

By: Harris, et al.

H.B. No. 1069

Substitute the following for H.B. No. 1069:

By: Hefner

C.S.H.B. No. 1069

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 AND 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" and "volunteer emergency services personnel" have the meanings 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 or 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 or volunteer emergency services personnel and

1 licensed to carry the handgun under Subchapter H, Chapter 411,
2 Government Code, is outside the course and scope of the
3 individual's duties as a first responder or volunteer emergency
4 services personnel, as applicable.

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

7 Sec. 411.184. TRAINING COURSE FOR CERTAIN FIRST RESPONDERS.

8 (a) In this section, "first responder" has the meaning assigned by
9 Section 46.01, Penal Code.

10 (b) The director by rule shall establish minimum standards
11 for an initial training course that a first responder who is a
12 license holder and who is employed or supervised by a county or
13 municipality to which Chapter 179, Local Government Code, applies
14 may complete to receive a certification of completion from the
15 department under this section. The training course must:

16 (1) be administered by a qualified handgun instructor;

17 (2) include not more than 40 hours of instruction;

18 (3) provide classroom training in:

19 (A) self-defense;

20 (B) de-escalation techniques;

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

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

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

27 (F) consequences of improper use of a handgun;

1 (4) provide field instruction in the use of handguns,
2 including:

3 (A) instinctive or reactive shooting;

4 (B) tactical shooting;

5 (C) shooting while moving; and

6 (D) shooting in low light conditions;

7 (5) require physical demonstrations of proficiency in
8 techniques learned in training; and

9 (6) provide procedures for securing and storing a
10 handgun if the first responder, while on duty, is required to enter
11 a location where carrying the handgun is prohibited by federal law
12 or otherwise.

13 (c) The department by rule shall establish minimum
14 standards for an annual continuing education course that is
15 administered by a qualified handgun instructor and includes not
16 more than 10 hours of instruction for a person who has completed the
17 initial training course described by Subsection (b).

18 (d) The department shall issue a certificate of completion
19 to a first responder who is a license holder and who completes the
20 initial training course under Subsection (b) or the continuing
21 education course under Subsection (c), as applicable. A
22 certificate of completion expires on the first anniversary of
23 issuance.

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

26 (f) The director by rule shall approve devices to enable a
27 first responder to secure and store a handgun if the first

1 responder, while on duty, is required to enter a location where
2 carrying the handgun is prohibited by federal law or otherwise.

3 SECTION 4. Subtitle C, Title 5, Local Government Code, is
4 amended by adding Chapter 179 to read as follows:

5 CHAPTER 179. AUTHORITY OF CERTAIN FIRST RESPONDERS TO CARRY HANDGUN

6 SUBCHAPTER A. GENERAL PROVISIONS

7 Sec. 179.001. DEFINITIONS. In this chapter:

8 (1) "Department" means the Department of Public Safety
9 of the State of Texas.

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

12 (3) "Handgun" has the meaning assigned by Section
13 46.01, Penal Code.

14 Sec. 179.002. APPLICABILITY OF CHAPTER. This chapter
15 applies only to:

16 (1) a municipality with a population of 30,000 or less
17 that has not adopted Chapter 174; and

18 (2) a county with a population of 250,000 or less that
19 has not adopted Chapter 174.

20 Sec. 179.003. CONSTRUCTION OF CHAPTER. (a) This chapter
21 does not create a cause of action or liability.

22 (b) This chapter may not be construed to waive, under
23 Chapter 101, Civil Practice and Remedies Code, or any other law, a
24 municipality's or county's governmental immunity from suit or to
25 liability.

26 SUBCHAPTER B. AUTHORITY AND REQUIREMENTS TO CARRY HANDGUN

27 Sec. 179.051. AUTHORITY OF MUNICIPALITY OR COUNTY TO

1 PROHIBIT OR REGULATE CARRYING HANDGUN. (a) A municipality or
2 county to which this chapter applies and that employs or supervises
3 first responders may not adopt or enforce an ordinance, order, or
4 other measure that generally prohibits a first responder who holds
5 a license to carry a handgun under Subchapter H, Chapter 411,
6 Government Code, an unexpired certificate of completion from the
7 department under Section 411.184(d), Government Code, and the
8 required liability policy under Section 179.053 from:

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

11 (2) storing a handgun on the premises of or in a
12 vehicle owned or leased by the municipality or county if the handgun
13 is secured with a device approved by the department under Section
14 411.184(f), Government Code.

15 (b) This section does not prohibit a municipality or county
16 from adopting an ordinance, order, or other measure that:

17 (1) prohibits a first responder from carrying a
18 handgun while on duty based on the conduct of the first responder;
19 or

20 (2) limits the carrying of a handgun only to the extent
21 necessary to ensure that carrying the handgun does not interfere
22 with the first responder's duties.

23 Sec. 179.052. AUTHORITY OF EMPLOYERS AND SUPERVISORS. (a)
24 A municipal or county department or private entity that employs or
25 supervises first responders providing services for a municipality
26 or county to which this chapter applies may adopt a policy
27 authorizing a first responder who is employed or supervised by the

1 municipal or county department or private entity and who holds a
2 license to carry a handgun under Subchapter H, Chapter 411,
3 Government Code, an unexpired certificate of completion from the
4 department under Section 411.184(d), Government Code, and the
5 required liability policy under Section 179.053 to:

6 (1) carry a concealed or holstered handgun while on
7 duty; or

8 (2) store a handgun on the premises of or in a vehicle
9 owned or leased by the applicable municipality or county, or by the
10 private entity if the handgun is secured with a device approved by
11 the department under Section 411.184(f), Government Code.

