

BILL ANALYSIS

Senate Research Center
81R34831 BEF/JSC/SLB-D

C.S.H.B. 2730
By: Kolkhorst et al. (Hinojosa)
Government Organization
5/23/2009
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Department of Public Safety of the State of Texas (DPS) and the Private Security Board (board) are subject to the Sunset Act and will be abolished on September 1, 2009, unless continued by the legislature. The Sunset Advisory Commission review found that Texas continues to need DPS and the board.

C.S.H.B. 2730 relates to the continuation and functions of DPS and the board and provides penalties.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the governor's division of emergency management is transferred to the Texas Division of Emergency Management in SECTION 2B.05 (Section 418.073, Government Code) of this bill.

Rulemaking authority previously granted to the Texas Commission on Private Security (TCPS) is transferred to the Texas Private Security Board (board) in SECTION 4.10 (Section 1702.030, Occupations Code), SECTION 4.17 (Section 1702.061, Occupations Code), SECTION 4.19 (Section 1702.062, Occupations Code), SECTION 4.23 (Section 1702.0645, Occupations Code), SECTION 4.31 (Section 1702.103, Occupations Code), SECTION 4.36 (Section 1702.116, Occupations Code), SECTION 4.42 (Section 1702.122, Occupations Code), SECTION 4.51 (Section 1702.1675, Occupations Code), SECTION 4.52 (Section 1702.168, Occupations Code), SECTION 4.54 (Section 1702.171, Occupations Code), SECTION 4.58 (Section 1702.204, Occupations Code), SECTION 4.69 (Section 1702.235, Occupations Code), SECTION 4.70 (Section 1702.236, Occupations Code), SECTION 4.71 (Section 1702.239, Occupations Code), SECTION 4.80 (Section 1702.304, Occupations Code), and SECTION 4.83 (Section 1702.309, Occupations Code) of this bill.

Rulemaking authority is expressly granted to the board in SECTION 4.02 (Section 1702.004, Occupations Code), SECTION 4.31 (Section 1702.103, Occupations Code), SECTION 4.60 (Section 1702.221, Occupations Code), SECTION 4.73 (Section 1702.241, Occupations Code), SECTION 4.98 (Section 1702.402, Occupations Code), and SECTION 4B.06 (Section 1702.110, Occupations Code) of this bill.

Rulemaking authority previously granted to TCPS is rescinded in SECTION 4.28 (Section 1702.082, Occupations Code) of this bill.

Rulemaking authority previously granted to the public safety director is rescinded in SECTION 5.07 (Section 411.1095, Government Code) of this bill.

Rulemaking authority is expressly granted to the Department of Public Safety (DPS) in SECTION 13.02 (Section 521.060, Transportation Code), SECTION 13.04 (Section 521.1426, Transportation Code), SECTION 13.05 (Section 522.0225, Transportation Code), and SECTION 15.05 (Section 708.056, Transportation Code) of this bill.

Rulemaking authority previously granted to DPS is modified in SECTION 12.07 (Section 521.205, Transportation Code) and SECTION 20.01 of this bill.

Rulemaking authority previously granted to the public safety director is modified in SECTION 11.10 (Section 411.188, Government Code) of this bill.

Rulemaking authority previously granted to the commissioner of education is modified in SECTION 12.03 (Section 1001.101, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1.01. Amends Subchapter A, Chapter 548, Transportation Code, by adding Section 548.008, as follows:

Sec. 548.008. VEHICLE INSPECTION PROGRAM DIRECTOR. (a) Provides that a vehicle inspection program (program) is managed by a program director who is prohibited from being a commissioned officer.

(b) Requires that the office of the program director be located in Austin, Texas.

(c) Sets forth the duties of the program director.

(d) Requires the regional offices to make reports as requested by the program director.

ARTICLE 2. DIVISION OF EMERGENCY MANAGEMENT

PART A. ORGANIZATION OF DIVISION

SECTION 2A.01. Amends Section 418.004, Government Code, by amending Subdivision (2) and adding Subdivision (9), to redefine "division" and define "department."

SECTION 2A.02. Amends Sections 418.041(a)-(c), Government Code, as follows:

(a) Provides that the Texas Division of Emergency Management (division) is a division of the Department of Public Safety of the State of Texas (DPS). Deletes existing text providing that the division of emergency management is a division of the office of the governor.

(b) Provides that the division is managed by a chief, rather than by a director, appointed by the public safety director of DPS (director), with the approval of the governor, and that the chief serves at the pleasure of the director, rather than at the pleasure of the governor. Requires the chief to possess professional training and knowledge consisting of not less than five years of managerial or strategic planning experience in matters relating to public safety, security, emergency services, and emergency response. Makes a conforming change.

(c) Requires representatives of certain agencies, at least once every two months, to meet to coordinate efforts, prevent overlap of activities, and ensure that the state's approach to emergency management and homeland security is unified. Deletes existing text requiring the director to appoint a state coordinator.

SECTION 2A.03. Amends Section 418.072, Government Code, as follows:

Sec. 418.072. DISASTER EMERGENCY FUNDING BOARD. Sets forth the composition of the disaster emergency funding board (board), and includes the executive commissioner of the Health and Human Services Commission (HHSC) and the chief of the division, rather than the commissioner of the Department of Human Services and the director of the division.

SECTION 2A.04. Amends Section 418.074(b), Government Code, to authorize the chief of the division, rather than the state coordinator, if designated by the governor, to dispense a gift, grant, or loan for certain purposes.

PART B. CONFORMING AMENDMENTS REFLECTING DIVISION'S NAME CHANGE

SECTION 2B.01. Amends Section 12.0012, Agriculture Code, to make conforming changes.

SECTION 2B.02. Amends Sections 88.303(a) and (d), Education Code, to make conforming changes.

SECTION 2B.03. Amends Section 418.014(e), Government Code, to make a conforming change.

SECTION 2B.04. Amends the heading of Subchapter C, Chapter 418, Government Code, to read as follows:

SUBCHAPTER C. TEXAS DIVISION OF EMERGENCY MANAGEMENT

SECTION 2B.05. Amends Section 418.073(d), Government Code, to require the division to annually report to the speaker of the house of representatives and the lieutenant governor expenditures from the fund, the overall status of the fund, and any changes to rules and procedures regarding the fund. Makes a conforming change.

SECTION 2B.06. Amends Section 421.021(a), Government Code, to provide that the Homeland Security Council is composed of the governor or the governor's designee, the speaker of the house of representatives or the speaker's designee, the lieutenant governor or the lieutenant governor's designee, and one representative of certain entities, including the House Committee on Defense and Veterans' Affairs, rather than the House Committee on Defense and State-Federal Relations, appointed by the single statewide elected or appointed governing officer, administrative head, or chair, as appropriate, of the entity. Makes a conforming change.

SECTION 2B.07. Amends Section 661.907(b), Government Code, to make a conforming change.

SECTION 2B.08. Amends Section 661.919(b), Government Code, to make a conforming change.

SECTION 2B.09. Amends Section 501.001(5), Labor Code, to make a conforming change and nonsubstantive changes.

SECTION 2B.10. Amends Sections 16.055(a) and (b), Water Code, as follows:

(a) Provides that the chief of division, rather than the coordinator of the division of emergency management of the office of the governor, is the state drought manager.

(b) Sets forth the composition of the drought preparedness council and includes the Texas AgriLife, rather than Agricultural, Extension Service. Makes a conforming change.

SECTION 2B.11. Amends Section 1(3), Chapter 350 (S.B. 1101), Acts of the 71st Legislature, Regular Session, 1989 (Article 6419c, V.T.C.S.), to redefine "Division of Emergency Management."

SECTION 2B.12. Provides that a reference in law or a rule to the "governor's division of emergency management" or the "division of emergency management in the office of the governor" means the Texas Division of Emergency Management in DPS.

ARTICLE 3. [blank]

ARTICLE 4. CHANGES TO PRIVATE SECURITY ACT

SECTION 4.01. Amends Section 1702.002, Occupations Code, by amending Subdivisions (2), (3), (5), (11), (12), (13), (17), (19)-(21) and adding Subdivision (6-b), as follows:

(2) Redefines "branch office" to include a place other than the principal place of business as shown in Texas Private Security Board (board) records, rather than Texas Commission on Private Security (TCPS) records.

(3) Makes a conforming change.

(5) Makes a conforming change.

(6-b) Defines "endorsement."

(11) Makes a conforming change.

(12) Makes a conforming change.

(13) Makes a conforming change.

(17) Defines "personal protection officer endorsement," rather than "personal protection officer authorization." Makes a conforming change.

(19)-(21) Makes conforming changes.

SECTION 4.02. Amends Section 1702.004, Occupations Code, as follows:

Sec. 1702.004. GENERAL SCOPE OF REGULATION. (a) Sets forth certain duties of the board and includes endorsing certain individuals and regulating endorsement holders. Makes a conforming and a nonsubstantive change.

(b) Requires the board to adopt rules necessary to comply with Chapter 53 (Consequences of Criminal Conviction) and in its rules under this section, to list the specific offenses for each category of regulated persons for which a conviction would constitute grounds for the board to take action under Section 53.021 (Authority to Revoke, Suspend, or Deny License). Deletes existing text providing that Chapter 53 does not apply to this chapter or to any licensing, regulatory, or disciplinary determinations made under this chapter.

SECTION 4.03. Amends the heading to Subchapter B, Chapter 1702, Occupations Code, to read as follows:

SUBCHAPTER B. TEXAS PRIVATE SECURITY BOARD

SECTION 4.04. Amends Section 1702.021, Occupations Code, as follows:

Sec. 1702.021. New heading: BOARD MEMBERSHIP. (a) Makes no changes to this subsection.

(b) Makes a conforming change. Deletes existing Subsection (c), requiring the secretary of state, on presentation by a commission member of the constitutional oath taken by the member, together with the certificate of appointment, to issue a commission to the member as evidence of the member's authority to act as a commission member.

SECTION 4.05. Amends Section 1702.023, Occupations Code, to make conforming changes.

SECTION 4.06. Amends Sections 1702.024(b) and (c), Occupations Code, as follows:

(b) Prohibits a person from being a board member, and from being a department employee whose primary duties include private security regulation and who is employed in a certain capacity. Make conforming changes.

(c) Makes conforming changes.

SECTION 4.07. Amends Section 1702.027, Occupations Code, as follows:

Sec. 1702.027. GROUND FOR REMOVAL. (a) Make conforming changes.

(b) Makes conforming changes.

(c) Requires the chief administrator, rather than the director, if the chief administrator has knowledge that a potential ground for removal exists, to notify the presiding officer of the board of the potential ground. Makes conforming changes.

SECTION 4.08. Amends Section 1702.028, Occupations Code, as follows:

Sec. 1702.028. PER DIEM; REIMBURSEMENT. (a) Makes conforming changes.

(b) Entitles a board member to reimbursement for travel, rather than transportation, expenses incurred while conducting board business, including expenses for transportation, meals, and lodging, as prescribed by the General Appropriations Act. Deletes existing text prohibiting a member from receiving compensation for travel expenses, including expenses for meals and lodging, other than transportation expenses.

SECTION 4.09. Amends Section 1702.029, Occupations Code, to make conforming changes.

SECTION 4.10. Amends Section 1702.030, Occupations Code, to make conforming changes.

SECTION 4.11. Amends the heading to Subchapter C, Chapter 1702, Occupations Code, to read as follows:

SUBCHAPTER C. CHIEF ADMINISTRATOR AND PERSONNEL

SECTION 4.12. Amends Section 1702.041, Occupations Code, as follows:

Sec. 1702.041. New heading: CHIEF ADMINISTRATOR. (a) Provides that the chief administrator is responsible for the administration of this chapter under the direction of the board. Makes conforming changes.

(b) Makes conforming changes.

SECTION 4.13. Amends Section 1702.042, Occupations Code, as follows:

Sec. 1702.042. PERSONNEL; CONFLICT OF INTEREST. Prohibits an employee of the department whose primary duties include private security regulation from having a financial or business interest, contingent or otherwise, in a security services contractor or investigations company or being licensed under this chapter. Makes a conforming change.

SECTION 4.14. Amends Section 1702.043, Occupations Code, to make conforming changes.

SECTION 4.15. Amends Section 1702.044, Occupations Code, to make conforming changes.

SECTION 4.16. Amends the heading to Subchapter D, Chapter 1702, Occupations Code, to make a conforming change.

SECTION 4.17. Amends Section 1702.061, Occupations Code, as follows:

Sec. 1702.061. New heading: GENERAL POWERS AND DUTIES OF BOARD. (a)-(c) Makes conforming changes.

(d) Provides that the board has certain powers and duties, including to determine the qualifications of license holders, registrants, endorsement holders, and commissioned security officers. Makes conforming changes.

(e) Makes conforming changes. Deletes existing Subsection (f), authorizing the commission to commission investigators who are employed full-time by the commission as peace officers for the limited purpose of assisting the commission in investigating alleged violations of this chapter and of commission rules.

SECTION 4.18. Amends Subchapter D, Chapter 1702, Occupations Code, by adding Section 1702.0612, as follows:

Sec. 1702.0612. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION. (a) Requires the board to develop and implement a policy to encourage the use of negotiated rulemaking procedures under Chapter 2008 (Negotiated Rulemaking), Government Code, for the adoption of board rules and appropriate alternative dispute resolution procedures under Chapter 2009 (Alternative Dispute Resolution for Use by Governmental Bodies), Government Code, to assist in the resolution of internal and external disputes under the board's jurisdiction.

(b) Requires that the board's procedures relating to alternative dispute resolution conform, to the extent possible, to any model guidelines issued by SOAH for the use of alternative dispute resolution by state agencies.

(c) Requires the board to designate a trained person to coordinate the implementation of the policy adopted under Subsection (a), serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution, and collect data concerning the effectiveness of those procedures, as implemented by the board.

