

SUBJECT: Revising reciprocity for concealed handgun licenses to non-Texans

COMMITTEE: Law Enforcement — favorable, without amendment

VOTE: 4 ayes — Driver, Jackson, Frost, Hegar
0 nays
2 absent — Hupp, Veasey
1 present not voting — Burnam

WITNESSES: For — Bill Elkin, Houston Police Retired Officers Association; Alice Tripp, Texas State Rifle Association
Against — None
On — Jan Coffey, Texas Department of Public Safety

BACKGROUND: Government Code, sec. 411.173 requires the Department of Public Safety to develop procedures for the issuance of concealed handgun licenses to residents of states that do not provide for concealed handgun licenses and to people who recently have moved to Texas and do not yet qualify as residents for purposes of applying for a concealed handgun license.

Section 411.173 also provides for reciprocity with other states that issue concealed handgun licenses. For a state to gain reciprocity with Texas — i.e, mutual recognition of licenses issued by each state — that state must conduct a background check of each concealed handgun license applicant before it issues a license to the applicant to determine that the applicant is eligible under federal law to purchase a firearm.

DIGEST: HB 1066 would modify the procedure for determining whether another state was eligible for concealed handgun license reciprocity with Texas. It would stipulate that another state need only initiate, rather than conduct, a background check before issuing a concealed handgun license to an applicant. Further, the requirement that the background check be sufficient to verify that the applicant would be eligible under federal law to purchase

a firearm would be repealed and new language added requiring that the applicant be checked through two separate databases.

The bill also would allow a person to apply for a Texas concealed handgun license regardless of whether that person's home state issued concealed handgun licenses.

Finally, the bill would repeal Government Code sec. 411.173 (a-1), which stipulates that a concealed handgun license issued to a resident of a state that does not have concealed handgun licenses will remain in effect and may be renewed even if that state enacts a law providing for the issuance of concealed handgun licenses.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2005.

**SUPPORTERS
SAY:**

Current law mandates that Texas may establish reciprocity agreements only with other states that use exactly the same procedures to license applicants as does Texas. Because of this, the Office of the Attorney General (OAG) is having problems reaching reciprocity agreements with numerous states because of technicalities. Therefore, numerous people who visit the state or who have not lived in Texas long enough to qualify as residents are not able to carry concealed handguns in Texas even if they are licensed to carry a concealed handgun in their home states.

The technical problems that are limiting the issuance of reciprocal agreements with other states are caused by differences in the way states run background checks and when states issue licenses in the process of the background check. HB 1066 would eliminate these technical difficulties by requiring a state simply to initiate a background check, rather than complete the check, before the concealed handgun license was issued. Many states currently issue a license before the background check is completed and thus currently are ineligible for reciprocity with Texas.

Also, by changing the requirement that a state run a background check that would verify that the applicant is eligible to purchase a firearm under federal law to a requirement that the state run the applicant through two databases, many states that do not currently verify federal eligibility would be eligible for concealed handgun reciprocity with Texas.

Fears that this bill would allow unsuitable applicants to obtain the right to carry concealed weapons in Texas are exaggerated. The overall tendency of concealed handgun licensees to be law abiding citizens is well known.

OPPONENTS
SAY:

The “technical difficulties” alleged to be limiting the issuance of reciprocity agreements involve lax requirements in other states for what constitutes a background check and when an applicant may receive a license. The OAG has reached bilateral reciprocity agreements with 18 states and a unilateral reciprocity agreement with one additional state. The reason the OAG has not reached additional agreements is because, unlike Texas, many other states do not require their concealed handgun licensees to be federally eligible to purchase a firearm. Texas should not compromise its stricter standards for the convenience of licensees who wish to carry concealed weapons here.

This bill would allow an applicant in a state with a reciprocity agreement who has received a concealed handgun license to carry a concealed weapon in Texas, even though that person eventually might fail the background check. Many other states are obligated statutorily to issue a handgun license within a certain number of days if the applicant does not fail the background check. As a result, some states must issue licenses to people who eventually may fail the background check. Texas should not endanger its citizens by softening the requirement for complete background checks merely for the sake of streamlining reciprocity agreements.

Federal law lists nine ways a person may be disqualified from purchasing a firearm. In order for a dealer to sell someone a firearm, federal law requires that the seller run the buyer’s name through the National Instant Criminal Background Check System (NICS), which comprises three databases: the National Crime Information Center database, the Interstate Identification Index, and the NICS Index.

This bill would require that a state run a concealed handgun license applicant through only two of these databases, which together check for only four of the nine disqualifiers. The five disqualifiers that would go unchecked under this bill include illegal drug use or addiction, mental illness or mental retardation, illegal residency status in the United States, dishonorable military discharge, and renouncement of citizenship by former U.S. citizens. Clearly, people who fit any of these descriptions should not be allowed to carry concealed handguns in this state.

The laws relating to who may be licensed to carry a concealed handgun in Texas and which states are eligible for reciprocity agreements were drafted carefully to allow certain qualified people to carry concealed handguns while ensuring the safety of all Texans. Changing these carefully drafted requirements could result in potentially dangerous people being able to carry concealed handguns in Texas.