

SUBJECT: Limiting disclosure of concealed handgun licensees

COMMITTEE: Law Enforcement — favorable, without amendment

VOTE: 7 ayes — Driver, Latham, Allen, Frost, Ortiz, Vo, West
0 nays

WITNESSES: For — Tara Mica, National Rifle Association; Alice Tripp, Texas State Rifle Association

Against — Doug Toney, Texas Daily Newspaper Association;
(*Registered, but did not testify*: Bruce Whitaker, Texas Association of Broadcasters)

On — (*Registered, but did not testify*: Jan Coffey, Texas Department of Public Safety)

BACKGROUND: Government Code, sec. 411.192 requires that the Department of Public Safety (DPS) disclose to other criminal justice agencies whether an individual holds a concealed handgun license. In addition, any individual may file a written request with DPS to find out if a particular person has a concealed handgun license. If the person in question is licensed, DPS will release the licensee's name, date of birth, gender, race, and zip code to the person making the inquiry.

In addition, Government Code section 411.192 requires that the license holder be notified of the name of the person or agency making the request for the information.

DPS reports that 258,162 Texans hold concealed handgun licenses as of December 31, 2006.

DIGEST: HB 991 would amend Government Code, sec. 411.192 to delete the requirement that DPS furnish information on concealed handgun licensees to anyone besides a criminal justice agency or the applicant or license holder.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007.

SUPPORTERS
SAY:

HB 991 would help safeguard the privacy of concealed handgun license holders who have legitimate concerns about their personal safety. Personal protection is of paramount concern for these licensees, especially the more than 42,000 female license holders in the state. The Legislature created strict requirements allowing licensees to keep their weapons concealed, and allowing anyone to force disclosure is contrary to that purpose.

Additional protections are needed to prevent endangering law-abiding concealed handgun license holders by wholesale public release of this information. In March, as part of a misguided "Sunshine Week," *The Roanoke Times* published a list of 135,000 registered concealed-handgun permit holders in Virginia that contained inaccurate information. In a more limited fashion, Texas newspapers also have released information on concealed weapons holders, including members of the Legislature. The state should err on the side of safety in protecting the identity of those who have concealed handgun licenses.

Making concealed handgun license information open to the public can put licensees at risk. For example, a stalker could determine whether a woman holds a concealed handgun license or a burglar could determine whether firearms might be kept at a certain address. Knowing the license holder's name, date of birth, gender, race, and zip code is sufficient to locate a specific person's address, especially with the search capabilities available on the Internet. The personal safety and privacy of individual concealed handgun licensees outweigh abstract concerns about open government.

HB 991 would not prevent the public from finding out about a concealed handgun licensee who committed a weapons crime. Records concerning concealed weapons licenses already are tied to other criminal justice databases. Licensees accused of a crime have their licenses suspended, and the privilege is revoked upon conviction. The names of those with suspended or revoked licenses currently are open records under other statutes.

Current law allows the release of statistical data on concealed handgun licensees, and HB 991 would not change the availability of that

information. The media and academic researchers can reach conclusions about licensees and their behaviors without knowing names of individuals. Inquiring whether specific individuals — such as elected officials or celebrities — are exercising their constitutional right to protect themselves is intrusive and unnecessary for public safety. The bill would establish a fair balance between the public's need for information and the safety and privacy concerns of licensees.

OPPONENTS
SAY:

The government should not collect records that no one has the right to see — this is the antithesis of open government. Names of those who hold barber's licenses or driver's licenses are public record, and those licensed to carry deadly weapons should be subject to the same degree of scrutiny by the media and other citizens. If a person commits a crime involving a handgun, the public has a right to know if the state licensed that person to carry a gun. This free flow of information helps keep the government responsible and responsive to the people.

Burglars and stalkers are unlikely to make a public record search to target their victims. Most criminals commit their crimes impulsively, and even someone planning a crime probably would be unwilling to request information about a potential victim when the criminal's name would be recorded and reported to that potential victim. Current law already requires that license holders be informed of anyone requesting information about their licenses, and this provides sufficient protection for concealed handgun licensees. There is no evidence that criminals regularly are utilizing this law to seek out victims. DPS reports that it received 185 requests for concealed handgun license records in 2005 and 132 requests in 2006.

There is no reason to believe that public knowledge about a person holding a concealed handgun permit makes that licensee less safe. In fact, one could argue that a person who is known to carry a concealed weapon permit would be less likely to become a target for crime.

State law already prohibits the widespread release of information about concealed handgun license holders, and no Texas newspaper would be able to make the same kind of open records request that the newspaper in Virginia did. Safeguarding the accuracy of concealed weapon permit lists — like any government mandated record — is the responsibility of the state agency, not the newspaper.

There are many legitimate reasons a private person might need to find out whether a particular person is licensed to carry a concealed handgun. The most pressing cases involve the need of victims of domestic violence to find out if their attackers are licensed. It also would be very important for a woman who was being stalked to know whether her stalker held a concealed handgun license. In both of these situations, knowledge about another's licensee status would help potential victims protect their safety.

The government must operate openly in order for citizens to make informed decisions about public policy. By withholding information that Texans have a right to know, this bill would curtail the liberty of all citizens and would favor the rights of a few over the rights of the general public.

NOTES:

The companion bill, SB 122 by Deuell, has been referred to the Senate State Affairs Committee.

During the 2005 regular session, the House passed HB 318 by Hupp et. al, a similar bill, which died in the Senate Criminal Justice Committee. In 2003, another similar bill, HB 220 by Hupp, passed the House, but also died in the Senate Criminal Justice Committee.