SECTION 4.19. Amends Section 1702.062, Occupations Code, as follows:

Sec. 1702.062. FEES. (a) Requires the board by rule to establish, reasonable and necessary fees that produce sufficient revenue to administer this chapter. Prohibits the fees from producing unnecessary fund balances. Deletes existing text prohibiting certain fees from exceeding certain amounts.

(b) Authorizes the board, rather than TCPS, in addition to other fees established under this chapter, to charge a fee each time the board requires a person regulated under this chapter to resubmit a set of fingerprints for processing by the board during the application process for a license, registration, endorsement, or commission. Requires the board to set the fee in an amount that is reasonable and necessary to cover the administrative expenses related to processing the fingerprints. Makes conforming changes.

(c) Makes a conforming change.

SECTION 4.20. Amends the heading to Section 1702.063, Occupations Code, to make a conforming change.

SECTION 4.21. Amends Section 1702.0635, Occupations Code, to make a conforming change.

SECTION 4.22. Amends Section 1702.064, Occupations Code, to make conforming changes.

SECTION 4.23. Amends Section 1702.0645, Occupations Code, to make conforming changes.

SECTION 4.24. Amends Section 1702.066, Occupations Code, to make conforming changes.

SECTION 4.25. Amends Section 1702.067, Occupations Code, to make conforming changes.

SECTION 4.26. Amends Section 1702.068, Occupations Code, to make a conforming change.

SECTION 4.27. Amends Section 1702.081, Occupations Code, to make conforming changes.

SECTION 4.28. Amends Sections 1702.082(a), (b), (c), and (d), Occupations Code, as follows:

(a) Requires the board to maintain a system to promptly and efficiently act on complaints filed with the board, information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(b) Redesignates Subsection (c) as Subsection (b). Requires the board to make information available describing its procedures for complaint investigation and resolution.

(c) Requires the board to periodically notify the complaint parties of the status of the complaint until final disposition.

Deletes existing text requiring TCPS by rule to establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of TCPS for the purpose of directing complaints to TCPS. Deletes existing text authorizing TCPS to provide for that notice in certain ways. Deletes existing text requiring TCPS to maintain a file on each written complaint filed with TCPS and requiring that the file include the name of the person who filed the complaint, the date the complaint is received by TCPS, the name of each person contacted in relation to the complaint, and an explanation of the reason the file was closed, if the agency closed the file without taking action other than to investigate the complaint. Deletes existing text requiring TCPS to provide to the person filing the complaint a copy of TCPS's policies and procedures relating to complaint investigation and resolution. Deletes existing text requiring TCPS, unless it would jeopardize an undercover investigation, to provide to each person who is a subject of the complaint a copy of TCPS's policies and procedures relating to complaint investigation and resolution. Makes nonsubstantive changes.

SECTION 4.29. Amends Section 1702.083, Occupations Code, to make conforming changes.

SECTION 4.30. Amends Section 1702.084, Occupations Code, to make conforming changes.

SECTION 4.31. Amends Section 1702.103, Occupations Code, as follows:

Sec. 1702.103. CLASSIFICATION AND LIMITATION OF LICENSES. (a) Sets forth the license classifications and includes Class F: level III training school license; Class O: alarm level I training school license; Class P: private business letter of authority license; Class X: government letter of authority license; and Class T: telematics license. Deletes existing text providing the license classification of Class D: electronic access control device license, covering operations of an electronic access control device company. Makes a nonsubstantive change.

(b) Provides that a license described by this chapter, rather than a Class A, B, C, or D license, does not authorize the license holder to perform a service for which the license holder has not qualified. Makes a conforming change.

(c)-(d) Makes conforming changes.

(e) Authorizes the board by rule to establish other license classifications for activities expressly regulated by this chapter and to establish qualifications and practice requirements consistent with this chapter for those license classifications.

SECTION 4.32. Amends Section 1702.111, Occupations Code, to make conforming changes.

SECTION 4.33. Amends Sections 1702.113(a) and (c), Occupations Code, as follows:

(a) Requires that an applicant for a license, certificate of registration, endorsement, or security officer commission or the applicant's manager be at least 18 years of age and not have certain offenses on his or her record. Deletes existing text providing that the applicant must not have been convicted in any jurisdiction of two or more felony offenses, unless full pardons have been granted for all convictions for reasons relating to wrongful convictions; have been convicted in any jurisdiction of a single felony or equivalent offense for which the 20th anniversary of the date of conviction has not occurred before the date of application, or a Class A misdemeanor or equivalent offense for which the 10th anniversary of the date of conviction has not occurred before the date of application, unless a full pardon has been granted for reasons relating to a wrongful conviction; or in the 10 years preceding the date of application, have been adjudicated as having engaged in delinquent conduct violating a penal law of the grade of felony. Makes nonsubstantive changes.

(c) Provides that for purposes of this section, an offense under the laws of this state, another state, or the United States is considered a Class B misdemeanor if the offense is not a felony or Class A misdemeanor and the offense at the time of conviction was designated by a law of this state as a Class B misdemeanor, contains all the elements of an offense designated by a law of this state as a Class B misdemeanor, or provides as a possible punishment confinement in a jail other than a state jail felony facility. Deletes existing text providing that for purposes of this section, an offense under the laws of this state, another state, or the United States is considered a felony if the offense at the time of conviction was designated by a law of this state as a felony, including a state jail felony; contains all the elements of an offense designated by a law of this state as a felony, including a state jail felony; or is punishable by confinement for one year or more in a penitentiary; or a Class A misdemeanor if the offense is not a felony and the offense at the time of conviction was designated by a law of this state as a Class A misdemeanor; contains all the elements of an offense designated by a law of this state as a Class A misdemeanor; or provides as a possible punishment confinement in a jail other than a state jail felony facility. Makes nonsubstantive changes.

SECTION 4.34. Amends Section 1702.114, Occupations Code, to make conforming changes.

SECTION 4.35. Amends Section 1702.115, Occupations Code, to make conforming changes.

SECTION 4.36. Amends Section 1702.116, Occupations Code, as follows:

Sec. 1702.116. QUALIFICATIONS FOR GUARD DOG COMPANY LICENSE; INSPECTIONS. (a) Makes a conforming change.

(b) Requires the board to adopt rules, after consulting the Department of State Health Services (DSHS), rather than the Texas Department of Health, to ensure that the areas in which a guard dog company houses, exercises, or trains its animals are securely enclosed by a six-foot chain-link fence or made equally secure. Makes a conforming change.

(c) Makes a conforming change.

SECTION 4.37. Amends Sections 1702.117(a), (c), and (d), Occupations Code, as follows:

(a) Requires the board to require an applicant for a commission, license, registration, or endorsement under this chapter or the applicant's manager to demonstrate qualifications in the person's license classification, including knowledge of applicable state laws and board rules, by taking an examination to be determined by the board. Makes conforming changes.

(c) and (d) Makes conforming changes.

SECTION 4.38. Amends Section 1702.118, Occupations Code, to make conforming changes.

SECTION 4.39. Amends Section 1702.1183, Occupations Code, to make conforming changes.

SECTION 4.40. Amends Section 1702.1186, Occupations Code, to make conforming changes.

SECTION 4.41. Amends Section 1702.120(b), Occupations Code, to make a conforming change.

SECTION 4.42. Amends Section 1702.122, Occupations Code, to make a conforming change.

SECTION 4.43. Amends Section 1702.123, Occupations Code, to make conforming changes.

SECTION 4.44. Amends Section 1702.125, Occupations Code, to make conforming changes.

SECTION 4.45. Amends Section 1702.129, Occupations Code, to make conforming changes.

SECTION 4.46. Amends Section 1702.131, Occupations Code, to make a conforming change.

SECTION 4.47. Amends Section 1702.161(b), Occupations Code, to make a conforming change.

SECTION 4.48. Amends Section 1702.162, Occupations Code, to make conforming changes.

SECTION 4.49. Amends Section 1702.165, Occupations Code, to make conforming changes.

SECTION 4.50. Amends Section 1702.167, Occupations Code, to make conforming changes.

SECTION 4.51. Amends Sections 1702.1675(a)-(f) and (i), Occupations Code, to make conforming changes.

SECTION 4.52. Amends Section 1702.168, Occupations Code, to make conforming changes.

SECTION 4.53. Amends Sections 1702.1685(b) and (d), Occupations Code, to make conforming changes.

SECTION 4.54. Amends Section 1702.171, Occupations Code, to make conforming changes.

SECTION 4.55. Amends Section 1702.183, Occupations Code, to require a security department of a private business or of a political subdivision that applies for a security officer commission for an individual employed by the security department to submit an application to the board for a letter of authority on a form provided by the board. Makes conforming changes.

SECTION 4.56. Amends the heading to Subchapter I, Chapter 1702, Occupations Code, to make a conforming change.

SECTION 4.57. Amends Section 1702.203, Occupations Code, to make conforming changes.

SECTION 4.58. Amends Section 1702.204, Occupations Code, to make conforming changes.

SECTION 4.59. Amends Section 1702.205(a), Occupations Code, to make a conforming change.

SECTION 4.60. Amends Section 1702.221, Occupations Code, as follows:

Sec. 1702.221. New heading: REGISTRATION AND ENDORSEMENT REQUIRED.

(a) Requires an individual, to perform any activity regulated by this chapter, to register in accordance with the requirements of this chapter and related administrative rules, obtain the proper endorsement under Subsection (b), and be employed by a company licensed under this chapter.

(b) Redesignates existing Subsection (a) as Subsection (b). Requires an individual to obtain the appropriate endorsement, rather than to register, in accordance with the requirements of this chapter and related administrative rules if the individual is employed in certain professions, including an alarm instructor, a level 3 classroom or firearm instructor, a level 4 personal protection instructor,

or an individual whose duties include performing another activity for which an endorsement is required under Subsection (e), or is an owner who oversees the security-related aspects of the business, officer, partner, or shareholder of a license holder. Makes nonsubstantive changes.

(c) Redesignates existing Subsection (b) as Subsection (c). Provides that registration and endorsement under this chapter does not preclude an individual from performing additional duties or services authorized by the individual's employer that are not regulated by this chapter. Requires an individual who performs more than one of the services that required an endorsement under this section to obtain an endorsement for each service.

(d) Requires a person holding a security officer commission, in addition to the services listed in Subsection (a), to also obtain an endorsement for personal protection if the individual performs the services described by Section 1702.202 (Personal Protection Officer).

(e) Authorizes the board by rule to require a person to hold an endorsement for performing other activity expressly regulated by this chapter.

SECTION 4.61. Amends Section 1702.2226(b), Occupations Code, to make a conforming change.

SECTION 4.62. Amends the heading to Subchapter J, Chapter 1702, Occupations Code, to read as follows:

**SUBCHAPTER J. REGISTRATION AND ENDORSEMENT REQUIREMENTS;
DUTIES OF REGISTRANT AND ENDORSEMENT HOLDER**

SECTION 4.63. Amends Section 1702.228, Occupations Code, to make a conforming change.

SECTION 4.64. Amends the heading to Section 17.230, Occupations Code, to read as follows:

Sec. 1702.230. APPLICATION FOR REGISTRATION OR ENDORSEMENT.

SECTION 4.65. Amends Section 1702.230(a), Occupations Code, to require that an application for registration or endorsement be verified and include certain information, including a letter from the license holder requesting that the applicant be registered or endorsed. Makes a conforming change.

SECTION 4.66. Amends Section 1702.2305, Occupations Code, to make conforming changes.

SECTION 4.67. Amends Section 1702.232, Occupations Code, to require that the pocket card for each registrant under this chapter contain certain information, including containing a color photograph, affixed to the pocket card by the board, at the time the card is issued, and the signature of the registrant and to state each endorsement held by the registrant and the date the endorsement expires. Makes nonsubstantive and conforming changes.

SECTION 4.68. Amends Section 1702.234, Occupations Code, as follows:

Sec. 1702.234. New heading: **REGISTRATION AND ENDORSEMENT TRANSFER.** Authorizes a registrant to transfer the registrant's registration and endorsements from one employer to another employer if, not later than the 14th day after the date the registrant begins the new employment, the new employer notifies the board of the transfer of employment on a form prescribed by the board accompanied by payment of the employee information update fee. Makes conforming changes.

SECTION 4.69. Amends Section 1702.235, Occupations Code, to make a conforming change.

SECTION 4.70. Amends Section 1702.236, Occupations Code, as follows:

Sec. 1702.236. EXAMINATION AND TRAINING REQUIREMENTS FOR ELECTRONIC ACCESS CONTROL DEVICE INSTALLERS. (a) Requires the board to require an individual who applies for an endorsement, rather than for registration, as an electronic access control device installer to pass an examination given by the board or a person approved by the board. Makes conforming changes.

(b) Authorizes the board by rule, on and after September 1, 2005, to allow an electronic access control device installer to obtain or renew an endorsement, rather than a certificate of registration, by fulfilling the requirements of a board-approved, industry-based education training program. Makes conforming changes.

SECTION 4.71. Amends Sections 1702.239(a), (b), and (d), Occupations Code, to make conforming changes.

SECTION 4.72. Amends Section 1702.240(b), Occupations Code, to make a conforming change.

SECTION 4.73. Amends Subchapter J, Chapter 1702, Occupations Code, by adding Section 1702.241, as follows:

Sec. 1702.241. JURISPRUDENCE EXAMINATION. (a) Authorizes the board to develop and administer at least twice each calendar year a jurisprudence examination to determine the knowledge that an applicant for an endorsement has of this chapter, board rules, and any other applicable laws of this state affecting the applicant's activities regulated under this chapter.

(b) Requires the board, before the board is authorized to administer a jurisprudence examination under this section, to adopt rules to implement this section, including rules related to the development and administration of the examination, examination fees, guidelines for reexamination, grading the examination, and providing notice of examination results. Authorizes the board to design different examinations for different types of endorsements.

SECTION 4.74. Amends Sections 1702.282(c), and (e), Occupations Code, to make conforming changes.

