

[~~(2)~~]  "State hospital" means the following facilities:

(A)  the Austin State Hospital;

(B)  the Big Spring State Hospital;

(C)  the El Paso Psychiatric Center;

(D)  the Kerrville State Hospital;

(E)  the North Texas State Hospital;

(F)  the Rio Grande State Center;

(G)  the Rusk State Hospital;

(H)  the San Antonio State Hospital;

(I)  the Terrell State Hospital; and

(J)  the Waco Center for Youth.

(2) [~~(3)~~]  "Written notice" means a sign that is posted on property and that:

(A)  includes in both English and Spanish written language identical to the following: "Pursuant to Section 552.002, Health and Safety Code (carrying of handgun [~~by license holder~~] in state hospital), a person [~~licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law),~~] may not enter this property with a handgun";

(B)  appears in contrasting colors with block letters at least one inch in height; and

(C)  is displayed in a conspicuous manner clearly visible to the public at each entrance to the property.

(b)  A state hospital may prohibit a person [~~license holder~~] from carrying a handgun [~~under the authority of Subchapter H, Chapter 411, Government Code,~~] on the property of the hospital by providing written notice.

(c)  A person [~~license holder~~] who carries a handgun [~~under the authority of Subchapter H, Chapter 411, Government Code,~~] on the property of a state hospital at which written notice is provided is liable for a civil penalty in the amount of:

(1)  $100 for the first violation; or

(2)  $500 for the second or subsequent violation.

SECTION 35.  Section 52.061, Labor Code, is amended to read as follows:

Sec. 52.061.  RESTRICTION ON PROHIBITING EMPLOYEE ACCESS TO OR STORAGE OF FIREARM OR AMMUNITION. A public or private employer may not prohibit an employee who is not otherwise prohibited by state or federal law from possessing [~~holds a license to carry a handgun under Subchapter H, Chapter 411, Government Code, who otherwise lawfully possesses~~] a firearm[~~,~~] or [~~who lawfully possesses~~] ammunition from transporting or storing a firearm or ammunition [~~the employee is authorized by law to possess~~] in a locked, privately owned motor vehicle in a parking lot, parking garage, or other parking area the employer provides for employees.

SECTION 36.  Section 52.062(a), Labor Code, is amended to read as follows:

(a)  Section 52.061 does not:

(1)  authorize a person who is not otherwise prohibited by state or federal law from possessing [~~holds a license to carry a handgun under Subchapter H, Chapter 411, Government Code, who otherwise lawfully possesses~~] a firearm[~~,~~] or [~~who lawfully possesses~~] ammunition to possess a firearm or ammunition on any property where the possession of a firearm or ammunition is prohibited by state or federal law; or

(2)  apply to:

(A)  a vehicle owned or leased by a public or private employer and used by an employee in the course and scope of the employee's employment, unless the employee is required to transport or store a firearm in the official discharge of the employee's duties;

(B)  a school district;

(C)  an open-enrollment charter school, as defined by Section 5.001, Education Code;

(D)  a private school, as defined by Section 22.081, Education Code;

(E)  property owned or controlled by a person, other than the employer, that is subject to a valid, unexpired oil, gas, or other mineral lease that contains a provision prohibiting the possession of firearms on the property; or

(F)  property owned or leased by a chemical manufacturer or oil and gas refiner with an air authorization under Chapter 382, Health and Safety Code, and on which the primary business conducted is the manufacture, use, storage, or transportation of hazardous, combustible, or explosive materials, except in regard to an employee who is not otherwise prohibited by state or federal law from possessing a firearm or ammunition [~~holds a license to carry a handgun under Subchapter H, Chapter 411, Government Code,~~] and [~~who~~] stores the [~~a~~] firearm or ammunition [~~the employee is authorized by law to possess~~] in a locked, privately owned motor vehicle in a parking lot, parking garage, or other parking area the employer provides for employees that is outside of a secured and restricted area:

(i)  that contains the physical plant;

(ii)  that is not open to the public; and

(iii)  the ingress into which is constantly monitored by security personnel.

SECTION 37.  Section 118.011(b), Local Government Code, is amended to read as follows:

(b)  The county clerk may set and collect the following fee from any person:

(1)  Returned Check (Sec. 118.0215) . . . . . . not less than $15 or more than $30

(2)  Records Management and Preservation Fee (Sec. 118.0216) . . . . . . . . . . . . . . . . . . . . . . . not more than $10

(3)  [~~Mental Health Background Check for License to Carry a Handgun (Sec. 118.0217)  . . . . . not more than $2~~

[~~(4)~~]  Marriage License for Out-of-State Applicants (Sec. 118.018) . . . . . . . . . . . . . . . . . . . . . . . . $100

SECTION 38.  Section 191.010(a), Local Government Code, is amended to read as follows:

(a)  In this section, "photo identification" means one of the following forms of photo identification:

(1)  a driver's license, election identification certificate, or personal identification card issued to the person by any state or territory of the United States that has not expired or that expired no earlier than 60 days before the date of presentation;

(2)  a United States military identification card that contains the person's photograph that has not expired or that expired no earlier than 60 days before the date of presentation;

