

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1684
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State Affairs
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Chapter 411 of Government Code outlines the process and eligibility requirements for obtaining a concealed handgun license. The license allows certain individuals to possess a concealed handgun in most public locations, with a few exceptions for places like schools, bars, sporting events, churches, amusement parks, and hospitals. Certain kinds of individuals, including district attorneys and judges, are allowed to carry in those conditions. First responders are currently restricted from carrying on duty, even though such individuals can come under attack in the course of their work.

C.S.S.B. 1684 allows first responders, defined as fire protection personnel, including volunteer firefighters, and emergency medical services personnel, including emergency medical services volunteers, to receive a designation on their CHL identifying them as a first responder. The committee substitute removes commissioned law enforcement officers from the eligibility pool based on concerns expressed by judges who want to keep control of their courtroom's firearm policy. To obtain a first responder CHL, an individual must fill out an application, pay a fee, and complete a training course of not less than 40 hours of tactical training and de-escalation techniques. Under C.S.S.B. 1684, a municipality could not forbid a first responder with the appropriate designation from carrying on duty. The committee substitute to S.B. 1684 provides enhanced and more explicit liability protections to municipalities.

Allowing first responders to obtain a designation on their CHL only with an additional 40 hours of intensive training will ensure that those individuals are well-equipped to de-escalate a situation and defend themselves only in a true emergency.

Taxpayers and local governments are exempted from the potential liability costs this may create.

C.S.S.B. 1684 amends current law relating to authorizing certain first responders to carry a concealed handgun while on duty and to the prosecution of certain related criminal offenses and provides for a fee.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Department of Public Safety of the State of Texas is modified in SECTION 1 (Section 411.179, Government Code) of this bill.

Rulemaking authority is expressly granted to the director of public safety of the Department of Public Safety of the State of Texas in SECTION 2 (Section 411.184, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Reenacts Section 411.179(a), Government Code, as amended by Chapters 396 (S.B. 164) and 1302 (H.B. 3142), Acts of the 83rd Legislature, Regular Session, 2013, and amends it, as follows:

- (a) Adds a designation for an on-duty first responder to carry a concealed handgun, if the license holder received that designation under Section 411.184 to the required license

form adopted by rule by the Department of Public Safety of the State of Texas (DPS).
Makes nonsubstantive changes.

SECTION 2. Amends Subchapter H, Chapter 411, Government Code, by adding Section 411.184, as follows:

Sec. 411.184. ON-DUTY FIRST RESPONDER DESIGNATION. (a) Defines "first responder" for purposes of this section.

(b) Provides that a first responder is eligible for an on-duty first responder designation on the first responder's license to carry a concealed handgun under this subchapter if the first responder submits to DPS:

(1) on a form provided by DPS, a completed application for the designation;

(2) evidence that the license holder is a first responder and has successfully completed a course described by Subsection (d); and

(3) the fee set by the director of public safety of DPS (director) under Subsection (c).

(c) Requires the director by rule to:

(1) adopt an application form to be used to apply for a designation under this section; and

(2) set a fee in an amount sufficient to cover the cost of issuing licenses bearing a designation under this section.

(d) Requires the director by rule to establish minimum standards for a training course for license holders seeking an on-duty first responder designation, to be taken at the license holders' expense. Requires that the training course:

(1) be administered by a qualified handgun instructor;

(2) include not less than 40 hours of instruction;

(3) provide classroom training in de-escalation techniques, tactical thinking relating to cover for and concealment of the license holder and the handgun, and consequences of improper use of a handgun;

(4) provide field instruction in the use of handguns, including instinctive or reactive shooting, tactical shooting, shooting while moving, and shooting in low light conditions; and

(5) require physical demonstrations of proficiency in techniques learned in training.

(e) Authorizes DPS to grant a designation under this section to a license holder who meets all the eligibility requirements and submits the required application materials and fee under Subsection (b). Requires DPS, not later than the 60th day after the date of receipt of the application materials and fee, to issue the license with the designation or notify the license holder in writing that the application for the designation was denied.

(f) Requires the license holder, on receipt of a license with a designation under this section, to return to DPS any license that was previously issued to the license holder.

(g) Authorizes a license holder whose fee to apply for a designation under this section is dishonored or reversed to reapply for the designation at any time, provided the fee and an additional charge of \$25 is paid by cashier's check or money order made payable to the "Texas Department of Public Safety."

