

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,

1 Government Code, is outside the course and scope of the
2 individual's duties as a first responder [~~volunteer emergency~~
3 ~~services personnel~~].

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

6 Sec. 411.184. ON-DUTY FIRST RESPONDER TRAINING COURSE.

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

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

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

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

15 (3) provide classroom training in:

16 (A) self-defense;

17 (B) de-escalation techniques;

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

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

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

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

25 (4) provide field instruction in the use of handguns,
26 including:

27 (A) instinctive or reactive shooting;

1 (B) tactical shooting;

2 (C) shooting while moving; and

3 (D) shooting in low light conditions;

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

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

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

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

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

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

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

27 (2) storing a handgun on the premises of or in a

1 vehicle owned or operated by the governmental entity if the handgun
2 is secured with a device approved by the department under
3 Subsection (d).

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

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

8 (i) A governmental entity that employs or otherwise
9 supervises first responders is not liable in a civil action arising
10 from the discharge of a handgun by a first responder who is licensed
11 to carry a handgun under this subchapter.

12 (j) The discharge of a handgun by a first responder who is
13 licensed to carry a handgun under this subchapter is outside the
14 course and scope of the first responder's duties.

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

19 SECTION 4. Section 30.06(f), Penal Code, is amended to read
20 as follows:

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

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

27 (2) was engaged in the actual discharge of the first

1 responder's duties while carrying the handgun.

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

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

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

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

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

14 (18) "First responder" means a public safety employee
15 or volunteer whose duties include responding rapidly to an
16 emergency. The term includes fire protection personnel, including
17 ["Volunteer emergency services personnel" includes a] volunteer
18 firefighters, and emergency medical services personnel, including
19 [firefighter, an] emergency medical services volunteers
20 [volunteer] as defined by Section 773.003, Health and Safety Code[
21 and any individual who, as a volunteer, provides services for the
22 benefit of the general public during emergency situations]. The
23 term does not include a peace officer or reserve law enforcement
24 officer, as those terms are defined by Section 1701.001,
25 Occupations Code, who is performing law enforcement duties.

26 SECTION 7. Section 46.035(m), Penal Code, is amended to
27 read as follows:

1 (m) It is a defense to prosecution under Subsections (b) and
2 (c) that the license holder [~~actor~~] is a first responder who:

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

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

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

11 SECTION 8. Section 46.15(a), Penal Code, is amended to read
12 as follows:

13 (a) Sections 46.02 and 46.03 do not apply to:

14 (1) peace officers or special investigators under
15 Article 2.122, Code of Criminal Procedure, and neither section
16 prohibits a peace officer or special investigator from carrying a
17 weapon in this state, including in an establishment in this state
18 serving the public, regardless of whether the peace officer or
19 special investigator is engaged in the actual discharge of the
20 officer's or investigator's duties while carrying the weapon;

21 (2) parole officers, and neither section prohibits an
22 officer from carrying a weapon in this state if the officer is:

23 (A) engaged in the actual discharge of the
24 officer's duties while carrying the weapon; and

25 (B) in compliance with policies and procedures
26 adopted by the Texas Department of Criminal Justice regarding the
27 possession of a weapon by an officer while on duty;

1 (3) community supervision and corrections department
2 officers appointed or employed under Section 76.004, Government
3 Code, and neither section prohibits an officer from carrying a
4 weapon in this state if the officer is:

5 (A) engaged in the actual discharge of the
6 officer's duties while carrying the weapon; and

7 (B) authorized to carry a weapon under Section
8 76.0051, Government Code;

9 (4) an active judicial officer as defined by Section
10 411.201, Government Code, who is licensed to carry a handgun under
11 Subchapter H, Chapter 411, Government Code;

12 (5) an honorably retired peace officer or other
13 qualified retired law enforcement officer, as defined by 18 U.S.C.
14 Section 926C, who holds a certificate of proficiency issued under
15 Section 1701.357, Occupations Code, and is carrying a photo
16 identification that is issued by a federal, state, or local law
17 enforcement agency, as applicable, and that verifies that the
18 officer is an honorably retired peace officer or other qualified
19 retired law enforcement officer;

20 (6) the attorney general or a United States attorney,
21 district attorney, criminal district attorney, county attorney, or
22 municipal attorney who is licensed to carry a handgun under
23 Subchapter H, Chapter 411, Government Code;

24 (7) an assistant United States attorney, assistant
25 attorney general, assistant district attorney, assistant criminal
26 district attorney, or assistant county attorney who is licensed to
27 carry a handgun under Subchapter H, Chapter 411, Government Code;

1 (8) a bailiff designated by an active judicial officer
2 as defined by Section 411.201, Government Code, who is:

3 (A) licensed to carry a handgun under Subchapter
4 H, Chapter 411, Government Code; and

5 (B) engaged in escorting the judicial officer;

6 (9) a juvenile probation officer who is authorized to
7 carry a firearm under Section 142.006, Human Resources Code; or

8 (10) a first responder who [~~person who is volunteer~~
9 ~~emergency services personnel if the person is~~]:

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

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

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

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

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, 46.035, and 46.15, Penal Code, apply only to
8 an offense committed on or after September 1, 2022. An offense
9 committed before September 1, 2022, is governed by the law in effect
10 immediately before that date, and the former law is continued in
11 effect for that purpose. For purposes of this section, an offense
12 was committed before September 1, 2022, if any element of the
13 offense occurred before that date.

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

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