

SUBJECT: Issuing concealed handgun licenses to residents of other states

COMMITTEE: Law Enforcement — committee substitute recommended

VOTE: 4 ayes — Driver, Garza, Hupp, Hegar

0 nays

3 absent — Burnam, Y. Davis, Keel

WITNESSES: None

BACKGROUND: Government Code, sec. 411.172 sets eligibility requirements for a person to obtain a license to carry a concealed handgun. The Department of Public Safety (DPS) issues licenses. Sec. 411.173(a) requires DPS to establish a procedure for obtaining a license for people who are legal residents of states that do not issue licenses to carry concealed handguns. Sec. 411.173(b) requires DPS to negotiate agreements with other states that issue concealed handgun licenses so that Texas recognizes another state's licenses if DPS determines that the eligibility requirements imposed by the other state include background-check requirements that meet or exceed requirements imposed by federal law as a condition of receiving a handgun, and if the other state recognizes Texas licenses.

DIGEST: CSHB 3477 would require that Texas concealed handgun licenses issued to people from other states remain in effect until they expire if the other state enacts a law providing for issuing concealed handgun licenses. People would be able to renew their licenses until Texas had a reciprocity agreement with the other state.

The bill would change the criteria for entering into background checks with other states. Texas could enter into a reciprocity agreement with another state if authorities in the other state conducted a background check before issuing a license to determine each license applicant's eligibility to possess a firearm under federal law. The bill would eliminate the current requirement that the eligibility requirements imposed by the other state include background-check requirements that meet or exceed requirements imposed by federal law to

receive a handgun. It also would eliminate the requirement that the other state recognize a license issued by Texas.

The bill would require that the governor, instead of DPS, negotiate reciprocity agreements with other states. The governor could issue a proclamation that Texas recognized a license from another state if the Texas attorney general determined that authorities in the other state conducted a background check before issuing a license to determine each applicant's eligibility to possess a firearm under federal law.

The attorney general would have to submit a report by January 1 of each year to the governor, lieutenant governor, and House speaker listing the states determined to qualified for reciprocity. The attorney general also would have to review the laws of states that did not qualify for reciprocity to determine what changes to their laws would be necessary to qualify for a reciprocity agreement.

The bill would take effect September 1, 2003, and the attorney general would have to submit the first report by January 1, 2005.

**SUPPORTERS
SAY:**

CSHB 3477 would address problems with the current concealed handgun statute that unfairly penalize persons from other states who have obtained Texas licenses. Currently, if a person from another state has a Texas license and the other state enacts a law licensing concealed handgun carriers, the person's Texas license is rescinded. This is unfair, since these license holders have paid for their licenses to be valid for, generally, a four-year period. Also, since these people have gone through Texas' application process, including a background check and training classes, it is unfair to cancel their licenses, leaving them no way to carry a concealed handgun in Texas until Texas enters a reciprocity agreement with their state.

CSHB 3477 would address these problems by allowing these licenses to be valid until they expired and by allowing people to renew their licenses until Texas had a reciprocity agreement with the other state. If Texas had a reciprocity agreement with the other state, the licensee would have to obtain a license from the licensee's own state if he or she wanted to carry a concealed handgun in Texas.

The bill would continue to ensure that licensees from other states meet federal requirements for obtaining a firearm but would allow reciprocity agreements with states whose statutes might not state these requirements verbatim — for example, if these states had similar requirements in their administrative rules. Under CSHB 3477, reciprocity agreements could be reached only if the other state conducted a background check of each applicant to determine whether the applicant met federal eligibility requirements to possess a firearm. DPS would know if someone had failed to meet the federal requirements and could deny an applicant a license on that basis.

CSHB 3477 would eliminate the unnecessary requirement that the other state recognize a license issued by Texas before an agreement to recognize the other state's license could be reached. Texas' decision on reciprocity should not focus on actions taken by the other state.

CSHB 3477 would move the responsibility for negotiating and recognizing reciprocity agreements with other states from DPS to the governor and attorney general, because those officials are more appropriate for the task. DPS, as a law enforcement agency, has focused more on background checks and other eligibility requirements necessary to issue a concealed handgun licensee and has been unable to make reciprocity agreements a priority. Currently, Texas has reciprocity agreements with only eight other states. The governor and attorney general would be in a better position to focus on assessing other states' laws and reaching reciprocity agreements with other states. CSHB 3477 simply would move the job of reaching reciprocity agreements to state officials who can give the process more attention.

OPPONENTS
SAY:

CSHB 3477 would make an unwise and subtle shift in the requirements that must be met before Texas could enter into a reciprocity agreement with another state that issues concealed handgun licenses. Current law requires that DPS enter into reciprocity agreements with other states if the other state's eligibility requirements *include background-check requirements that meet or exceed* requirements imposed by federal laws. CSHB 3477 would require other states to have *conducted* background check to determine applicants' eligibility to possess a firearm under federal law. Under CSHB 3477, the other state would have to conduct a background check, but the state's law would not have to include requirements that meet or exceed federal law.

This shift could mean that Texas could reach a reciprocity agreement with another state that did not specify as part of its eligibility requirements that people meet or exceed federal requirements. Texas law should continue to require in the strongest and clearest language that a state's laws include a statement that license recipients meet or exceed federal requirements.

It would be unwise to eliminate the requirement that the other state recognize a license issued by Texas before an agreement to recognize the other state's license could be reached. This requirement helps ensure that if Texas extends privileges to people from other states, those other states also will extend privileges to Texans.

Authority for recognizing reciprocity agreements with other states should not be moved from DPS. It is more efficient and logical to leave the task of reciprocity agreements with DPS, which is the state's main law enforcement agency and has the responsibility for all other aspects of concealed handgun licensing. The governor and the attorney general have many other responsibilities, and reaching reciprocity agreements with other states could become lost in the shuffle.

NOTES:

As filed, HB 3477 would have required DPS, instead of the attorney general, to determine whether another state conducted background checks and to issue the annual report on reciprocity agreements.

The companion bill, SB 1406 by Estes, is scheduled for a public hearing by the Senate Criminal Justice Committee on May 6.

A similar bill, HB 1704 by Taylor, is also on today's House General State Calendar.