SECTION 4.75. Amends Section 1702.283, Occupations Code, to make a conforming change.

SECTION 4.76. Amends Section 1702.285, Occupations Code, to make a conforming change.

SECTION 4.77. Amends Sections 1702.301(c)-(h), Occupations Code, to make conforming changes.

SECTION 4.78. Amends Section 1702.302, Occupations Code, to make conforming changes.

SECTION 4.79. Amends Section 1702.303, Occupations Code, to make a conforming change.

SECTION 4.80. Amends Section 1702.304, Occupations Code, to make conforming changes.

SECTION 4.81. Amends Section 1702.307, Occupations Code, to make conforming changes.

SECTION 4.82. Amends Sections 1702.308(b) and (c), Occupations Code, to make conforming changes.

SECTION 4.83. Amends Section 1702.309(a), Occupations Code, to make conforming changes.

SECTION 4.84. Amends Sections 1702.321(b), (c), and (e), Occupations Code, to make conforming changes.

SECTION 4.85. Amends Section 1702.361(b), Occupations Code, as follows:

(b) Requires DPS to take disciplinary action described by Subsection (a) (relating to disciplinary actions) on proof that the applicant, license holder, registrant, endorsement holder, or commissioned security officer has taken certain actions, including performed any service for which an endorsement is required under this chapter and either was not employed with a company licensed under this chapter at the time the service was performed, or performed the service for a company licensed under this chapter that was not listed on the individual's registration without informing the board of the individual's employment with the company within a reasonable period. Makes conforming changes.

SECTION 4.86. Amends Section 1702.362, Occupations Code, to make conforming changes.

SECTION 4.87. Amends Section 1702.363, Occupations Code, to make a conforming change.

SECTION 4.88. Amends Sections 1702.364(a), (d), (f), and (h), Occupations Code, to make conforming changes.

SECTION 4.89. Amends Section 1702.365, Occupations Code, to make conforming changes.

SECTION 4.90. Amends Sections 1702.367(c)-(e), Occupations Code, to make conforming changes.

SECTION 4.91. Amends Section 1702.368, Occupations Code, to make conforming changes.

SECTION 4.92. Amends Subchapter O, Chapter 1702, Occupations Code, by adding Section 1702.372, as follows:

Sec. 1702.372. RECUSAL OF BOARD MEMBER. (a) Provides that a board member who participated in the investigation of a complaint or in informal settlement negotiations regarding the complaint is prohibited from voting on the matter at a board meeting related to the complaint and is required to state at the meeting the reason for which the member is prohibited from voting on the matter.

(b) Requires that a statement under Subsection (a)(2) (relating to the reason why the member may not vote) be entered into the minutes of the meeting.

SECTION 4.93. Amends Section 1702.381(b), Occupations Code, to make conforming changes.

SECTION 4.94. Amends Section 1702.386(a), Occupations Code, to make conforming changes.

SECTION 4.95. Amends Section 1702.3863(a), Occupations Code, to make a conforming change.

SECTION 4.96. Amends Section 1702.387(a), Occupations Code, to make conforming changes.

SECTION 4.97. Amends Section 1702.388(b), Occupations Code, to make a conforming change.

SECTION 4.98. Amends Section 1702.402, Occupations Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Provides that each day a violation continues or occurs is a separate violation for purposes of imposing a penalty. Prohibits the amount of each separate violation from exceeding \$5,000, rather than \$500.

(c) Requires the board by rule to develop a standardized penalty schedule based on the criteria listed in Subsection (b).

SECTION 4.99. Amends Section 1702.406(b), Occupations Code, to provide that judicial review is under the substantial evidence rule as provided by Subchapter G (Contested Cases: Judicial Review), Chapter 2001 (Administrative Procedure), Government Code.

SECTION 4.100. Repealer: Section 1702.002(4) (relating to the definition of "commission"), Occupations Code.

Repealer: Section 1702.003 (Application of Sunset Act), Occupations Code.

Repealer: Section 1702.045 (Career Ladder Program; Performance Evaluations), Occupations Code.

Repealer: Section 1702.046 (Equal Employment Opportunity Policy; Report), Occupations Code.

Repealer: Section 1702.065 (Powers and Duties Relating to Alarm Systems Installers; Certificates of Installation), Occupations Code.

Repealer: Section 1702.069 (Annual Report), Occupations Code.

Repealer: Section 1702.113(e) (relating to an individual's eligibility under this chapter not being affected by any relationship or lack thereof between the nature of the criminal charge or conviction and the regulated occupation), Occupations Code.

Repealer: Section 1702.364(j) (relating to an individual's eligibility under this section not being affected by any relationship or lack thereof between the nature of the criminal charge or conviction and the regulated occupation), Occupations Code.

Repealer: Subchapter K (Sellers Certificate), Occupations Code.

SECTION 4.101. (a) Requires the board and DPS, not later than January 1, 2010, to adopt the rules required by or under Section 1702.062, Occupations Code, as amended by this article. Provides that the fee schedule in effect under Section 1702.062, Occupations Code, before the effective date of this article is continued in effect until new fees are adopted under Section 1702.062, Occupations Code, as amended by this article.

(b) Provides that the requirement to pass a jurisprudence examination under Section 1702.241, Occupations Code, as added by this article, applies only to an individual who applies for a registration or endorsement under Chapter 1702 (Private Security), Occupations Code, on or after the date specified by the board in the event the board begins requiring applicants to pass a jurisprudence examination, but not earlier than September 1, 2010.

(c) Provides that the changes in law made by this article related to the filing, investigation, or resolution of a complaint under Chapter 1702, Occupations Code, as amended by this article, apply only to a complaint filed with the board on or after the effective date of this article. Provides that a complaint filed before the effective date of this article is governed by the law as it existed immediately before that date, and the former law is continued in effect for that purpose.

(d) Provides that the changes in law made by this article governing the authority of the board and DPS to issue, renew, or revoke a license, registration, endorsement, or commission under Chapter 1702, Occupations Code, apply only to an application for an original or renewal license, registration, endorsement, or commission filed with the board under Chapter 1702, Occupations Code, as amended by this article, on or after the effective date of this article. Provides that an application filed before the effective date of this article is governed by the law in effect at the time the application was filed, and the former law is continued in effect for that purpose.

(e) Provides that the change in law made by this article with respect to conduct that is grounds for imposition of a disciplinary sanction applies only to conduct that occurs on or after the effective date of this article. Provides that conduct that occurs before the effective date of this article is governed by the law in effect on the date the conduct occurred, and the former law is continued in effect for that purpose.

(f) Provides that Section 1702.372, Occupations Code, as added by this article, applies only to a hearing conducted on or after the effective date of this article, regardless of the date on which the complaint was filed. Provides that a complaint on which a hearing is conducted before the effective date of this article is governed by the law in effect on the date the hearing was conducted, and the former law is continued in effect for that purpose.

(g) Requires the holder of a Class D license under Chapter 1702, Occupations Code, as amended by this article, to be considered to hold a Class B license on the effective date of this article. Authorizes the license holder, on the expiration of the Class D license, to renew the license as a Class B license.

SECTION 4.102. Effective date, this article: September 1, 2009.

ARTICLE 4A [Blank]

ARTICLE 4B. REGULATION OF THE BUSINESS OF PRIVATE SECURITY

SECTION 4B.01. Amends Section 1702.002, Occupations Code, by amending Subdivision (1-a) and adding Subdivisions (16-a) and (20-a), to redefine "alarm system" and define "personal protection officer" and "security officer."

SECTION 4B.02. Amends Section 1702.047, Occupations Code, as follows:

Sec. 1702.047. ADMINISTRATIVE STAFF. Requires the employee designated under this section to provide administrative assistance to the Texas Private Security Board (PSB) in the performance of PSB's duties, rather than assist PSB in the administration of PSB's duties. Deletes existing text that prohibits the salary for an employee designated under this section from exceeding the salary specified in the General Appropriations Act for an employee subject to salary group A10.

SECTION 4B.03. Amends Section 1702.082(e), Occupations Code, to require the Department of Public Safety (DPS), rather than the Texas Commission on Private Securities (TCPS), to inform, rather than notify, the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the information would jeopardize an ongoing investigation, rather than an undercover investigation.

SECTION 4B.04. Amends Subchapter A, Chapter 1702, Occupations Code, by adding Section 1702.006, as follows:

Sec. 1702.006. FOREIGN ENTITY REGISTRATION. Provides that licensure under this chapter does not exempt a foreign entity from the registration requirements of Chapter 9 (Foreign Entities), Business Organizations Code.

SECTION 4B.05 Amends Section 1702.1056(a), Occupations Code, to provide that a person acts as a locksmith company for the purposes of this chapter if the person sells, installs, services, or maintains, or offers to sell, install, service, or maintain, mechanical security devices, including deadbolts and locks.

SECTION 4B.06. Amends Section 1702.110, Occupations Code, as follows:

Sec. 1702.110. APPLICATION FOR LICENSE. (a) Creates this subsection from existing text. Requires that an application for a license under this chapter be in the form prescribed by PSB, rather than TCPS, and include, among other certain information, if the applicant is an entity other than an individual, the full name and residence address of each partner, officer who oversees the security-related aspects of the business, and director of the applicant, and of the applicant's manager; if the applicant is an entity other than an individual, two classifiable sets of fingerprints of each officer who oversees the security-related aspects of the business and of each partner or shareholder who owns at

least a 25 percent interest in the applicant; and other information, evidence, statements, or documents required by PSB, rather than TCPS. Makes a nonsubstantive change.

(b) Requires an applicant for a license as a security services contractor to maintain a physical address within this state and provide that address to PSB. Requires PSB to adopt rules to enable an out-of-state license holder to comply with this subsection.

SECTION 4B.07. Amends Section 1702.112, Occupations Code, as follows:

Sec. 1702.112. FORM OF LICENSE. Requires PSB, rather than TCPS, to prescribe the form of a license, including a branch office license. Includes, among the requirements of the license, a photograph of the license holder, affixed to the license at the time the license is issued by PSB.

SECTION 4B.08. Amends Section 1702.121, Occupations Code, as follows:

Sec. 1702.121. TERMINATION OF MANAGER. (a) Creates this subsection from existing text. Requires a license holder to notify PSB, rather than TCPS, in writing not later than the 14th day after the date a manager ceases to be manager of the license holder's business. Makes conforming changes.

(b) Requires that a manager be immediately terminated on the effective date of any summary action taken against the manager. Provides that any period of temporary operation authorized under this section or Section 1702.122 (Temporary Continuation of License Holder's Business) starts on the date of termination.

SECTION 4B.09. Amends Section 1702.127, Occupations Code, by amending Subsections (b) and (c) and adding Subsection (d), as follows:

(b) Requires a license holder to maintain a record containing information related to the license holder's employees as required by PSB, rather than TCPS.

(c) Requires a license holder to maintain for inspection by DPS, rather than for TCPS inspections, at the license holder's principal place of business or branch office two recent color photographs, of a type required by the PSB, of each applicant, registrant, commissioned security officer, and employee of the license holder. Makes conforming changes.

(d) Requires a license holder to maintain records required under this chapter at a physical address within this state and provide that address to PSB.

SECTION 4B.10. Amends Section 1702.163, Occupations Code, by adding Subsection (d-1), to authorize DPS, for the purposes of determining eligibility under Subsection (b)(2) (relating to an individual being incapable of exercising sound judgment in the proper use and storage of a handgun), to require the applicant to authorize the release to DPS of any relevant medical records.

SECTION 4B.11. Amends Section 1702.201, Occupations Code, as follows:

Sec. 1702.201. New heading: PERSONAL PROTECTION OFFICER ENDORSEMENT REQUIRED. Prohibits an individual, rather than a commissioned security officer, from acting as a personal protection officer unless the individual, rather than officer, holds a personal protection officer endorsement, rather than authorization.

SECTION 4B.12. Amends Section 1702.202, Occupations Code, as follows:

Sec. 1702.202. PERSONAL PROTECTION OFFICER. Provides that an individual acts as a personal protection officer if the individual, while carrying a firearm, provides to another individual personal protection from bodily harm. Deletes existing text providing

that an individual acts as a personal protection officer if the individual has been issued a security officer commission to carry a concealed firearm and provides to an individual personal protection from bodily harm. Makes nonsubstantive changes.

SECTION 4B.13. Amends Section 1702.206, Occupations Code, as follows:

Sec. 1702.206. New heading: LIMITED AUTHORITY TO CARRY FIREARMS. (a) Creates this subsection from existing text. Deletes existing text prohibiting an individual acting as a personal protection officer from carrying a firearm, rather than a concealed firearm, unless the officer is performing certain actions or carries certain endorsement, rather than authorization.

(b) Prohibits an individual who is acting as a personal protection officer and is wearing the uniform of a security officer, including any uniform or apparel described by Section 1702.323(d) (relating to Chapter 1702 (Private Security) applying to a certain individual who meets certain requirements), from concealing any firearm the individual is carrying and requires the individual to carry the firearm in plain view. Requires an individual who is acting as a personal protection officer and is not wearing the uniform of a security officer to conceal the firearm.

SECTION 4B.14. Amends Section 1702.230, Occupations Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Requires the employer of the applicant to make a reasonable attempt to verify the information required under Subsection (a)(1) (relating to requirement that an application for registration include certain information) before the earlier of certain dates.

(c) Requires an applicant to submit an application that substantially meets the requirements of this section before employment in a capacity for which registration is required.

SECTION 4B.15. Amends Section 1702.282(a), Occupations Code, to require PSB to conduct a criminal history check including a check of any criminal history record information maintained by the Federal Bureau of Investigation (FBI), in the manner provided by Subchapter F (Criminal History Record Information), Chapter 411 (Department of Public Safety of the State of Texas), Government Code, on each application for certain forms, including an endorsement. Authorizes PSB, as part of its criminal history check, to request that the applicant provide certified copies of relevant court documents or other records. Provides that the failure to provide the requested records within a reasonable time as determined by PSB may result in the application being considered incomplete. Makes conforming changes.

