

SUBJECT: Validity of concealed handgun licenses until DPS issues renewal or denial

COMMITTEE: Public Safety — favorable, without amendment

VOTE: 9 ayes — Merritt, Frost, Burnam, Driver, P. King, Lewis, Mallory
Caraway, Rodriguez, Vo

0 nays

WITNESSES: For — Mike Cox; (*Registered, but did not testify*: Norman Garza, Texas
Farm Bureau; Alice Tripp, Texas State Rifle Association)

Against — None

On — Jan Coffey, Texas Department of Public Safety

BACKGROUND: The 74th Legislature in 1995 enacted SB 60 by Patterson, which provides an exception to the Penal Code, sec. 46.02 prohibition against carrying weapons illegally and permits Texans to apply for licenses to carry concealed handguns.

Under Government Code, sec. 411.183, a new license to carry a concealed handgun expires on the license holder's birth date, four years from when it was first issued, and a renewed license expires five years after the date of expiration of the previous license.

Government Code, secs. 411.186 and 411.187 detail the process to revoke or suspend a concealed handgun license and provide for notification and appeals.

Government Code, sec. 411.205(a) requires that concealed handgun license holders show their licenses to a law enforcement officer upon demand or risk suspension of their licenses.

DIGEST: HB 140 would amend Penal Code, sec. 46.15 to provide that a valid license for purposes of carrying a concealed handgun would include an expired license if, before the expiration date of the license, the license holder applied to DPS for renewal and DPS has not notified the person that the application had been denied.

The bill also would amend Government Code, sec. 411.205 (a) to require a license holder who was carrying a handgun when a magistrate or peace officer demanded identification to display both a driver's license or ID and the handgun license, including any expired license. Failure or refusal to do so would make the person subject to suspension of the handgun license or refusal to renew the handgun license for the applicable period.

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, 2009.

**SUPPORTERS
SAY:**

HB 140 would provide a solution for those who had paid renewal fees and met strict requirements to keep their concealed handgun licenses but had waited up to six months to receive their renewals. DPS is required to notify those Texans whose licenses have been suspended or revoked, but there is no way of knowing the status of a renewal, and these applications can fall into a bureaucratic black hole. Lacking a valid concealed handgun license could subject these people to additional penalties, including a refusal to renew a license.

The DPS website tells those who want to carry their concealed handguns while they wait to receive their renewals that they still must have currently valid licenses in their possession to carry a concealed handgun. Legislators, not state agencies, should make these determinations, and the bill would allow the Legislature to decide public policy on concealed handgun licenses.

In 2008, concealed handgun license applications were up 40 percent, and new records are set monthly. It is uncertain when the current backlog on processing applications and renewals of concealed handgun applications will be resolved. The process also has been delayed because commissioned DPS officers required to conduct background checks sometimes are temporarily reassigned to help with emergencies, as some were with Hurricane Ike. Current budget shortfalls make it unlikely that funding would be provided for additional commissioned officers or non-commissioned staff in the DPS concealed handgun license section. Until such issues are resolved, there would be no need to provide an expiration date or sunset review of changes proposed by HB 140.

OPPONENTS
SAY:

HB 140 should have provisions to limit its application or subject it to a sunset review once DPS receives resources to eliminate the backlog in concealed handgun license applications and renewals.

OTHER
OPPONENTS
SAY:

HB 140 would provide a temporary legislative fix for something more appropriately addressed in the appropriations process. The Legislature has not increased the staff or the budget for the DPS concealed handgun license section significantly since it was created in 1995. License application and renewal fees generate significant revenues, and the Legislature should use this money to serve concealed handgun license holders, not divert these funds for other purposes.

Concealed handgun license holders should not be in jeopardy of suspension of their licenses or other criminal penalties for not showing a license, valid or expired, to a law enforcement officer. It is difficult to prove in those situations that a license renewal has been filed before the deadline or that DPS has not denied the renewal.

NOTES:

HB 410 by Isett, also on today's General State Calendar, would repeal Government Code, sec. 411.205 requirements on showing a concealed handgun license to a law enforcement officer.