(3)  a United States citizenship certificate issued to the person that contains the person's photograph;

(4)  a United States Permanent Resident Card that has not expired or that expired no earlier than 60 days before the date of presentation;

(5)  an identification card issued by a municipality intended to serve as a general identification card for the holder that has not expired or that expired no earlier than 60 days before the date of presentation;

(6)  a federally recognized tribal enrollment card or other form of tribal identification that has not expired or that expired no earlier than 60 days before the date of presentation;

(7)  a United States passport or a passport issued by a foreign government recognized by the United States issued to the person that has not expired or that expired no earlier than 60 days before the date of presentation; or

(8)  a license to carry a [~~concealed~~] handgun issued to the person by the Department of Public Safety that has not expired or that expired no earlier than 60 days before the date of presentation.

SECTION 39.  Section 229.001(b), Local Government Code, is amended to read as follows:

(b)  Subsection (a) does not affect the authority a municipality has under another law to:

(1)  require residents or public employees to be armed for personal or national defense, law enforcement, or another lawful purpose;

(2)  regulate the discharge of firearms or air guns within the limits of the municipality, other than at a sport shooting range;

(3)  except as provided by Subsection (b-1), adopt or enforce a generally applicable zoning ordinance, land use regulation, fire code, or business ordinance;

(4)  regulate the use of firearms, air guns, or knives in the case of an insurrection, riot, or natural disaster if the municipality finds the regulations necessary to protect public health and safety;

(5)  regulate the storage or transportation of explosives to protect public health and safety, except that 25 pounds or less of black powder for each private residence and 50 pounds or less of black powder for each retail dealer are not subject to regulation;

(6)  regulate the carrying of an air gun or [~~a~~] firearm, [~~or air gun by a person~~] other than a [~~person licensed to carry a~~] handgun carried by a person not otherwise prohibited by state or federal law from possessing a firearm [~~under Subchapter H, Chapter 411, Government Code~~], at a:

(A)  public park;

(B)  public meeting of a municipality, county, or other governmental body;

(C)  political rally, parade, or official political meeting; or

(D)  nonfirearms-related school, college, or professional athletic event;

(7)  regulate the carrying of a firearm by a person licensed to carry a handgun under Subchapter H, Chapter 411, Government Code, in accordance with Section 411.209, Government Code;

(8)  regulate the hours of operation of a sport shooting range, except that the hours of operation may not be more limited than the least limited hours of operation of any other business in the municipality other than a business permitted or licensed to sell or serve alcoholic beverages for on-premises consumption;

(9)  regulate the carrying of an air gun by a minor on:

(A)  public property; or

(B)  private property without consent of the property owner; or

(10)  except as provided by Subsection (d-1), regulate or prohibit an employee's carrying or possession of a firearm, firearm accessory, or ammunition in the course of the employee's official duties.

SECTION 40.  Section 1702.002(21), Occupations Code, is amended to read as follows:

(21)  "Security officer commission" means an authorization issued by the department that entitles a security officer to carry a firearm as described by this chapter.

SECTION 41.  Section 1702.169, Occupations Code, is amended to read as follows:

Sec. 1702.169.  FIREARM RESTRICTIONS. A commissioned security officer other than a person acting as a personal protection officer may not carry a firearm while [~~unless:~~

[~~(1)  the security officer is:~~

[~~(A)~~]  engaged in the performance of duties as a security officer unless:

(1)  [~~; or~~

[~~(B)  traveling to or from the place of assignment;~~

[~~(2)~~]  the security officer wears a distinctive uniform indicating that the individual is a security officer; and

(2) [~~(3)~~]  the firearm is in plain view.

SECTION 42.  Section 1702.206(a), Occupations Code, is amended to read as follows:

(a)  An individual acting as and performing the duties of a personal protection officer may not carry a firearm unless the officer:

(1)  is [~~either:~~

[~~(A)~~]  engaged in the exclusive performance of the officer's duties as a personal protection officer for the employer under whom the officer's personal protection officer license is issued; [~~or~~

[~~(B)  traveling to or from the officer's place of assignment;~~] and

(2)  carries the officer's security officer commission and personal protection officer license on the officer's person while performing the officer's duties [~~or traveling~~] as described by Subdivision (1) and presents the commission and license on request.

SECTION 43.  Sections 62.082(d) and (e), Parks and Wildlife Code, are amended to read as follows:

(d)  Section 62.081 does not apply to:

(1)  an employee of the Lower Colorado River Authority;

(2)  a person authorized to hunt under Subsection (c);

(3)  a peace officer as defined by Article 2.12, Code of Criminal Procedure; or

(4)  a person who:

(A)  is carrying [~~possesses~~] a handgun [~~and a license issued under Subchapter H, Chapter 411, Government Code, to carry a handgun~~]; or

(B)  under circumstances in which the person would be justified in the use of deadly force under Chapter 9, Penal Code, shoots a handgun [~~the person is licensed to carry under Subchapter H, Chapter 411, Government Code~~].