SECTION 4B.16. Renumbers Section 1702.286, Occupations Code, as added by Chapter 1102 (H.B. 2243), Acts of the 79th Legislature, Regular Session, 2005, as Section 1702.2865.

SECTION 4B.17. Amends Section 1702.322, Occupations Code, as follows:

Sec. 1702.322. LAW ENFORCEMENT PERSONNEL. Provides that this chapter does not apply to a person who has full-time employment as a peace officer and who receives compensation for private employment on an individual or an independent contractor basis as a patrolman, guard, extra job coordinator, or watchman if the officer is employed in an employee-employer relationship or employed on an individual contractual basis directly by the recipient of the services.

SECTION 4B.18. Amends Section 1702.361(a), Occupations Code, to authorize DPS, for conduct described by Subsection (b), to take certain disciplinary actions, rather than authorizing DPS, for conduct described by Subsection (b) (relating to DPS being required to take disciplinary action on proof of certain conditions), subject to PSB's final order under the hearing provisions of this subchapter, to take certain disciplinary actions. Makes conforming changes.

SECTION 4B.19 Amends Section 1702.367, Occupations Code, by amending Subsection (a) and adding Subsection (f) and (g), as follows:

(a) Authorizes DPS, rather than TCPS, if necessary to enforce this chapter or PSB's rules, for an investigation conducted under this chapter, to issue an administrative subpoena to any person in this state compelling the production of information or documents, or the attendance and testimony of a witness. Deletes existing text authorizing TCPS, for an investigation conducted under this chapter, to issue a subpoena to compel the attendance of a witness or the production of a pertinent record or document. Deletes existing text authorizing the hearings officer to administer oaths and require testimony or evidence to be given under oath.

(f) Provides that a person licensed or otherwise regulated under this chapter who fails without good cause to comply with a subpoena issued under this section may be subject to suspension of a license under Section 1702.361.

(g) Authorizes that a subpoena, if the subpoena issued under this section relates to an ongoing criminal investigation by DPS and DPS determines that disclosure could significantly impede the investigation, to provide that the person to whom the subpoena is directed is prohibited from disclosing or identifying certain information concerning the subpoena.

SECTION 4B.20. Amends Subchapter P, Chapter 1702, Occupations Code, by adding Section 1702.3835, as follows:

Sec. 1702.3835. DECEPTIVE TRADE PRACTICE. (a) Provides that a person who performs or offers to perform an activity regulated under this chapter, but who is not licensed or otherwise authorized under this chapter to perform the activity, commits a false, misleading, or deceptive act or practice within the meaning of Section 17.46 (Deceptive Trade Practices Unlawful), Business & Commerce Code.

(b) Authorizes a public or private right or remedy under Chapter 17 (Deceptive Trade Practices), Business & Commerce Code, to be used to enforce this chapter.

SECTION 4B.21. Amends Section 46.03(d), Penal Code, as follows:

(d) Provides that it is a defense to prosecution under Subsection (a)(5) (relating to an offense if a person possesses or goes with a certain prohibited weapon in or into a secured area of an airport) that the actor possessed a firearm or club while traveling to or from the actor's place of assignment or in the actual discharge of duties as a security officer commissioned by PSB, rather than the Texas Board of Private Investigators and Private Security Agencies, if certain conditions are met, or a security officer who holds a personal protection authorization under Chapter 1702 (Private Security), Occupations Code, provided that the officer is either wearing the uniform of a security officer, including any uniform or apparel described by Section 1702.323(d), Occupations Code, and carrying the officer's firearm in plain view; or not wearing the uniform of a security officer and carrying the officer's firearm in a concealed manner, rather than a security officer who holds a personal protection authorization under the Private Investigators and Private Security Agencies Act (Article 4413(29bb), V.T.C.S.).

SECTION 4B.22. Reenacts Section 46.15(b), Penal Code, as amended by Chapters 647 (H.B. 964), 693 (H.B. 1815), and 1048 (H.B. 2101), Acts of the 80th Legislature, Regular Session, 2007, and amends it as follows:

(b) Provides that Section 46.02 (Unlawful Carrying Weapons), does not apply to a person who acts as a personal protection officer and carries the person's security commission and personal protection officer authorization, if the person is engaged in the performance of the person's duties as a personal protection officer under Chapter 1702, Occupations Code, or is traveling to or from the person's place of assignment and is either wearing the uniform of a security officer, including any uniform or apparel described by Section 1702.323(d), Occupations Code, and carrying the officer's weapon

in plain view or not wearing the uniform of a security officer and carrying the officer's weapon in a concealed manner. Makes nonsubstantive changes.

SECTION 4B.23. Provides that the changes in law made by this article to Sections 1702.110(a), Section 1702.282, Occupations Code, and the change in law made by Article 4 of this Act to Section 1702.221(a), Occupations Code, apply to an application under Chapter 1702, Occupations Code, submitted on or after the effective date of this article. Makes application of this article prospective.

SECTION 4B.24 Provides that to the extent of any conflict, this Article prevails over another Act of the 81st Legislature, Regular Session, 2009, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 4B.25. Effective date, this article: September 1, 2009.

ARTICLE 5. GENERAL PROVISIONS

SECTION 5.01. Amends Section 411.002, Government Code, by amending Subsection (c) and adding Subsections (d) and (e), as follows:

(c) Provides that unless continued in existence by Chapter 325 (Texas Sunset Act), DPS is abolished and Subsections (a) (relating to the purpose of DPS) and (b) (relating to the DPS having its headquarters in Austin) expire September 1, 2021, rather than September 1, 2009.

(d) Requires the Sunset Advisory Commission, not later than December 1, 2010, to review and prepare a written report for submission to the legislature on DPS's implementation of the recommendations in the 2008 audit of DPS's information technology system and a civilian business model for the operation of the driver's license division that focuses on improving customer service by using best practices in call center technology and monitoring customer service calls, expanding operating hours at driver's license offices, and decreasing the time DPS takes to send a replacement driver's license.

(e) Requires the Sunset Advisory Commission to submit the report required by Subsection (d) not later than February 15, 2011. Provides that this subsection and Subsection (d) expire August 31, 2011.

SECTION 5.02. Amends Section 411.0035, Government Code, as follows:

Sec. 411.0035. MEMBER AND GENERAL COUNSEL RESTRICTION. (a) Defines "Texas trade association."

(b) Prohibits a person from being, rather than serving as, a member of the Public Safety Commission (commission) and from being a DPS employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if the person is an officer, employee, or paid consultant of a Texas trade association in the field of law enforcement or private security or the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of law enforcement or private security.

(c) Prohibits a person from being a member of the commission or acting as the general counsel to the commission if the person is required to register as a lobbyist under Chapter 305 (Registration of Lobbyists) because of the person's activities for compensation on behalf of a profession related to the operation of the commission.

SECTION 5.03. Amends Subchapter A, Chapter 411, Government Code, by adding Section 411.0042, as follows:

Sec. 411.0042. DIVISION OF RESPONSIBILITIES. Requires the commission to develop and implement policies that clearly separate the policymaking responsibilities of the commission and the management responsibilities of the public safety director (director) and the staff of DPS.

SECTION 5.04. Amends Subchapter A, Chapter 411, Government Code, by adding Section 411.0043, as follows:

Sec. 411.0043. TECHNOLOGY POLICY. Requires the commission to implement a policy requiring DPS to use appropriate technological solutions to improve DPS's ability to perform its functions. Requires that the policy ensure that the public is able to interact with DPS on the Internet.

SECTION 5.05. Amends Subchapter A, Chapter 411, Government Code, by adding Section 411.0044, as follows:

Sec. 411.0044. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION. (a) Requires the commission to develop and implement a policy to encourage the use of negotiated rulemaking procedures under Chapter 2008 for the adoption of DPS rules and appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and external disputes under DPS's jurisdiction.

(b) Requires that DPS's procedures relating to alternative dispute resolution conform, to the extent possible, to any model guidelines issued by SOAH for the use of alternative dispute resolution by state agencies.

(c) Requires the commission to designate a trained person to coordinate the implementation of the policy adopted under Subsection (a), serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution, and collect data concerning the effectiveness of those procedures, as implemented by DPS.

SECTION 5.06. Amends Section 411.015(b), Government Code, to prohibit the division relating to the Texas Rangers from being abolished. Deletes existing text prohibiting the number of divisions from exceeding the number of divisions existing on August 22, 1957.

SECTION 5.07. Amends Sections 411.0195(a)-(c), Government Code, as follows:

(a) Requires DPS to maintain a system to promptly and efficiently act on complaints filed with DPS and requires DPS to maintain information about parties to the complaint, a summary of the results of the review or investigation of the complaint, and its disposition. Deletes existing text requiring DPS to prepare information of public interest describing the functions of DPS and DPS's procedures by which complaints are filed with and resolved by DPS. Deletes existing text requiring DPS to make the information available to the public and appropriate state agencies.

(b) Requires DPS to make information available describing its procedures for complaint investigation and resolution. Deletes existing text requiring the director by rule to establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of DPS for the purpose of directing complaints to DPS.

(c) Requires DPS to periodically notify the complaint parties of the status of the complaint until final disposition. Deletes existing text requiring DPS to maintain a file on each written complaint filed with DPS and requiring that the file include certain information.

SECTION 5.08. Amends Section 411.188, Government Code, by adding Subsection (j), to authorize DPS to offer online, or allow a qualified handgun instructor to offer online, the

continuing education instruction course and written section of the proficiency examination required to renew a license.

SECTION 5.09. Amends the heading to Section 411.244, Government Code, to read as follows:

Sec. 411.244. OFFICE OF INSPECTOR GENERAL.

SECTION 5.10. Amends Section 411.244 by amending Subsections (a), (b), and (d)-(f), and adding Subsection (g), Government Code, as follows:

(a) Requires the Public Safety Commission (commission) to establish the office of inspector general, which is responsible for acting to prevent and detect criminal conduct with DPS and independently and objectively investigating criminal activity occurring in all divisions of DPS; allegations of wrongdoing by DPS employees; crimes committed on DPS property; and serious breaches of DPS policy. Deletes existing text requiring the director to establish the office of internal affairs.

(b) Provides that the office of inspector general, rather than the office of internal affairs, has original departmental jurisdiction over all investigations occurring on DPS property or involving DPS employees.

(d) Provides that the commission has direct oversight over the office of inspector general, including decisions regarding budget and staffing. Requires the commission to establish policies to ensure that the commission continues to oversee the office of internal affairs as required by this subsection and to ensure that the office of internal affairs retains and exercises its original jurisdiction under Subsection (b). Makes conforming changes.

(e) Makes conforming changes.

(f) Requires the inspector general to present certain information at each regularly scheduled commission meeting and at other appropriate times, including reports of investigations. Makes a conforming change.

(g) Provides that this chapter or other law related to the operation of DPS's office of inspector general does not preempt the authority of the state auditor to conduct an audit or investigation under Chapter 321 (State Auditor) or other law.

SECTION 5.11. Repealer: Section 411.0195(d) (relating to the requirement of DPS to establish checkpoint procedures), Government Code.

Repealer: Section 411.0195(e) (relating to definitions of "motor vehicle," "vehicle," and "watercraft"), Government Code.

SECTION 5.12. Makes application of Section 411.0035, Government Code, as amended by this Act, prospective.

SECTION 5.13. Makes application of Section 411.0195, Government Code, as amended by this Act, prospective.

ARTICLE 6. PERSONNEL RECORDS

SECTION 6.01. Amends Section 411.00755(b), Government Code, to prohibit the personal records of a commissioned officer of DPS from being disclosed or otherwise made available to the public, except that DPS is required to release in accordance with Chapter 552, rather than notwithstanding Chapter 552, certain documents.

ARTICLE 7. TEXAS RANGERS' UNSOLVED CRIMES INVESTIGATION TEAM

SECTION 7.01. Amends the heading to Subchapter J, Chapter 411, Government Code, to read as follows:

SUBCHAPTER J. UNSOLVED CRIMES INVESTIGATION PROGRAM

SECTION 7.02. Amends Section 411.262, Government Code, as follows:

Sec. 411.262. New heading: UNSOLVED CRIMES INVESTIGATION PROGRAM.

(a) Provides that the unsolved crimes investigation program, rather than team, is an investigative program, rather than investigatory unit, within DPS.

(b) Provides that the program is a function of the Texas Rangers, rather than that the team will be located at the headquarters of the Texas Rangers in Austin, Texas, and will be commanded by the chief of the Texas Rangers.

(c) Authorizes the public safety director to employ commissioned peace officers and noncommissioned employees to perform duties required of the program. Makes a conforming change.

(d) Requires that a peace officer, to be eligible for employment under this section, be a sergeant or higher-ranked officer of the Texas Rangers and have two or more years of experience in the investigation of homicides or other major felonies. Deletes existing text requiring a peace officer to have not less than four years of experience as a peace officer and a degree from an accredited institution of higher education in law, accounting, or computer science. Makes nonsubstantive changes.

(e) Makes no changes to this subsection.

SECTION 7.03. Amends Section 411.263, Government Code, to authorize employees of the unsolved crimes investigation program of DPS, on the request of an attorney representing the state and with the approval of the director, to assist local law enforcement in the investigation of a crime. Makes a conforming change.

SECTION 7.04. Effective date, this article: upon passage or September 1, 2009.

ARTICLE 8. DISSEMINATION OF EMERGENCY PUBLIC SERVICE MESSAGES

SECTION 8.01. Amends Section 418.047, Government Code, by adding Subsection (a-1), to require the division to coordinate with TxDOT to establish additional methods for disseminating emergency public service messages to motorists, including severe weather advisories; AMBER alerts under Subchapter L (Stateside America's Missing: Broadcast Emergency Response (AMBER) Alert System for Abducted Children), Chapter 411 (Department of Public Safety of the State of Texas); silver alerts under Subchapter M (Silver Alert for Missing Senior Citizens), Chapter 411; and information regarding the availability of fuel, food, lodging, and pharmacy services during an evacuation order under this chapter or a disaster declared under this chapter.