12 (b) A first responder employed or supervised by a municipal
13 or county department or private entity may not engage in conduct
14 described by Subsection (a)(1) or (2) unless the municipal or
15 county department or private entity has adopted a policy under
16 Subsection (a) that authorizes that conduct.

17 Sec. 179.053. LIABILITY INSURANCE REQUIRED. A first
18 responder shall maintain liability insurance coverage in an amount
19 of at least \$1 million if:

20 (1) the first responder carries a handgun while on
21 duty; and

22 (2) the handgun is not an essential part of the first
23 responder's duties.

24 Sec. 179.054. STORAGE OF HANDGUN. (a) A first responder
25 who enters a location where carrying a handgun is prohibited by
26 federal law or otherwise shall use a device approved by the
27 department under Section 411.184(f), Government Code, to secure and

1 store the handgun.

2 (b) A first responder is responsible for procuring the
3 device approved by the department under Section 411.184(f),
4 Government Code, or for reimbursing the first responder's employer
5 or supervisor for the use of a device provided by the employer or
6 supervisor.

7 Sec. 179.055. DISCHARGE OF HANDGUN. A first responder may
8 discharge a handgun while on duty only in self-defense.

9 Sec. 179.056. LIMITED LIABILITY. (a) A municipality or
10 county that employs or supervises first responders is not liable in
11 a civil action arising from the discharge of a handgun by a first
12 responder who is licensed to carry the handgun under Subchapter H,
13 Chapter 411, Government Code.

14 (b) The discharge of a handgun by a first responder who is
15 licensed to carry a handgun under Subchapter H, Chapter 411,
16 Government Code, is outside the course and scope of the first
17 responder's duties.

18 Sec. 179.057. COMPLAINTS. A member of the public may submit
19 a complaint to the municipality or county employing or supervising
20 the first responder using the municipality's or county's existing
21 complaint procedure. One or more complaints received with respect
22 to a specific first responder are grounds for prohibiting or
23 limiting that first responder's carrying a handgun while on duty.

24 SECTION 5. Section 30.06, Penal Code, is amended by adding
25 Subsection (f-1) to read as follows:

26 (f-1) It is a defense to prosecution under this section that
27 the license holder is a first responder, as defined by Section

1 46.01, who:

2 (1) holds an unexpired certificate of completion under
3 Section 411.184, Government Code, at the time of engaging in the
4 applicable conduct;

5 (2) was engaged in the actual discharge of the first
6 responder's duties while carrying the handgun; and

7 (3) was employed or supervised by a municipality or
8 county to which Chapter 179, Local Government Code, applies.

9 SECTION 6. Section 30.07, Penal Code, is amended by adding
10 Subsection (g-1) to read as follows:

11 (g-1) It is a defense to prosecution under this section that
12 the license holder is a first responder, as defined by Section
13 46.01, who:

14 (1) holds an unexpired certificate of completion under
15 Section 411.184, Government Code, at the time of engaging in the
16 applicable conduct;

17 (2) was engaged in the actual discharge of the first
18 responder's duties while carrying the handgun; and

19 (3) was employed or supervised by a municipality or
20 county to which Chapter 179, Local Government Code, applies.

21 SECTION 7. Section 46.01, Penal Code, is amended by adding
22 Subdivision (20) to read as follows:

23 (20) "First responder" means a public safety employee
24 whose duties include responding rapidly to an emergency. The term
25 includes fire protection personnel and emergency medical services
26 personnel as defined by Section 773.003, Health and Safety Code.

27 The term does not include:

1 (A) volunteer emergency services personnel;

2 (B) an emergency medical services volunteer, as
3 defined by Section 773.003, Health and Safety Code; or

4 (C) a peace officer or reserve law enforcement
5 officer, as those terms are defined by Section 1701.001,
6 Occupations Code, who is performing law enforcement duties.

7 SECTION 8. Section 46.15, Penal Code, is amended by adding
8 Subsection (m) to read as follows:

9 (m) Sections 46.02, 46.03, and 46.035(b) and (c) do not
10 apply to a first responder who:

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

13 (2) holds an unexpired certificate of completion under
14 Section 411.184, Government Code, at the time of engaging in the
15 applicable conduct;

16 (3) was engaged in the actual discharge of the first
17 responder's duties while carrying the handgun; and

18 (4) was employed or supervised by a municipality or
19 county to which Chapter 179, Local Government Code, applies.

20 SECTION 9. The public safety director of the Department of
21 Public Safety shall adopt the rules necessary to implement Section
22 411.184, Government Code, as added by this Act, not later than
23 December 1, 2021.

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

27 SECTION 11. Section 112.001, Civil Practice and Remedies

1 Code, as amended by this Act, applies only to a cause of action that
2 accrues on or after September 1, 2021. A cause of action that
3 accrues before September 1, 2021, is governed by the law in effect
4 immediately before that date, and the former law is continued in
5 effect for that purpose.

6 SECTION 12. The changes in law made by this Act in amending
7 Sections 30.06, 30.07, and 46.15, Penal Code, apply only to an
8 offense committed on or after the effective date of this Act. An
9 offense committed before the effective date of this Act is governed
10 by the law in effect on the date the offense was committed, and the
11 former law is continued in effect for that purpose. For purposes of
12 this section, an offense was committed before the effective date of
13 this Act if any element of the offense occurred before that date.

14 SECTION 13. This Act takes effect September 1, 2021.