(e)  A state agency, including the department, the Department of Public Safety, and the Lower Colorado River Authority, may not adopt a rule that prohibits a person who is not otherwise prohibited by state or federal law from possessing a firearm [~~possesses a license issued under Subchapter H, Chapter 411, Government Code,~~] from entering or crossing the land of the Lower Colorado River Authority while:

(1)  carrying [~~possessing~~] a handgun; or

(2)  under circumstances in which the person would be justified in the use of deadly force under Chapter 9, Penal Code, shooting a handgun.

SECTION 44.  Section 284.001(e), Parks and Wildlife Code, is amended to read as follows:

(e)  This section does not limit a person's [~~the~~] ability [~~of a license holder~~] to carry a handgun [~~under the authority of Subchapter H, Chapter 411, Government Code~~].

SECTION 45.  Section 287.001(e), Parks and Wildlife Code, is amended to read as follows:

(e)  This section does not limit a person's [~~the~~] ability [~~of a license holder~~] to carry a [~~concealed~~] handgun [~~under the authority of Subchapter H, Chapter 411, Government Code~~].

SECTION 46.  Section 9.31(b), Penal Code, is amended to read as follows:

(b)  The use of force against another is not justified:

(1)  in response to verbal provocation alone;

(2)  to resist an arrest or search that the actor knows is being made by a peace officer, or by a person acting in a peace officer's presence and at his direction, even though the arrest or search is unlawful, unless the resistance is justified under Subsection (c);

(3)  if the actor consented to the exact force used or attempted by the other;

(4)  if the actor provoked the other's use or attempted use of unlawful force, unless:

(A)  the actor abandons the encounter, or clearly communicates to the other his intent to do so reasonably believing he cannot safely abandon the encounter; and

(B)  the other nevertheless continues or attempts to use unlawful force against the actor; or

(5)  if the actor sought an explanation from or discussion with the other person concerning the actor's differences with the other person while the actor was:

(A)  carrying a weapon in violation of Section 46.02 or a firearm in violation of Section 46.03 or 46.035; or

(B)  possessing or transporting a weapon in violation of Section 46.05.

SECTION 47.  Section 30.05(f), Penal Code, is amended to read as follows:

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

(1)  the basis on which entry on the property or land or in the building was forbidden is that entry with a handgun was forbidden; and

(2)  the person was carrying:

(A)  a license issued under Subchapter H, Chapter 411, Government Code, to carry a handgun; and

(B)  a handgun:

(i)  in a concealed manner; or

(ii)  in a [~~shoulder or belt~~] holster.

SECTION 48.  Section 30.07(f), Penal Code, is amended to read as follows:

(f)  It is not a defense to prosecution under this section that the handgun was carried in a [~~shoulder or belt~~] holster.

SECTION 49.  Chapter 37, Penal Code, is amended by adding Section 37.102 to read as follows:

Sec. 37.102.  SUBMITTING FALSE INFORMATION IN CONNECTION WITH FIREARM TRANSFER. (a) A person commits an offense if the person:

(1)  is prohibited from possessing a firearm under state or federal law; and

(2)  knowingly makes a materially false statement on a form that is required by state or federal law for the purchase, sale, or other transfer of a firearm and submitted to a licensed firearms dealer under 18 U.S.C. Section 923.

(b)  An offense under this section is a felony of the third degree.

(c)  If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section or both sections.

SECTION 50.  The following provisions are repealed:

(1)  Section 11.041, Alcoholic Beverage Code;

(2)  Section 11.61(e), Alcoholic Beverage Code;

(3)  Section 61.11, Alcoholic Beverage Code;

(4)  Section 61.71(f), Alcoholic Beverage Code;

(5)  Sections 411.181(d) and (i), Government Code;

(6)  Section 411.186(d), Government Code;

(7)  Sections 411.194, 411.195, 411.1951, 411.1953, and 411.1954, Government Code;

(8)  Section 411.199(d), Government Code;

(9)  Section 411.1991(c), Government Code;

(10)  Section 411.1992(d), Government Code;

(11)  Section 411.1993(e), Government Code;

(12)  Section 411.1994(d), Government Code;

(13)  Section 411.204(d), Government Code;

(14)  Section 118.0217, Local Government Code;

(15)  Section 46.02(c), Penal Code;

(16)  Section 46.035(h-1), Penal Code, as added by Chapter 1222 (H.B. 2300), Acts of the 80th Legislature, Regular Session, 2007; and

(17)  Section 46.035(h-1), Penal Code, as added by Chapter 1214 (H.B. 1889), Acts of the 80th Legislature, Regular Session, 2007.

SECTION 51.  The changes in law made by this Act relating to the fees for an original, duplicate, modified, or renewed license to carry a handgun under Subchapter H, Chapter 411, Government Code, as amended by this Act, apply only to an applicant for an original, duplicate, modified, or renewed license to carry a handgun under that subchapter who submits the application on or after the effective date of this Act.

SECTION 52.  The change in law made by this Act relating to the carrying of a handgun applies to the carrying of a handgun on or after the effective date of this Act by any person not otherwise prohibited by state or federal law from possessing a firearm.

SECTION 53.  The changes in law made by this Act apply 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 when 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 54.  This Act takes effect September 1, 2021.