ARTICLE 9. AUTHORITY OF DEPARTMENT TO OBTAIN AND USE CRIMINAL HISTORY RECORD INFORMATION FOR CERTAIN DEPARTMENTAL AUTHORIZATIONS

SECTION 9.01. Amends Subchapter F, Chapter 411, Government Code, by adding Subsection 411.0891, as follows:

Sec. 411.0891. DEPARTMENT ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: CERTAIN DEPARTMENTAL AUTHORIZATIONS. (a) Authorizes DPS, subject to Section 411.087 (Access to Criminal History Record Information Maintained by the Federal Bureau of Investigation (FBI) or Local Criminal Justice Agency) to obtain and use criminal history record information maintained by the FBI or DPS that relates to a person who:

(1) is an applicant for or holds a registration issued by the director under Subchapter C (Regulation of Manufacture, Distribution, and Dispensation of Controlled Substances, Chemical Precursors, and Chemical Laboratory

Apparatus), Chapter 481 (Texas Controlled Substances Act), Health and Safety Code, that authorizes the person to manufacture, distribute, analyze, or conduct research with a controlled substance;

(2) is an applicant for or holds a chemical precursor transfer permit issued by the director under Section 481.078 (Chemical Precursor Transfer Permit),

(3) is an applicant for or holds a chemical laboratory apparatus transfer permit issued by the director under Section 481.081 (Chemical Laboratory Apparatus Transfer Permit), Health and Safety Code;

(4) is an applicant for certification by DPS as an inspection station or an inspector under Subchapter G (Certification of Inspection Station or Inspector), Chapter 548 (Compulsory Inspection of Vehicles), Transportation Code, holds an inspection station or inspector certificate issued under that subchapter, or is the owner of an inspection station operating under that chapter; or

(5) is an applicant for approval or has been approved as a program sponsor by DPS under Chapter 662 (Motorcycle Operator Training and Safety), Transportation Code, is an applicant for certification by DPS as an instructor under that chapter, or holds an instructor certificate issued under that chapter.

(b) Authorizes DPS to release or disclose criminal history record information obtained or used by DPS for a purpose described by Subsection (a) to another person or agency only in a criminal proceeding, in a hearing conducted by DPS, under an order from a court, or with the consent of the person who is the subject of the criminal history record information.

(c) Prohibits this section from being construed to limit the authority of DPS to disseminate criminal history record information as provided by Section 411.083 (Dissemination of Criminal History Record Information).

SECTION 9.02. Effective date, this article: upon passage or September 1, 2009.

ARTICLE 10. COLLECTION, MAINTENANCE, AND TRANSFER AND OTHER DISSEMINATION OF CRIMINAL HISTORY RECORD INFORMATION AND JUVENILE JUSTICE INFORMATION

SECTION 10.01. Reenacts Section 411.042(b), Government Code, as amended by Chapters 70 (H.B. 76), 1306 (S.B. 839), and 1372 (S.B. 9), Acts of the 80th Legislature, Regular Session, 2007, and amends it to require the bureau of identification and records to record data and maintain a state database for a computerized criminal history record system and computerized juvenile justice information system that serves as the record creation point for criminal history record information and juvenile justice information maintained by the state and as the control terminal for the entry of records, in accordance with federal law and regulations, federal executive orders, and federal policy, into the federal database maintained by the FBI. Makes nonsubstantive changes.

SECTION 10.02. Amends Section 411.083(b), Government Code, to require DPS to grant access to criminal history record information to an individual or agency that has a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice under that agreement, if the agreement requires the individual or agency to perform the applicable services in a manner prescribed by DPS; and an individual or agency that has a specific agreement with a noncriminal justice agency to provide services related to the use of criminal history record information disseminated under this subchapter, if the agreement requires the individual or agency to perform the applicable services in a manner prescribed by DPS.

SECTION 10.03. Amends Section 411.084(b), Government Code, to authorize criminal history record information obtained from the FBI, notwithstanding Subsection (a) or any other provision in this subchapter, to be released or disclosed only to a governmental entity or as authorized by federal law and regulations, federal executive orders, and federal policy, rather than as authorized by federal statute, federal rule, or federal executive order.

SECTION 10.04. Amends Sections 411.0845(e), (i), and (k), Government Code, as follows:

(e) Requires a person entitled to receive criminal history record information under this section to provide DPS with certain information regarding the person who is the subject of the criminal history record information requested, including the number assigned to any form of unexpired identification card issued by this state or another state, the District of Columbia, or a territory of the United States that includes the person's photograph, rather than the person's Texas driver's license number or personal identification certificate number.

(i) Provides that the release under this section of any criminal history record information maintained by the FBI, including the computerized information submitted to the federal database maintained by the FBI as described by Section 411.042(b)(9)(B), is subject to federal law and regulations, federal executive orders, and federal policy.

(k) Authorizes a governmental agency to coordinate with DPS regarding the use of the fingerprinting fee collection process to collect a fee for the criminal history record information and any other fees associated with obtaining a person's fingerprints as required by DPS. Deletes existing text authorizing a governmental agency to coordinate with DPS regarding the collection of a fee for the criminal history record information through the fingerprinting fee collection process.

SECTION 10.05. Amends Section 411.085(a), Government Code, to delete existing text providing that a person commits an offense if the person knowingly or intentionally provides a person with a copy of the person's criminal history record information obtained from DPS. Makes a conforming change.

SECTION 10.06. Amends Section 411.094(d), Government Code, to prohibit a criminal history record information received by an institution of higher education under Subsection (b) (relating to entitling an institution of higher education to obtain criminal history record information) from being released or disclosed to any person except on court order or with the consent of the person who is the subject of the criminal history record information.

SECTION 10.07. Amends Section 411.0985(c), Government Code, to prohibit the Texas Commission for the Blind from releasing or disclosing information obtained under Subsection (a), except on court order or with the consent of the person who is the subject of the criminal history record information.

SECTION 10.08. Amends Section 411.1005(b), Government Code, to provide that information received by the State Bar of Texas is confidential and is authorized to be disseminated only with the consent of the person who is the subject of the criminal history record information. Makes nonsubstantive changes.

SECTION 10.09. Amends Section 411.1131(c), Government Code, to prohibit the Texas Commission for the Deaf and Hard of Hearing from releasing or disclosing information obtained under Subsection (a), except on court order or with the consent of the person who is the subject of the criminal history record information, and is required to destroy all criminal history record information obtained under Subsection (a) after the information is used for its authorized purpose.

SECTION 10.10. Amends Section 411.1182(c), Government Code, to prohibit criminal history information obtained from DPS from being released or disclosed except with the consent of the person who is the subject of the criminal history record information.

SECTION 10.11. Amends Section 411.120(b), Government Code, to prohibit the criminal history record information obtained by a county judge under Subsection (a) from being released or disclosed to any person except in a hearing held under Chapter 25 (Wine and Beer Retailer's Permit) or 69 (Retailer Dealer's On-Premise License), Alcoholic Beverage Code, or with the consent of the person who is the subject of the criminal history record information.

SECTION 10.12. Amends Section 411.1236(b), Government Code, to prohibit the criminal history record information obtained by the Texas Commission on Fire Protection under Subsection (a) from being released to any person or agency except on court order or with the consent of the person who is the subject of the criminal history record information, or if the information, rather than unless the information, is entered into evidence by the board in an administrative, civil, or criminal hearing under Chapter 419 (Texas Commission on Fire Protection).

SECTION 10.13. Amends Section 411.136(e), Government Code, to prohibit the hospital or district from releasing or disclosing criminal history record information to any person or agency except in a criminal proceeding, in a hearing conducted by the hospital or district, to another governmental entity as required by law, as required by court order, or with the consent of the person who is the subject of the criminal history record information.

SECTION 10.14. Amends Section 411.139(b), Government Code, to prohibit criminal history record information obtained by the securities commissioner under this section from being released by any person or agency except on court order with the consent of the person who is the subject of the criminal history record information, unless the information is entered into evidence by the State Securities Board or a court at an administrative proceeding or a civil or criminal action under The Securities Act (Article 581-1 et seq., V.T.C.S.).

SECTION 10.15. Amends Section 411.140(b), Government Code, to provide that information received by the State Commission on Judicial Conduct is confidential and authorized to be disseminated only in an investigation or proceeding conducted by the commission or with the consent of the person who is the subject or the criminal history record information.

SECTION 10.16. Amends Section 411.1402(c), Government Code, to prohibit the Employees Retirement System of Texas from releasing or disclosing information obtained under Subsection (a) except on court order or with the consent of the person who is the subject of the criminal history record information.

SECTION 10.17. Amends Section 411.1406(d), Government Code, as added by Chapter 406 (S.B. 885), Acts of the 80th Legislature, Regular Session, 2007, to prohibit the court from releasing or disclosing information obtained under Subsection (b) (relating to entitling the board to obtain criminal history record information) except on order of a district court or with the consent of the person who is the subject of the criminal history record information.

SECTION 10.18. Provides that to the extent of any conflict, this article prevails over another Act of the 81st Legislature, Regular Session, 2009, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 10.19. Effective date, this article: upon passage or September 1, 2009.

ARTICLE 11. ADMINISTRATION OF CERTAIN PROVISIONS AFFECTING THE LICENSING OF PERSONS TO CARRY A CONCEALED HANDGUN

SECTION 11.01. Amends Section 411.1711, Government Code, as follows:

Sec. 411.1711. CERTAIN EXEMPTIONS FROM CONVICTIONS. Provides that a person is not convicted, as that term is defined by Section 411.171 (Definitions), if an order of a deferred adjudication was entered against the person on a date not less than 10 years preceding the date of the person's application for a license under this subchapter unless the order of deferred adjudication was entered against the person for:

- (1) an offense under:

(A) Title 5, Penal Code (Offenses Against the Person);

(B) Chapter 25 (Offenses Against the Family) or 29 (Robbery), Penal Code; or

(C) Section 30.02 (Burglary), 38.112 (Violation of Protective Order Issued on Basis of Sexual Assault), 38.17 (Failure to Stop or Report Aggravated Sexual Assault of Child), 42.072 (Stalking), 42.091 (Attack on Assistance Animal), 42.10 (Dog Fighting), 43.04 (Aggravated Promotion of Prostitution), 43.05 (Compelling Prostitution), 43.24(b)(3) (relating to a person committing an offense if he hires, employs, or uses a minor in certain prohibited acts), 43.25 (Sexual Performance by a Child), 43.26 (Possession or Promotion of Child Pornography), 49.07 (Intoxication Assault), or 49.08 (Intoxication Manslaughter), Penal Code; or

(2) an offense under the laws of another state if the offense contains elements that are substantially similar to the elements of an offense listed in Subdivision (1).

SECTION 11.02. Amends Sections 411.172(a), (d), and (e), Government Code, as follows:

(a) Provides that a person is eligible for a license to carry a concealed handgun if the person is not charged with the commission of a Class A or Class B misdemeanor or equivalent offense, or of an offense under Section 42.01 (Disorderly Conduct), Penal Code, or equivalent offense, or of a felony under an information or indictment; is not a fugitive from justice for a felony or a Class A or Class B misdemeanor or equivalent offense; and has not, in the five years preceding the date of application, been convicted of a Class A or Class B misdemeanor or equivalent offense or of an offense under Section 42.01, Penal Code, among other offenses.

(d) Provides that for the purposes of Subsection (a)(7) (relating to a person being eligible for a license to carry a concealed handgun if the person is not incapable of exercising sound judgment), a person is incapable of exercising sound judgment with respect to the proper use and storage of a handgun if the person has been diagnosed with by a licensed physician, determined by a review board or similar authority, or declared by a court to be incompetent to manage the person's own affairs.

(e) Provides that certain evidence constitutes that a person has a psychiatric disorder or condition described by Subsection (d)(1), including involuntary psychiatric hospitalization or psychiatric hospitalization, rather than involuntary psychiatric hospitalization in the preceding five-year period or psychiatric hospitalization in the preceding two-year period.

SECTION 11.03. Amends Section 411.174(a) and (b), Government Code, to require an applicant for a license to carry a concealed handgun to submit to the director's designee described by Section 411.176 one or more photographs of the applicant that meet the requirements of DPS, and evidence of handgun proficiency, in the form and manner required by DPS, among other certain items. Deletes existing text requiring an applicant for a license to carry a concealed handgun to submit to the director's designee described by Section 411.176 two recent color passport photographs of the applicant, except that an applicant who is younger than 21 years of age is required to submit two recent color passport photographs in profile of the applicant, and a handgun proficiency certificate described by Section 411.189.

(b) Requires an applicant to provide on the application a statement of certain information of the applicant, including history, rather than history during the preceding five years, if any, or treatment received by, commitment to, or residence in a drug or alcohol treatment center licensed to provide drug or alcohol treatment under the laws of this state or another state, but only if the treatment, commitment, or residence occurred during the preceding five years or a psychiatric hospital.

SECTION 11.04. Amends Section 411.176, Government Code, as follows:

Sec. 411.176. REVIEW OF APPLICATION MATERIALS. (a) Makes a nonsubstantive change. Authorizes the director's designee, for purposes of this section, to be a noncommissioned employee of DPS.

(b) Authorizes the director's designee to access any records necessary for purposes of this subsection.

(c) Creates this subsection from existing text. Authorizes the director's designee, rather than the director's designee in the appropriate geographical area, to submit the application and the recommendation that the license be issued.

(d) Creates this subsection from existing text.

SECTION 11.05. Amends Sections 411.177(a) and (b), Government Code, as follows:

(a) Authorizes DPS to issue a license to carry handguns only of the categories for which the applicant has demonstrated proficiency in the form and manner required by DPS, rather than categories indicated on the applicant's certificate of proficiency issued under Section 411.189.

