

BILL ANALYSIS

S.B. 1408
By: Huffines
Homeland Security & Public Safety
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties note that certain professions are afforded certain privileges under state law with respect to a handgun license and possessing a handgun and contend that certain first responders and volunteer emergency services personnel should enjoy similar privileges. S.B. 1408 seeks to provide certain protections to these first responders and volunteer emergency services personnel seeking to carry a licensed handgun while exercising their duties.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the public safety director of the Department of Public Safety in SECTION 2 of this bill.

ANALYSIS

S.B. 1408 amends the Civil Practice and Remedies Code to exempt a governmental unit from liability in a civil action arising from the discharge of a handgun by an individual who is volunteer emergency services personnel, as defined by the bill, and licensed to carry a handgun. The bill establishes that the discharge of a handgun by such an individual is outside the course and scope of the individual's duties as volunteer emergency services personnel. The bill prohibits these provisions from being construed to waive a governmental unit's immunity from suit or liability under the Texas Tort Claims Act or any other law.

S.B. 1408 amends the Government Code to require the public safety director of the Department of Public Safety (DPS) by rule adopted not later than December 1, 2017, to establish minimum standards for an on-duty first responder training course that a first responder, as defined by the bill and excluding commissioned law enforcement personnel, who is a handgun license holder may complete to receive a certification of completion from DPS and to set out requirements relating to the training course. The bill makes a first responder responsible for paying to the course provider the costs of the training course and requires DPS to issue a certificate of completion to a first responder who completes the course. The bill prohibits a qualified handgun instructor from offering the training course before January 1, 2018.

S.B. 1408 requires the public safety director by rule adopted not later than December 1, 2017, to approve devices to enable a first responder to secure a handgun if the first responder, while on duty, is required to enter a location where carrying the handgun is prohibited by federal law or otherwise. The bill prohibits a governmental entity that employs or otherwise supervises first responders from adopting a rule or regulation that prohibits a first responder who holds a handgun license and who has received a certificate of completion of an on-duty first responder

training course from DPS from carrying a concealed handgun while on duty or storing a handgun on the premises of or in a vehicle owned or operated by the governmental entity if the handgun is secured with a such an approved device. The bill authorizes a first responder to discharge a handgun while on duty only in self-defense and grants a governmental entity that employs or otherwise supervises first responders immunity from liability in a civil action arising from the discharge of a handgun by a first responder who is licensed to carry a handgun. The bill establishes that the discharge of a handgun by such a first responder is outside the course and scope of the first responder's duties. The bill prohibits its provisions regarding the training course from being construed to waive the immunity from suit or liability of a governmental entity that employs or otherwise supervises first responders under the Texas Tort Claims Act or any other law and establishes that those provisions do not create a cause of action or liability.

S.B. 1408 amends the Penal Code to include as a defense to prosecution for certain conduct constituting the offense of unlawful carrying of a handgun by a handgun license holder that the actor was a first responder who was carrying a concealed handgun and held a handgun license, has received a certificate of completion for a DPS training course under the bill's provisions, and was engaged in the actual discharge of the first responder's duties while carrying the handgun. The bill provides for the inapplicability to such first responders of statutory provisions regarding the unlawful carrying of weapons and regarding places where weapons are prohibited. These bill provisions apply only to an offense committed on or after January 1, 2018.

EFFECTIVE DATE

September 1, 2017.