

BILL ANALYSIS

Senate Research Center

S.B. 204
By: Patterson
Criminal Justice
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As Filed

DIGEST

Currently, Texas law allows certain citizens to be licensed to carry a concealed weapon. However, questions exist about the implementation of the law, where and how licensees may carry, and the rights of property owners to regulate handguns. This bill will provide new regulations regarding persons eligible for a license to carry a concealed weapon, the rights and duties of license holders, and offenses involving weapons.

PURPOSE

As proposed, S.B. 204 provides new regulations regarding persons eligible for a license to carry a concealed handgun, the rights and duties of license holders, and offenses involving weapons.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1(4), Article 4413(29ee), V.T.C.S., to redefine "convicted."

SECTION 2. Amends Section 2(a), Article 4413(29ee), V.T.C.S., to provide that a person is eligible for a license to carry a concealed handgun if the person has not, in the 15 years preceding the date of application, been convicted of a felony; has not been twice convicted of a felony; or has not been convicted of certain offenses. Makes conforming and nonsubstantive changes.

SECTION 3. Amends Sections 6(g)-(i), Article 4413(29ee), V.T.C.S., to delete the requirement that a person who holds a license to carry a concealed handgun (license holder), on demand by a magistrate or a peace officer, display both the license and the license holder's driver's license or identification certificate issued by the department. Provides that a license holder who fails or refuses to display the license and identification as required by this subsection is subject to suspension of the person's license as provided by Section 13 of this article. Provides that a person commits a Class B misdemeanor if the person fails or refuses to display the license and identification as required by Subsection (g) of this section after previously having had the person's license suspended for a violation of that subsection.

SECTION 4. Amends Section 12(a), Article 4413(29ee), V.T.C.S., to authorize revocation of a license under this section if the license holder is determined by the Department of Public Safety (DPS) to have engaged in conduct constituting a reason to suspend a license listed in Section 13(a) of this article after the person's license has been previously suspended twice for the same reason.

SECTION 5. Amends Section 13(c), Article 4413 (29ee), V.T.C.S., to authorize suspension of a license for certain time periods under various conditions.

SECTION 6. Amends Section 16(a), Article 4413(29ee), V.T.C.S., to prohibit certification of an applicant unless the applicant demonstrates the degree of proficiency that is required to effectively operate a .25-caliber for a category semiautomatic or .30-caliber for a category non-semiautomatic handgun.

SECTION 7. Amends Section 17(c), Article 4413(29ee), V.T.C.S., to provide procedures for disapproval of the application for a license, renewal, or modification of a license.

SECTION 8. Amends Section 31, Article 4413(29ee), V.T.C.S., to delete the requirement that certain hospitals and nursing homes prominently display signs giving notice that it is unlawful to carry handguns on the premises. Requires signs to be posted at certain locations that give notice that it is unlawful for a person licensed under this article to carry a handgun on the premises. Sets forth requirements for the sign.

SECTION 9. Amends Section 32, Article 4413(29ee), V.T.C.S., as follows:

Sec. 32. New heading: RIGHTS OF GOVERNMENTAL ENTITIES AND EMPLOYERS. Prohibits the governing body of a political subdivision or agency of the state from prohibiting a person who holds a license under this article, other than an employee of the subdivision or agency, from carrying a concealed handgun on the subdivision's or agency's premises. Defines "premises." Makes conforming changes.

SECTION 10. Amends Section 35, Article 4413(29ee), V.T.C.S., to authorize DPS to issue a license to a person who has a valid license to carry a concealed handgun issued by another state without requiring that the person meet eligibility requirements or pay fees only if the DPS determines that the other state recognizes a license issued under this article when the license holder is in that state. Authorizes DPS, on application by a person who is a legal resident of a state that does not provide for the issuance of a license to carry a concealed handgun to eligible applicants, to issue a license under this article provided that the person meets the eligibility requirements, other than the residency requirement, and pays the fees imposed under this article for a legal resident of this state.

SECTION 11. Amends Section 11.61(e), Alcoholic Beverage Code, to provide that the subsection requiring the Texas Alcoholic Beverage Commission (TABC) or the administrator appointed by TABC to cancel the permit of a person who knowingly allowed a person to possess a firearm in a building on the licensed premises does not apply to a person who possesses a concealed handgun of the same category the person is licensed to carry under Article 4413(29ee), V.T.C.S., unless the person is on the premises of a business described by Section 46.035(b)(1), Penal Code.

SECTION 12. Amends Section 61.71(f), Alcoholic Beverage Code, to make a conforming change.

SECTION 13. Amends Chapter 30, Penal Code, by adding Section 30.06, as follows:

Sec. 30.06. TRESPASS BY HOLDER OF LICENSE TO CARRY CONCEALED HANDGUN. Provides that a license holder commits a Class B misdemeanor if the license holder carries a handgun under the authority of Article 4412(29ee), V.T.C.S., on property of another without effective consent; and received notice that a handgun was forbidden. Provides that for purposes of this section a person receives notice if certain criteria are met. Defines "entry" and "license holder."

SECTION 14. Amends Section 46.03, Penal Code, by adding Subsection (i), to provide that it is a defense to prosecution under Subsection (a)(1), (2), or (4), that at the time of the commission of the offense certain criteria were met.

SECTION 15. Amends Section 46.035, Penal Code, by amending Subsection (b) and adding Subsection (i), to provide that a license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun under the authority of Article 4413(29ee), V.T.C.S., on the premises of a business that has a permit licensed under Chapter 74, Alcoholic Beverage Code, if the business derives 51 percent or more of its income from the sale of alcoholic beverages for on-premises consumption, on the premises of the emergency room of certain hospitals, or trauma facility, as defined by Section 773.003, Health and Safety Code, unless the license holder has written authorization of the hospital or trauma facility. Deletes provisions that make it an offense to carry a handgun under the authority of Article 4413(29ee), V.T.C.S., in an amusement park or on the premises of a church, synagogue, or other established place of worship. Provides that it is a defense

to prosecution under Subsection (b)(1) that at the time of the commission of the offense, the business was not in compliance with the notice requirements of Section 31, Article 4413(29ee), V.T.C.S.

SECTION 16. Amends Section 46.04, Penal Code, by adding Subsections (c) and (d), to define "convicted." Provides that it is an affirmative defense to prosecution under Subsection (a)(2) that at the time of the commission of the offense, the person possessed a concealed handgun only and also possessed a license issued under Article 4413(29ee), V.T.C.S., to carry a concealed handgun of the same category as the person possessed.

SECTION 17. (a) Makes application of Sections 3 and 14-16 of this Act prospective.

(b) Makes application of this Act prospective.

SECTION 18. Effective date: September 1, 1997.

SECTION 19. Provides that not later than September 1, 1998, a person who is eligible for a license to carry a concealed handgun under Article 4413(29ee), V.T.C.S., as amended by Section 1 or Section 2 of this Act, other than the amendment to Section 2(a)(1), Article 4413(29ee), V.T.C.S., and who applied for but was denied a license under that article as it existed before amendment by this Act may reapply for issuance of a license by submitting certain items to DPS. Requires DPS, not later than December 1, 1997, to mail each person denied a license as described by this section at the person's last known address a notice of the person's right to reapply at a reduced fee as provided by this section.

SECTION 20. Emergency clause.