(b) Require DPS, not later than the 60th day after the date of the receipt by the director's designee of the completed application materials, to notify the applicant in writing that the application was denied based on the affidavit of the director's designee submitted to DPS under Section 411.176(c), rather than Section 411.176(b), or based on the affidavit of the qualified handgun instructor submitted to DPS under Section 411.188(j), rather than Section 411.189(c).

SECTION 11.06. Amends Section 411.184(a), Government Code, to require the license holder, to modify a license to allow a license holder to carry a handgun of a different category than the license indicates, to submit to DPS evidence of handgun proficiency, in the form and manner required by DPS, rather than a copy of the handgun proficiency certificate; and one or more photographs of the license holder that meet the requirements of DPS, rather than two recent color passport photographs of the license holder except that an applicant who is younger than 21 years of age are required to submit two recent color passport photographs in profile of the applicant. Deletes existing text requiring the license holder, to modify a license to allow a license holder to carry a handgun of a different category than the license indicates, to obtain a handgun proficiency certificate under Section 411.189 not more than six months before the date of application for a modified license.

SECTION 11.07. Amends Section 411.185(a), Government Code, to require a license holder, to renew a license, to submit to DPS evidence of handgun proficiency, in the form and manner required by DPS, rather than a copy of the handgun proficiency certificate; and one or more photographs of the applicant that meet the requirements of DPS, rather than two recent color passport photographs of the applicant. Deletes existing text requiring a license holder, to renew a license, to obtain a handgun proficiency certificate under Section 411.189 within the six-month period proceeding the date of application for renewal, for a first or second renewal and the date of application for renewal or the date of application for the preceding renewal, for a third or subsequent renewal, to ensure that the license holder is not required to obtain the certificate more than once in any 10-year period.

SECTION 11.08. Amends Section 411.186(a), Government Code, to require DPS to revoke a license under this section under certain circumstances, including if the license holder subsequently becomes ineligible for a license under Section 411.172, unless the sole basis for the ineligibility is that the license holder is charged with the commission of a Class A or B misdemeanor or equivalent offense, or of an offense under Section 42.01, Penal Code, or equivalent offense, or of a felony under an information or indictment.

SECTION 11.09. Amends Section 411.187(a) and (c), Government Code, as follows:

(a) Requires DPS to suspend a license under this section, rather than authorizes a license to be suspended under this section, if the license holder is charged with the commission of a Class A or Class B misdemeanor or equivalent offense, or of an offense under Section 42.01, Penal Code, or equivalent offense, or a felony under an information or indictment.

(c) Requires DPS to suspend a license, rather than authorizes a license to be suspended, under this section for not less than one year and not more than three years, if the person's license has been previously suspended for the same reason. Makes nonsubstantive changes.

SECTION 11.10. Amends Section 411.188, Government Code, by amending Subsections (a), (g)-(i) and adding Subsection (k), as follows:

(a) Requires that one part of the course be classroom instruction and the other part be range instruction and an actual demonstration by the applicant of the applicant's ability to safely and proficiently use the applicable category of handgun, rather than use the category of handgun for which the applicant seeks certification. Require an applicant to be able to demonstrate, rather than prohibits an applicant from being certified unless the applicant demonstrates, at a minimum, the degree of proficiency that is required to effectively operate a handgun of .32 caliber or above.

(g) Requires a person who wishes to obtain or renew a license to carry a concealed handgun to apply in person to a qualified handgun instructor to take the appropriate course in handgun proficiency and demonstrate handgun proficiency as required by DPS, rather than demonstrate handgun proficiency and obtain a handgun proficiency certificate as described by Section 411.189.

(h) Requires a license holder who wishes to modify a license to allow the license holder to carry a handgun of a different category than the license indicates to apply in person to a qualified handgun instructor to demonstrate the required knowledge and proficiency in that category, rather than required knowledge and proficiency to obtain a handgun proficiency certificate in that category as described by Section 411.189.

(i) Requires the qualified handgun instructor to keep a record of all information required by DPS rule, rather than record of all certificates of handgun proficiency issued by the qualified handgun instructor and other information required by DPS rule.

(k) Authorizes a qualified handgun instructor to submit to DPS a written recommendation for disapproval of the application for a license, renewal, or modification of a license, accompanied by an affidavit stating personal knowledge or naming persons with personal knowledge of facts that lead the instructor to believe that an applicant does not possess the required handgun proficiency. Authorizes DPS to use a written recommendation submitted under this subsection as the basis for denial of a license only if DOS determines that the recommendation is made in good faith and is supported by a preponderance of the evidence. Requires DPS to make a determination under this subsection not later than the 45th day after the date DPS receives the written recommendation. Provides that the 60-day period in which DPS is required to take action under Section 411.177(b) is extended one day for each day a determination is pending under this subsection.

SECTION 11.11. Amends Sections 411.199(a) and (e), Government Code, as follows:

(a) Authorizes a person who is licensed as a peace officer under Chapter 1701, Occupations Code, rather than under Chapter 415 (Commission on Law Enforcement Officer Standards and Education [Repealed]), who has been employed full-time as a peace officer by a law enforcement agency to apply for a license under this subchapter at any time after retirement.

(e) Requires a retired peace officer who obtains a license under this subchapter to maintain, for the category of weapon licensed, the proficiency required for a peace officer under Section 1701.355, Occupations Code, rather than Section 415.035.

SECTION 11.12. Amends Section 411.1991(a), Government Code, to authorize a person who is licensed as a peace officer under Chapter 1701, Occupations Code, and is employed full-time as a peace officer by a law enforcement agency to apply for a license under this subchapter. Makes a conforming change.

SECTION 11.13. Amends Sections 411.201(c) and (d), Government Code, as follows:

(c) Provides that a retired judicial officer is eligible for a license to carry a concealed handgun under the authority of this subchapter if the officer has not, in five years preceding the date of application, been convicted of a Class A or Class B misdemeanor or equivalent offense and is not charged with the commission of a Class A or Class B misdemeanor or equivalent offense or a felony under an information or indictment.

(d) Requires an applicant for a license who is an active or retired judicial officer to submit to DPS a complete application, including all required affidavits, on a form prescribed by DPS; one or more photographs of the applicant that meet the requirements of DPS, rather than two recent color passport photographs of the applicant; two complete sets of legible and classifiable fingerprints of the applicant, including one set taken by a person employed by a law enforcement agency who is appropriately trained in recording fingerprints; and evidence of handgun proficiency, in the form and manner required by DPS for an applicant under this section, rather than a handgun proficiency certificate issued to the applicant as evidence that he applicant successfully completed the proficiency requirements of this subchapter, among other certain information. Deletes existing text requiring an applicant for a license who is an active or retired judicial officer to submit to DPS, if the applicant is a retired judicial officer, two complete sets of legible and classifiable fingerprints of the applicant taken by a person employed by a law enforcement agency who is appropriately trained in recording fingerprints.

SECTION 11.14. Amends Section 411.208, Government Code, by adding Subsection (e), to provide that the immunities granted under Subsection (a) to a qualified handgun instructor do not apply to a cause of action for fraud or a deceptive trade practice.

SECTION 11.15. Amends Article 17.292(l), Code of Criminal Procedure, to require the magistrate, rather than authorize the magistrate, in the order for emergency protection, to suspend a license to carry a concealed handgun issued under Subchapter H (License to Carry a Concealed Handgun), Chapter 411, Government Code, rather than Section 411.177, Government Code, that is held by the defendant.

SECTION 11.16. Amends Section 57.481(c), Education Code, to require the Texas Guaranteed Student Loan Corporation, to assist the department's determination of eligibility for a handgun license under Subchapter H, Chapter 411, Government Code, to provide to DPS updated information regarding persons who are determined to be in default on a student loan guaranteed by the corporation.

SECTION 11.17. Amends Section 57.491, Education Code, by adding Subsection (f), to prohibit DPS, notwithstanding Subsections (e) (relating to prohibiting a licensing agent from renewing the license of a licensee whose name is on a certain list) and (g) (relating to prohibiting a licensing agent from renewing the license of a licensee who defaults on a repayment agreement), from issuing or renewing the handgun license of an applicant who is determined to be in default on a student loan guaranteed by the corporation unless the applicant presents to DPS a certificate issued by the corporation certifying that the applicant has repaid the student loan in full.

SECTION 11.18. Amends Section 85.255(d), Family Code, to require the court, rather than authorize the court, in a protective order, to suspend a license to carry a concealed handgun issued under Subchapter H, Chapter 411, Government Code, that is held by a person found to have committed family violence. Makes a conforming change.

SECTION 11.19. Amends Section 12.095(e), Health and Safety Code, to authorize a person who conducts an examination under this subsection to be compelled to testify before the panel and in any subsequent proceedings under Subchapter H, Chapter 411, Government Code, or Subchapter N (General Provisions Relating to License Denial, Suspension, or Revocation), Chapter 521 (Driver's Licenses and Certificates), Transportation Code, as applicable, concerning the person's observations and findings.

SECTION 11.20. Amends Section 12.097(b), Health and Safety Code, to authorize the medical standards division, in subsequent proceeding under Subchapter H, Chapter 411, Government Code, or Subchapter N, Chapter 521, Transportation Code, to provide a copy of the report of the medical advisory board or panel and a medical record or report relating to an applicant or license holder to DPS, the applicant or license holder, and the officer who presides at the hearing.

SECTION 11.21. Repealers: Sections 411.175 (Request for Application Materials), 411.1882 (Exemption from Handgun Proficiency Certificate Requirement for Certain Persons), and 411.189 (Handgun Proficiency Certificate), Government Code.

SECTION 11.22. Makes application of Sections 411.1711, 411.172, and 411.201(c), Government Code, as amended by this article, and Section 57.491, Education Code, as amended by this article, prospective.

SECTION 11.23. Provides that the changes in made by Sections 411.174, 411.176, 411.177, 411.185, 411.188, and 411.201(d), Government Code, as amended by this article, and by the repeal of Sections 411.175, 411.1882, and 411.189, Government Code, apply only to an application for the issuance, modification, or renewal of a license that is submitted to DPS on or after the effective date of this article. Provides that an application submitted before the effective date of this article is governed by the law in effect when the application was submitted, and the former law is continued in effect for that purpose.

SECTION 11.24. Makes application of Sections 411.186 and 411.187, Government Code, Article 17.292, Code of Criminal Procedure, and Section 85.022, Family Code, prospective.

SECTION 11.25. Makes application of Section 411.208, Government Code, as amended by this article, prospective.

SECTION 11.26. Effective date, this article: September 1, 2009.

ARTICLE 12. DRIVER EDUCATION AND DRIVER'S LICENSING REQUIREMENTS FOR MINORS

SECTION 12.01. Requires that this article be known as the Less Tears More Years Act.

SECTION 12.02. Amends Section 29.902, Education Code, by adding Subsection (c), to require a school district to consider offering a driver education and traffic safety course during each school year. Authorizes the district, if the district offers the course, to conduct the course and charge a fee for the course in the amount determined by the agency to be comparable to the fee charged by a driver education school that holds a license under Chapter 1001 (Driver and Traffic Safety Education) or contract with a driver education school that holds a license under Chapter 1001 to conduct the course.

SECTION 12.03. Amends Section 1001.101, Education Code, as follows:

Sec. 1001.101. DRIVER EDUCATION COURSE CURRICULUM AND TEXTBOOKS. (a) Creates this subsection from existing text. Requires the commissioner of education (commissioner) by rule to establish or approve the curriculum and designate the textbooks to be used in a driver education course, including a driver education course conducted by a school district, driver education school, or parent or other individual under Section 521.205 (Department-Approved Courses), Transportation Code.

(b) Requires that a driver education course require the student to complete seven hours of behind-the-wheel instruction in the presence of a person who holds a driver education instructor license or who meets the requirements imposed under Section 521.205, Transportation Code; seven hours of observation instruction in the presence of a person who holds a driver education instructor license or who meets the requirements imposed under Section 521.205, Transportation Code; and 20 hours of behind-the-wheel instruction, including at least 10 hours of instruction that takes place at night, in the presence of an adult who meets the requirements of Section 521.222(d)(2) (relating to an instruction permit entitles the holder to operate a type of motor vehicle on a highway while the holder is accompanied by a person occupying the seat by a certain operator), Transportation Code.

SECTION 12.04. Amends Subchapter F, Chapter 1001, Education Code, by adding Section 101.257, as follows:

Sec. 1001.257. DENIAL OF LICENSE. Prohibits the commissioner from issuing or renewing a driver education instructor license, including a temporary license, to a person who has six or more points assigned to the person's driver's license under Subchapter B (Driver's License Points Surcharge), Chapter 708 (Driver Responsibility Program), Transportation Code.

SECTION 12.05. Amends Section 521.165, Transportation Code, by amending Subsection (c) and adding Subsection (d) as follows:

(c) Authorizes the public safety director, except as provided by Subsection (d), in issuing a driver's license for certain types of vehicles, to waive a driving test for an applicant who has successfully completed and passed the training and testing conducted by a person certified under Subsection (a) (relating to authorizing the director to certify and set standards for the certification of certain employers).

(d) Prohibits the director from waiving the driving test required by Section 521.161 (Examination of License Applicants) for an applicant who is under 18 years of age.

SECTION 12.06. Amends Section 521.204(a), Transportation Code, to authorize DPS to issue a Class C driver's license to an applicant under 18 years of age only if the applicant has submitted to DPS written parental or guardian permission for DPS to access the applicant's school enrollment records maintained by TEA, among other certain criteria. Makes nonsubstantive changes.

SECTION 12.07. Amends Section 521.205(a), Transportation Code, to require DPS by rule to provide for approval of a driver education course conducted by the parent, stepparent, foster parent, legal guardian, step-grandparent, or grandparent of a person who is required to complete a driver education course to obtain a Class C license. Requires the rules to provide that the person conducting the course possess a valid license for the preceding three years that has not been suspended, revoked, or forfeited in the past three years for an offense that involves the operation of a motor vehicle, rather than for traffic related violations, and the person conducting the course not have six or more points assigned to the person's driver's license under Subchapter B, Chapter 708, at the time the person begins conducting the course.

