

By: Goodwin

H.B. No. 1039

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the duties of the Department of Public Safety, peace
3 officers, officers of the court, and licensed firearms dealers with
4 respect to the possession or use of a suspended, revoked, or expired
5 license to carry a handgun; creating a criminal offense.

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

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

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

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

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

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

24 (e) The department shall remove a number of a suspended or

1 revoked license from the list under this section not later than the
2 fifth working day after the license's expiration date.

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

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

7 (b) If a peace officer believes a reason listed in
8 Subsection (a) to revoke a license exists, the officer shall
9 prepare an affidavit on a form provided by the department stating
10 the reason for the revocation of the license and giving the
11 department all of the information available to the officer at the
12 time of the preparation of the form. The officer shall attach the
13 officer's reports relating to the license holder to the form and
14 send the form and attachments to the appropriate division of the
15 department at its Austin headquarters not later than the fifth
16 working day after the date the form is prepared. The officer shall
17 send a copy of the form and the attachments to the license holder.
18 If the license holder has not surrendered the license or the license
19 was not seized as evidence or otherwise in conjunction with a legal
20 proceeding, the license holder shall surrender the license to the
21 appropriate division of the department not later than the 10th day
22 after the date the license holder receives the notice of revocation
23 from the department, unless the license holder requests a hearing
24 from the department. The license holder may request that the
25 justice court in the justice court precinct in which the license
26 holder resides review the revocation as provided by Section
27 411.180. If a request is made for the justice court to review the

1 revocation and hold a hearing, the license holder shall surrender
2 the license on the date an order of revocation is entered by the
3 justice court.

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

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

14 (b) If a peace officer believes a reason listed in
15 Subsection (a) to suspend a license exists, the officer shall
16 prepare an affidavit on a form provided by the department stating
17 the reason for the suspension of the license and giving the
18 department all of the information available to the officer at the
19 time of the preparation of the form. The officer shall attach the
20 officer's reports relating to the license holder to the form and
21 send the form and the attachments to the appropriate division of the
22 department at its Austin headquarters not later than the fifth
23 working day after the date the form is prepared. The officer shall
24 send a copy of the form and the attachments to the license holder.
25 If the license holder has not surrendered the license or the license
26 was not seized as evidence or otherwise in conjunction with a legal
27 proceeding, the license holder shall surrender the license to the

1 appropriate division of the department not later than the 10th day
2 after the date the license holder receives the notice of suspension
3 from the department unless the license holder requests a hearing
4 from the department. The license holder may request that the
5 justice court in the justice court precinct in which the license
6 holder resides review the suspension as provided by Section
7 [411.180](#). If a request is made for the justice court to review the
8 suspension and hold a hearing, the license holder shall surrender
9 the license on the date an order of suspension is entered by the
10 justice court.

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

18 SECTION 4. The heading to Section [411.206](#), Government Code,
19 is amended to read as follows:

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

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

24 (a-1) A peace officer may seize a license holder's
25 suspended, revoked, or expired license. A peace officer who seizes
26 a license under this subsection shall, not later than the fifth
27 working day after the date of the seizure, return the license to the

1 department or, if the officer seizes the license as evidence of an
2 offense, notify the department that the license was seized.

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

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

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

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

19 SUBCHAPTER H-1. REQUIREMENTS FOR CERTAIN FIREARM TRANSFERS

20 Sec. 411.221. DEFINITIONS. In this subchapter:

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

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

25 Sec. 411.222. REQUIREMENTS FOR CERTAIN FIREARM TRANSFERS.

26 (a) A licensed firearms dealer may not sell or otherwise transfer a
27 firearm to a person who presents an apparently valid unexpired

1 license as evidence that the person is not prohibited by state or
2 federal law from possessing a firearm unless the dealer first
3 verifies that the license is not currently suspended or revoked.

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

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

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

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

18 (A) during the applicable transaction, the
19 person presented a license to the dealer in lieu of submitting to
20 the national instant criminal background check in accordance with
21 18 U.S.C. Section 922; and

22 (B) the license was suspended or revoked.

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

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

26 (1) sells, rents, leases, loans, or gives a handgun to
27 any person knowing that the person to whom the handgun is to be

1 delivered intends to use it unlawfully or in the commission of an
2 unlawful act;

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

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

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

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

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

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

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

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

1 from possessing a firearm.

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

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

9 SECTION 11. Section 46.06, Penal Code, as amended by this
10 Act, applies only to an offense committed on or after the effective
11 date of this Act. An offense committed before the effective date of
12 this Act is governed by the law in effect on the date the offense was
13 committed, and the former law is continued in effect for that
14 purpose. For purposes of this section, an offense was committed
15 before the effective date of this Act if any element of the offense
16 occurred before that date.

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