(h) Requires a license holder who becomes ineligible for the designation under this section because the license holder is no longer employed or volunteering as a first responder promptly to notify DPS. Requires DPS, not later than the 30th day after the date of receipt of the notice, to issue a license without the designation to the license holder. Provides that a license holder who is no longer eligible for a designation under this section:

(1) is not entitled to carry a concealed handgun in a location in which the license holder was allowed to carry the handgun only by virtue of the designation; and

(2) on receipt of the license without the designation, promptly shall return the license with the designation to DPS.

(i) Provides that a designation under this section does not limit the right of a first responder to carry a handgun or other weapon under other law.

(j) Requires the director by rule to approve devices to enable a first responder to secure a handgun if the first responder, while on duty, is required to enter a location where carrying the handgun is prohibited by federal law or otherwise.

(k) Prohibits a governmental entity that employs or otherwise supervises first responders from adopting a rule or regulation that prohibits a first responder who holds a license bearing a designation under this section from:

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

(2) storing a handgun on the premises of or in a vehicle owned or operated by the governmental entity if the handgun is secured with a device approved by DPS under Subsection (j).

(l) Provides that this section does not create a cause of action or liability.

(m) Provides that a governmental entity that employs or otherwise supervises first responders is not liable in a civil action arising from the discharge of a handgun by a first responder who is licensed to carry a concealed handgun under this subchapter.

(n) Provides that the discharge of a handgun by a first responder who is licensed to carry a concealed handgun under this subchapter is outside the course and scope of the first responder's duties.

(o) Provides that this section may not be construed to waive the immunity from suit or liability of a governmental entity that employs or otherwise supervises first responders under Chapter 101 (Tort Claims), Civil Practice and Remedies Code, or any other law.

SECTION 3. Amends Section 46.035(h-1), Penal Code, as added by Chapter 1222 (H.B. 2300), Acts of the 80th Legislature, Regular Session, 2007, as follows:

(h-1) Provides that it is a defense to prosecution under Subsections (b)(1), (2), (4), (5), and (6) (providing that a license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun on certain premises as enumerated) and (c) (provides that a license holder commits an offense if the license

holder intentionally, knowingly, or recklessly carries a handgun at any meeting of a government entity) that at the time of the commission of the offense, the actor was:

(1) Makes no change to this subdivision;

(2) and (3) Makes nonsubstantive changes; or

(4) a first responder who:

(A) is carrying a concealed handgun and holds a license to carry a concealed handgun under Subchapter H (License to Carry a Concealed Handgun), Chapter 411, Government Code, that bears an on-duty first responder designation under Section 411.184 of that code; and

(B) is engaged in the actual discharge of the first responder's duties while carrying the concealed handgun.

SECTION 4. Amends Section 46.15(a), Penal Code, as follows:

(a) Provides that Sections 46.02 (Unlawful Carrying Weapons) and 46.03 (Places Weapons Prohibited) do not apply to:

(1)-(7) Makes no change to these subdivisions;

(8) and (9) Makes nonsubstantive changes; or

(10) a first responder who:

(A) is carrying a concealed handgun and holds a license to carry a concealed handgun under Subchapter H, Chapter 411, Government Code, that bears an on-duty first responder designation under Section 411.184 of that code; and

(B) is engaged in the actual discharge of the first responder's duties while carrying the concealed handgun.

SECTION 5. Requires the director to adopt the rules necessary to implement Section 411.184, Government Code, as added by this Act, not later than December 1, 2015.

SECTION 6. (a) Prohibits a qualified handgun instructor from offering the training course described by Section 411.184(d), Government Code, as added by this Act, before January 1, 2016.

(b) Prohibits DPS from accepting an application for or grant a designation under Section 411.184, Government Code, as added by this Act, before January 1, 2016.

SECTION 7. Provides that the change in law made by this Act in amending Sections 46.035 and 46.15, Penal Code, applies only to an offense committed on or after January 1, 2016. Provides that an offense committed before January 1, 2016, is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. Provides that, for purposes of this section, an offense was committed before January 1, 2016, if any element of the offense occurred before that date.

SECTION 8. Provides that this Act, to the extent of any conflict, prevails over another Act of the 84th Legislature, Regular Session, 2015, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 9. Effective date: September 1, 2015.