SECTION 12.08. Amends Subchapter J, Chapter 521, Transportation Code, by adding Section 521.206, as follows:

Sec. 521.206. COLLISION RATE STATISTIC PUBLICATION. (a) Requires DPS to collect data regarding collisions of students taught by public schools, driver education schools licensed under Chapter 1001, Education Code, and other entities that offer driver education courses to students for which a uniform certificate of course completion is issued. Provides that the collision rate is computed by determining the number of an entity's student who complete a driver education course during a state fiscal year, dividing that number by the number of collisions that involved students who completed such a course and that occurred in the 12-month period following their licensure, and expressing the quotient as a percentage.

(b) Requires DPS to collect data regarding the collision rate of students taught by course instructors approved under Section 521.205. Provides that the collision rate is computed by determining the number of students who complete a course approved under Section 521.205 during a state fiscal year, dividing that number by the number of collisions that involved students who completed such a course and that occurred in the 12-month period following their licensure, and expressing the quotient as a percentage

(c) Requires DPS, not later than October 1 of each year, to issue a publication listing the collision rate for students taught by each driver education entity and the collision rate for students taught by a course instructor approved under Section 521.205, noting the severity of collisions involving students of each entity and each type of course.

SECTION 12.09. Amends Section 521.271, Transportation Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Provides that each original driver's license and provisional license expires in a certain manner, including a provisional license and an instruction permit expiring on the 18th birthday of the license holder. Deletes existing text providing that a provisional license expires on the earlier of the 18th birthday of the license holder or the first birthday of the license holder occurring after the date of the application and an instruction permit expires on the second birthday of the license holder occurring after the date of the application.

(a-1) Requires DPS and TEA to enter into a memorandum of understanding under which DPS is authorized to access the TEA's electronic enrollment records to verify a student's enrollment in a public school. Requires that the memorandum of understanding specify that DPS is authorized only to access information necessary to verify the identity and enrollment status of a license renewal applicant and only if a parent or guardian of the applicant has provided written permission for DPS to access the information. Provides that nothing in this section may be construed to allow the release of information in violation of the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g).

SECTION 12.10. Amends Section 521.421(c), Transportation Code, to provide that the fee for issuance, rather than for issuance or renewal, of a provisional license or instruction permit is \$15, rather than \$5.

SECTION 12.11. Amends Section 545.424, Transportation Code, by amending Subsections (a)-(c) and adding Subsection (f), as follows:

(a) Prohibits a person under 18 years of age from operating a motor vehicle during the 12-month period, rather than six-month period, following issuance of an original Class A, B, or C driver's license to a person under certain conditions, or while using a wireless communications device, except in case of emergency. Makes nonsubstantive changes.

(b) Prohibits a person under 17 years of age who holds a restricted motorcycle license or moped license, during the 12-month period, rather than six-month period, following the issuance of an original motorcycle license or moped license to the person, from operating a motorcycle or moped under certain conditions, including while using a wireless communications device, except in case of emergency.

(c) Provides that this section does not apply to a person licensed by the Federal Communications Commission to operate a wireless communication device or a radio frequency device.

(f) Defines "wireless communication device" in this section.

SECTION 12.12. (a) Requires DPS, for the purpose of compiling data for the publication required by Section 521.206, Transportation Code, as added by this article, to determine the

number of minor students taught by each driver education entity and the total number of minor students taught by courses approved under Section 521.205, Transportation Code, who become licensed during the state fiscal year beginning September 1, 2009, and ending August 31, 2010.

(b) Requires that the first publication of collision rate data compiled under Section 521.206, Transportation Code, as added by this article, be issued not later than October 1, 2011.

SECTION 12.13. Requires DPS, not later than November 30, 2009, to appoint a task force to review and make recommendations regarding the effectiveness of the materials provided by TEA for use in courses licensed under Chapter 1001, Education Code, or authorized by Section 521.205. Requires that the task force consist of certain members.

SECTION 12.14. (a) Provides that Section 29.902(c), Education Code, as added by this article, applies beginning with the 2010-2011 school year.

(b) Requires the commissioner, not later than January 1, 2010, to adopt rules as required by Section 1001.101, Education Code, as amended by this article.

(c) Requires that each driver education training program approved by TEA under Chapter 1001, Education Code, comply with the curriculum requirements of Section 1001.101, Education Code, as amended by this article, not later than May 1, 2010.

(d) Makes application of Section 521.165, Transportation Code, as amended by this Act, prospective.

(e) Makes application of Section 521.205, Transportation Code, as amended by this Act, prospective.

(f) Makes application of Sections 521.271, 521.421, and 545.424, Transportation Code, as amended by this Act, prospective.

ARTICLE 13. REGULATION OF DRIVER'S LICENSE AND PERSONAL IDENTIFICATION CERTIFICATES BY DEPARTMENT

SECTION 13.01. Amends Section 521.029, Transportation Code, as follows:

Sec. 521.029. OPERATION OF MOTOR VEHICLE BY NEW STATE RESIDENTS.

(a) Authorizes a person who enters this state as a new resident to operate a motor vehicle in this state for no more than 90 days, rather than 30 days, after the date on which the person enters this state under certain circumstances.

(b) Requires a person, if a person subject to this section is prosecuted for operating a motor vehicle without a driver's license, the prosecution alleges that the person has resided in this state for more than 90 days, and the person claims to have been covered by Subsection (a), to prove by the preponderance of the evidence that he person has not resided in this state for more than 90 days. Makes conforming changes.

SECTION 13.02. Amends Subchapter C, Chapter 521, Transportation Code, by adding Section 521.060, as follows:

Sec. 521.060. INTERNAL VERIFICATION SYSTEM. (a) Requires DPS by rule to establish a system for identifying unique addresses that are submitted in license or certificate applications under this chapter or Chapter 522 (Commercial Driver's Licenses) in frequency or number that, in DPS's determination, casts doubt on whether the addresses are the actual addresses where the applicants reside.

(b) Authorizes DPS to contract with a third-party personal data verification service to assist DPS in implementing this section.

(c) Requires DPS to investigate the validity of addresses identified under Subsection (a).

(d) Authorizes DPS to disclose the results of an investigation under Subsection (c) to a criminal justice agency for the purposes of enforcing Section 521.4565 or other provisions of this chapter or Chapter 522.

(e) Defines "criminal justice agency" in this section.

SECTION 13.03. Amends Section 521.101, Transportation Code, by adding Subsection (j), to prohibit DPS from issuing a personal identification certificate to a person who has not established a domicile in this state.

SECTION 13.04. Amend Subchapter G, Chapter 521, Transportation Code, by adding Sections 521.1426 and 521.1427, as follows:

Sec. 521.1426. DOMICILE REQUIREMENT; VERIFICATION. (a) Prohibits DPS from issuing a driver's license or a personal identification certificate to a person who has not established a domicile in this state.

(b) Requires DPS to adopt rules for determining whether a domicile has been established, including rules prescribing the types of documentation DPS is authorized to require from the applicant to verify the validity of the claimed domicile.

(c) Authorizes DPS to contract with a third-party personal data verification service to assist DPS in verifying a claim of domicile, including whether the physical address provided by the applicant is the applicant's actual residence.

Sec. 521.1427. POST OFFICE BOX NOT VALID AS ADDRESS. (a) Defines "post office box address" in this section.

(b) Authorizes an applicant, unless an exception exists under state or federal law, to receive delivery of a license or a personal identification certificate at a post office box address only if the applicant has provided DPS the physical address where the applicant resides.

(c) Authorizes DPS to require the applicant to provide documentation that DPS determines necessary to verify the validity of the physical address provided under Subsection (b).

(d) Authorizes DPS to contract with a third-party personal data verification service to assist DPS in verifying whether the physical address provided by the applicant is the applicant's actual residence.

SECTION 13.05. Amends Subchapter C, Chapter 522, Transportation Code, by adding Sections 522.0225 and 522.0226, as follows:

Sec. 522.0225. VERIFICATION OF DOMICILE. (a) Requires DPS to adopt rules for determining whether a domicile has been established under Section 522.022 (License Requirements), including rules prescribing the types of documentation DOS is authorized to require from the applicant to determine the validity of the claimed domicile.

(b) Authorizes DPS to contract with a third-party personal data verification service to assist DPS in verifying a claim of domicile, including whether the physical address provided by the applicant is the applicant's actual residence.

Sec. 522.0226. POST OFFICE BOX NOT VALID AS ADDRESS. (a) Defines "post office box address" in this section.

(b) Authorizes an applicant, unless an exception exists under state or federal law, to receive delivery of a commercial driver's license at a post office box address only if the applicant has provided DPS the physical address where the applicant resides.

(c) Authorizes DPS to require the applicant to provide documentation that DPS determines necessary to verify the validity of the physical address provided under Subsection (b).

(d) Authorizes DPS to contract with a third-party personal data verification service to assist DPS in verifying whether the physical address provided by the applicant is the applicant's actual residence.

SECTION 13.06. Amends Subchapter S, Chapter 521, Transportation Code, by adding Section 521.4565, as follows:

Sec. 521.4565. CONSPIRING TO MANUFACTURE COUNTERFEIT LICENSE OR CERTIFICATE. (a) Defines "combination," "conspires to commit," "profits," and "criminal street gang," "conspires to manufacture or produce," "instrument," and "public servant" in this section.

(b) Provides that a person commits an offense if the person establishes, maintains, or participates in or conspires to establish, maintain, or participate in a combination or criminal street gang, or participates in the profits of a combination or criminal street gang, with the intent to manufacture or produce a forged or counterfeit instrument for the purposes of selling, distributing, or delivering such instrument. Authorizes an agreement constituting conspiring to manufacture or produce to be inferred from the acts of the parties.

(c) Provides that an offense under this section is a state jail felony, except that an offense committed by a public servant is a felony of the third degree.

SECTION 13.07. Requires DPS to adopt rules required by the amendments of this article to Chapters 521 and 522, Transportation Code, as soon as practicable after the effective date of this article.

SECTION 13.08. Effective date, this article: upon passage or September 1, 2009.

ARTICLE 14. USE OF AN OFFENDER IDENTIFICATION CARD OR SIMILAR FORM OF IDENTIFICATION AS PROOF OF IDENTITY FOR AN APPLICANT FOR A DRIVER'S LICENSE OR COMMERCIAL DRIVER'S LICENSE

SECTION 14.01. Amends Subsection (a), Section 521.142, Transportation Code, to require that an application for an original license to state the applicant's full name and place and date of birth. Requires that this information be verified by presentation of proof of identity satisfactory to the department. Requires DPS accept as satisfactory proof of identity under this subsection an offender identification card or similar form of identification issued to an inmate by the Texas Department of Criminal Justice if the applicant also provides supplemental verifiable records or documents that aid in establishing identity.

SECTION 14.02. Amends Subchapter G, Chapter 521, Transportation Code, by adding Section 521.1421, as follows:

Sec. 521.1421. INMATE IDENTIFICATION VERIFICATION PILOT PROGRAM. (a) Requires DPS participate in an inmate identification verification pilot program for the purpose of issuing driver's licenses and personal identification certificates to inmates of the Texas Department of Criminal Justice (TDCJ).

(b) Authorizes DPS, under the pilot program, to enter into a contract with TDCJ and the Department of State Health Services to establish an identification verification process for inmates of TDCJ and issue a driver's license or a personal

identification certificate to an inmate whose identity has been confirmed through the verification process and who otherwise meets the requirements for the issuance of the driver's license or personal identification certificate.

(c) Authorizes the governing bodies of the participating agencies, at the conclusion of the pilot program, to agree to continue the pilot program on a permanent basis.

(d) Requires DPS and TDCJ, not later than December 1, 2010, to jointly issue a report to the standing committees of the legislature with jurisdiction over issues related to criminal justice and homeland security addressing the status of the pilot program, the effectiveness of the pilot program, and an analysis of the feasibility of implementing a statewide program based on the pilot program.

SECTION 14.03. Amends Subsection (c-1), Section 522.021, Transportation Code, to require DPS, if DPS requires proof of an applicant's identity as part of an application under this section, to accept as satisfactory proof of identity an offender identification card or similar form of identification issued to an inmate by TDCJ if the applicant also provides supplemental verifiable records or documents that aid in establishing identity.

SECTION 14.04. Makes application of this Act prospective.

SECTION 14.05. Effective date, this article: September 1, 2009.

ARTICLE 15. DRIVER RESPONSIBILITY PROGRAM

SECTION 15.01. Amends Section 708.151, Transportation Code, as follows:

Sec. 708.151. NOTICE OF SURCHARGE. (a) Requires DPS to send notices as required by Subsection (b) to the holder of a driver's license when a surcharge is assessed on that license. Requires each notice to be sent by first class mail to the person's most recent address as shown on the records of DPS, specify the date by which the surcharge must be paid, and state the consequences of a failure to pay the surcharge.

(b) Requires DPS to send a first notice not later than the fifth day after the date the surcharge is assessed. Requires DPS, if before the 30th day after the date the first notice was sent the person fails to pay the amount of the surcharge or fails to enter into an installment payment agreement with DPS, to send a second notice. Requires DPS, if before the 30th day after the date the second notice was sent the person fails to pay the amount of the surcharge or fails to enter into an installment payment agreement with DPS, to send a third notice.

SECTION 15.02. Amends Section 708.152(a), Transportation Code, to provide that if before the 30th day after the date DPS sends a third notice under Section 708.151 the person fails to pay the amount of a surcharge on the person's license or fails to enter into an installment payment agreement with DPS, the license of the person is automatically suspended.

