

BILL ANALYSIS

Senate Research Center
85R424 SCL/AJZ-D

H.B. 435
By: King, Ken et al. (Perry)
State Affairs
5/17/2017
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Concerned parties maintain that volunteer emergency services personnel who carry handguns may be required to remove their handguns before they are allowed on certain premises to perform their duties, a situation that could result in dangerous delays in the rendering of emergency services. H.B. 435 seeks to address this issue by providing certain legal protections to volunteer emergency services personnel who carry their licensed handguns while engaged in providing emergency services.

H.B. 435 amends current law relating to the application of certain weapons laws to and liability for certain actions of volunteer emergency services personnel licensed to carry a handgun.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 5, Civil Practice and Remedies Code, by adding Chapter 112, as follows:

CHAPTER 112. LIMITATION OF LIABILITY FOR GOVERNMENTAL UNITS

Sec. 112.001. CERTAIN ACTIONS OF VOLUNTEER EMERGENCY SERVICES PERSONNEL. (a) Defines "governmental unit" and "volunteer emergency services personnel."

(b) Provides that a governmental unit is not liable in a civil action arising from the discharge of a handgun by an individual who is volunteer emergency services personnel and licensed to carry the handgun under Subchapter H (License to Carry a Handgun), Chapter 411 (Department of Public Safety of the State of Texas), Government Code.

(c) Provides that the discharge of a handgun by an individual who is volunteer emergency services personnel and licensed to carry the handgun under Subchapter H, Chapter 411, Government Code, is outside the course and scope of the individual's duties as volunteer emergency services personnel.

(d) Prohibits this section from being construed to waive the immunity from suit or liability of a governmental unit under Chapter 101 (Tort Claims) or any other law.

SECTION 2. Amends Section 30.06, Penal Code, by adding Subsection (f), to provide that it is a defense to prosecution under this section (Trespass by License Holder with a Concealed Handgun) that the license holder is volunteer emergency services personnel, as defined by Section 46.01 (Definitions).

SECTION 3. Amends Section 30.07, Penal Code, by adding Subsection (g), to provide that it is a defense to prosecution under this section (Trespass by License Holder with an Openly Carried

Handgun) that the license holder is volunteer emergency services personnel, as defined by Section 46.01.

SECTION 4. Amends Section 46.01, Penal Code, by adding Subdivision (18) to define "volunteer emergency services personnel."

SECTION 5. Amends Section 46.035, Penal Code, by adding Subsection (m), to provide that it is a defense to prosecution under Subsections (b) (relating to a license holder committing an offense if the license holder carries a handgun in certain places in a certain manner) and (c) (relating to a license holder committing an offense if the license holder carries a handgun in a room where open meetings may be held by a governmental entity) that the actor is volunteer emergency services personnel engaged in providing emergency services.

SECTION 6. Amends Section 46.15(a), Penal Code, to provide that Sections 46.02 (Unlawful Carrying Weapons) and 46.03 (Places Weapons Prohibited) do not apply to certain individuals, including a person who is volunteer emergency services personnel if the person is carrying a handgun under the authority of Subchapter H, Chapter 411, Government Code, and engaged in providing emergency services.

SECTION 7. Makes application of the changes in law made by this Act to Sections 30.06 and 30.07 and Chapter 46, Penal Code, prospective.

SECTION 8. Effective date: September 1, 2017.