SECTION 15.03. Amends Section 708.153(b), Transportation Code, to provide that a rule under this section is prohibited from requiring a person to pay a surcharge over a period of less than 36 consecutive months, rather than permitting a person to pay a surcharge over a period of more than 36 consecutive months; and is authorized to provide that if the person fails to make a required installment payment, DPS is authorized to reestablish the installment plan or declare the amount of the unpaid surcharge immediately due and payable.

SECTION 15.04. Amends Subchapter D, Chapter 708, Transportation Code, by adding Section 708.158, as follows:

Sec. 708.158. JURISDICTION. (a) Provides that for the time a surcharge under this chapter is outstanding, the court in which a person is convicted of the offense that is the basis for the surcharge has jurisdiction over the person, DPS, and all agents of DPS regarding all matters relating to the surcharge.

(b) Authorizes the court to reduce or waive a surcharge under this chapter. Authorizes a person who is assessed a surcharge to file a pleading, request a hearing, or otherwise invoke the jurisdiction of the court described by Subsection (a) at any time the person is required to pay a surcharge or is subject to any other enforcement procedure described by this chapter.

(c) Prohibits DPS from assessing a surcharge against a person who is indigent. Provides that for the purposes of this subsection, a person is indigent if the person provides evidence described by Subsection (d) to the court in which the person is convicted of the offense that is the basis for the surcharge or the person is a full-time student who is enrolled in a public, private, or independent institution of higher education and provides evidence described by Subsection (d) to the court in which the person is convicted of the offense that is the basis for the surcharge.

(d) Requires a person to provide certain information to the court in which the person is convicted of the offense that is the basis for the surcharge as evidence that the person's income or the person's household income does not exceed 200 percent of the applicable income level established by the federal poverty guidelines.

(e) Requires the court, if a court holds a hearing and finds that a person is indigent based on the information provided to the court by the person under Subsection (d), to notify DPS that the person is indigent.

SECTION 15.05. Amends Subchapter B, Chapter 708, Transportation Code, by adding Section 708.056, as follows:

Sec. 708.056. DEDUCTION OF POINTS. Requires DPS by rule to establish a procedure to provide for the deduction of one point accumulated by a person under this subchapter to account for each year that the person has not accumulated points under this subchapter.

SECTION 15.06. Makes application of this Act prospective.

SECTION 15.07. Effective date, this article: September 1, 2009.

ARTICLE 16. SUSPENSION OF A DRIVER'S LICENSE BY DEPARTMENT

SECTION 16.01. Amends Section 521.341, Transportation Code, as follows:

Sec. 521.341. REQUIREMENTS FOR AUTOMATIC LICENSE SUSPENSION. Provides that a license, except as provided by Sections 521.344(d)-(i), is automatically suspended on final conviction of the license holder of a certain offense, including an offense under Section 49.045 (Driving While Intoxicated with Child Passenger), Penal Code.

SECTION 16.02. Amends Sections 521.342(a) and (b), Transportation Code, to make conforming changes.

SECTION 16.03. Amends Sections 521.344(a), (c), and (i), Transportation Code, to make conforming changes.

SECTION 16.04. Amends Sections 13(h) and (n), Article 42.12, Code of Criminal Procedure, as follows:

(h) Prohibits DPS from reinstating a license suspended under this subsection unless the person whose license was suspended makes application to DPS for reinstatement of the person's license and pays to DPS a reinstatement fee of \$100, rather than \$50.

(n) Requires the judge, notwithstanding any other provision of this section or other law, who places on community supervision a defendant who was younger than 21 years of age at the time of the offense and was convicted for an offense under Sections 49.04-49.08, Penal Code, to order that the defendant's driver's license be suspended for 90 days beginning on the date that the person is placed on community supervision and require as a condition of community supervision that the defendant not operate a motor vehicle unless the vehicle is equipped with the device described by Subsection (i) (relating to requiring a person to have a device installed) of this section.

SECTION 16.05. Makes application of Sections 521.341, 521.342, and 521.344, Transportation Code, and Section 13, Article 42.12, Code of Criminal Procedure, as amended by this article, prospective.

SECTION 16.06. Effective date, this article: September 1, 2009.

ARTICLE 17. SUBMISSION OF REPORTS ON CERTAIN CONVICTIONS OR ADJUDICATIONS RELATING TO THE OPERATION OF MOTOR VEHICLES TO THE DEPARTMENT

SECTION 17.01. Amends Sections 522.061(a) and (b), Transportation Code, as follows:

(a) Requires a person who holds or is required to hold a commercial driver's license under this chapter and who is convicted in another state of violating a state law or local ordinance relating to motor vehicle traffic control to notify DPS in the manner specified by DPS not later than the seventh day, rather than the 30th day, after the date of conviction.

(b) Makes a conforming change.

SECTION 17.02. Amends Section 543.203, Transportation Code, as follows:

Sec. 543.203. SUBMITTING RECORD TO DEPARTMENT. Requires the magistrate, judge, or clerk of the court in which the conviction was had or bail was forfeited, not later than the seventh day, rather than the 30th day, after the date of conviction or forfeiture of bail of a person on a charge of violating a law regulating the operation of a vehicle on a highway or conviction of a person of negligent homicide or a felony in the commission of which a vehicle was used, to immediately submit to DPS a written record of the case containing the information required by Section 543.202.

SECTION 17.03. Amends Section 543.204(a), Transportation Code, to provide that a justice of the peace or municipal judge who defers further proceedings, suspends all or part of the imposition of the fine, and places a defendant on probation under Article 45.051 (Suspension of Sentence and Deferral of Final), Code of Criminal Procedure, or a county court judge who follows that procedure under Article 42.111 (Deferral of Proceedings in Cases Appealed to County), Code of Criminal Procedure, are prohibited from submitting a written record to DPS, except that if the justice or judge subsequently adjudicates the defendant's guilt, the justice or judge is required to submit the record not later than the seventh day, rather than the 30th day, after the date on which the justice or judge adjudicates guilt.

SECTION 17.04. Makes application of this Act prospective.

SECTION 17.05. Effective date, this article: September 1, 2009.

ARTICLE 18. CIVIL CONSEQUENCES OF CERTAIN CONVICTIONS ON A PERSON WHO HOLDS A COMMERCIAL DRIVER'S LICENSE AND OF CERTAIN ADJUDICATIONS ON THE DRIVER'S LICENSE OR PERMIT OF A CHILD

SECTION 18.01. Amends Section 522.081(d), Transportation Code, to provide that a person is disqualified from driving a commercial motor vehicle for life if the person uses a motor vehicle in TTC an offense under 8 U.S.C. Section 1324 that involves the transportation, concealment, or harboring of an alien.

SECTION 18.02. Amends Section 54.042(a), Family Code, to require a juvenile court, in a disposition hearing under Section 54.04 (Disposition Hearing), to order DPS to suspend a child's driver's license or permit, or if the child does not have a license or permit, to deny the issuance of a license or permit to the child if the court finds that the child has engaged in conduct that violates a penal law of this state or the United States, an element or elements of which involve a severe form of trafficking in persons, as defined by 22 U.S.C. Section 7102.

SECTION 18.03. (a) Makes application of Section 522.081, Transportation Code, as amended by this article, prospective.

(b) Makes application of Section 54.042, Family Code, as amended by this article, prospective.

SECTION 18.04. Effective date, this article: September 1, 2009.

ARTICLE 19. CIVIL AND CRIMINAL CONSEQUENCES OF OPERATING A MOTOR VEHICLE OR A WATERCRAFT WHILE INTOXICATED OR UNDER THE INFLUENCE OF ALCOHOL

SECTION 19.01. Amends the heading to Section 106.041, Alcoholic Beverage Code, to read as follows:

Sec. 106.041. DRIVING OR OPERATING WATERCRAFT UNDER THE INFLUENCE OF ALCOHOL BY MINOR.

SECTION 19.02. Amends Sections 106.041(a) and (g), Alcoholic Beverage Code, as follows:

(a) Provides that a minor commits an offense if the minor operates a motor vehicle in a public place, or a watercraft, while having any detectable amount of alcohol in the minor's system.

(g) Provides that an offense under this section is not a lesser included offense under Section 49.04 (Driving While Intoxicated), 49.045 (Driving While Intoxicated with Child), or 49.06 (Boating While Intoxicated), Penal Code.

SECTION 19.03. Amends Section 106.041(j), Alcoholic Beverage Code, to define "watercraft."

SECTION 19.04. Amends Section 524.001(3), Transportation Code, to redefine "alcohol-related or drug-related enforcement contact."

SECTION 19.05. Amends Section 524.011(a), Transportation Code, to require an officer arresting a person to comply with Subsection (b) if the person is arrested for an offense under Section 49.04, 49.045, or 49.06, Penal Code, or an offense under Section 49.07 (Intoxication Assault) or 49.08 (Intoxication Manslaughter) of that code involving the operation of a motor vehicle or watercraft, submits to the taking of a specimen of breath or blood and an analysis of the specimen shows the person had an alcohol concentration of a level specified by Section 49.01(2)(B) (relating to having an alcohol concentration of 0.08 or more), Penal Code, or the person is a minor arrested for an offense under Section 106.041 (Driving Under the Influence of Alcohol by Minor), Alcoholic Beverage Code, or certain sections including 49.045, Penal Code, involving the operation of a motor vehicle or watercraft.

SECTION 19.06. Amends Section 524.012(b), Transportation Code, to require DPS to suspend the person's driver's license if the department determines that the person had an alcohol concentration of a level specified by Section 49.01(2)(B), Penal Code, while operating a motor vehicle in a public place or while operating a watercraft or the person was a minor on the date that the breath or blood specimen was obtained and had any detectable amount of alcohol in the minor's system while operating a motor vehicle in a public place or while operating a watercraft. Makes a nonsubstantive change.

SECTION 19.07. Amends Section 524.015(b), Transportation Code, to prohibit a suspension from being imposed under this chapter on a person who is acquitted of a criminal charge under certain sections, including Section 49.045, Penal Code, or Section 106.041, Alcoholic Beverage Code, arising from the occurrence that was the basis for the suspension.

SECTION 19.08. Amends Section 524.022(b), Transportation Code, to provide that a period of suspension under this chapter for a minor is 60 days if the minor has not been previously convicted of an offense under Section 106.041, Alcoholic Beverage Code, or under certain sections including Section 49.045, Penal Code, involving the operation of a motor vehicle or a watercraft.

SECTION 19.09. Amends Section 524.023, Transportation Code, as follows:

Sec. 524.023. APPLICATION OF SUSPENSION UNDER OTHER LAWS. (a) Requires that each of the suspensions, if a person is convicted of an offense under certain section, including Section 49.045, Penal Code, and if any conduct on which that conviction is based is a ground for a driver's license suspension under this chapter and Section 106.041, Alcoholic Beverage Code, Subchapter O (Automatic Suspension), Chapter 521 (Driver's Licenses and Certificates), or Subchapter H, Chapter 522, be imposed.

(b) Requires the court imposing a driver's license suspension under Section 106.041, Alcoholic Beverage Code, or Chapter 521 or 522 as required by Subsection (a) to credit a period of suspension imposed under this chapter toward the period of suspension required under certain section, including 49.045 and 49.06 (Boating While Intoxicated), Penal Code, or Section 106.041, Alcoholic Beverage Code, before the date of the conviction on which the suspension is based, in which event credit is prohibited from being given.

SECTION 19.10. Amends Sections 524.035(a) and (d), Transportation Code, as follows:

(a) Sets forth the issues that are required to be proved at a hearing by a preponderance of the evidence.

(d) Prohibits an administrative law judge from finding in the affirmative on the issue in Subsection (a)(1) if the person was a minor on the date that the breath or blood specimen was obtained and the administrative law judge does not find that the minor had any detectable amount of alcohol in the minor's system when the minor was arrested. Makes a nonsubstantive change.

SECTION 19.11. Amends Section 524.042(a), Transportation Code, to provide that a suspension of a driver's license under this chapter is stayed on the filing of an appeal petition only if the person's driver's license has not been suspended as a result of an alcohol-related or drug-related enforcement contact during the five years preceding the date of the person's arrest and the person has not been convicted during the 10 years preceding the date of the person's arrest of a certain offense. under:

SECTION 19.12. Makes application of Chapter 524, Transportation Code, as amended by this Act, prospective.

SECTION 19.13. Effective date, this article: September 1, 2009.

ARTICLE 20. ADMINISTRATIVE FINE AND LATE PAYMENT FEE FOR A VIOLATION OF A PARKING RULE APPLICABLE TO THE CAPITOL COMPLEX

SECTION 20.01. Amends Sections 411.067(a), (b), and (d), Government Code, as follows:

(a) Authorizes DPS to adopt rules, rather than requires DPS to have authority to adopt rules, for the assessment of an administrative fine of \$25, rather than \$10, for violations of the parking rules adopted under Section 411.063 (Rules Relating to Parking and Vehicles). Authorizes DPS, rather than authorizes DPS in its discretion, notwithstanding

the provisions of Sections 411.065 (Offenses) and 411.066 (Jurisdiction), issue an administrative citation for a parking violation.

(b) Requires rules adopted under this section to establish a system for enforcement of administrative citations, including assessment of a late fee not to exceed \$5, rather than \$2, and towing, impoundment, or immobilization of vehicles and provide a procedure of administrative review within the highway patrol district that includes the Capitol Complex, rather than the capitol police district, and, on request of the person assessed an administrative fine, further judicial review by the department filing the appropriate citation or complaint in a court, rather than in a court of competent jurisdiction, as provided in Section 411.066. Makes nonsubstantive changes.

(d) Requires DPS to remit to the comptroller for deposit in the general revenue fund each administrative fine and late fee collected under this section, rather than any administrative fine and late fee received under this section. Authorizes the money deposited, rather than authorizes such revenues, to be appropriated only to DPS for security, rather than capitol police security, and parking in the highway patrol district that includes the Capitol Complex.

SECTION 20.02. Effective date, this article: September 1, 2009.

ARTICLE 21. EFFECTIVE DATE

SECTION 21.01. Effective date, except as otherwise provided by this Act: September 1, 2009.