

BILL ANALYSIS

Senate Research Center
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H.B. 140
By: Gonzalez Toureilles et al. (Hinojosa)
Criminal Justice
5/12/2009
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Department of Public Safety of the State of Texas (DPS) reviews all applications for renewal of a concealed handgun license. Depending on the number of applications a waiting review, DPS cannot always conduct a timely review of all applications.

This bill proposes to create a defense for a person who normally carries a valid concealed handgun license, but does not have a renewed license because of the failure of DPS to timely renew a license and notify the licensee.

H.B. 140 amends current law relating to the use or display under certain circumstances of an expired license to carry a concealed 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. Reenacts Section 46.15(b), Penal Code, as amended by Chapters 647 (H.B. 964), 693 (H.B. 1815), and 1048 (H.B. 2101), Acts of the 80th Legislature, Regular Session, 2007, as follows:

(b) Provides that Section 46.02 (Unlawful Carrying Weapons) does not apply to a person who is in the actual discharge of official duties as a member of the armed forces or state military forces as defined by Section 431.001 (Definitions), Government Code, or as a guard employed by a penal institution; is traveling; is engaging in lawful hunting, fishing, or other sporting activity on the immediate premises where the activity is conducted, or is en route between the premises and the actor's residence or motor vehicle, if the weapon is a type commonly used in the activity; holds a security officer commission issued by the Texas Private Security Board, if the person is engaged in the performance of the person's duties as an officer commissioned under Chapter 1702 (Private Security), Occupations Code, or is traveling to or from the person's place of assignment and meets either of two conditions; is carrying a concealed handgun and a valid license issued under Subchapter H (License to Carry a Concealed Handgun), Chapter 411 (Department of Public Safety of the State of Texas), Government Code, to carry a concealed handgun of the same category as the handgun the person is carrying; holds an alcoholic beverage permit or license or is an employee of a holder of an alcoholic beverage permit or license if the person is supervising the operation of the permitted or licensed premises; or is a student in a law enforcement class engaging in an activity required as part of the class, if the weapon is a type commonly used in the activity and the person is on the immediate premises where the activity is conducted or en route between those premises and the person's residence and is carrying the weapon unloaded.

SECTION 2. Amends Section 46.15, Penal Code, by adding Subsection (g), to provide that for purposes of Subsection (b)(5) (relating to holding a security officer commission issued by the Texas Private Security Board), a valid license includes an expired license if, before the expiration date of the license, the license holder submitted an application for renewal of the license to the Department of Public Safety of the State of Texas (DPS) in accordance with

Section 411.185 (Renewal), Government Code, and has not received notice that the application for renewal was denied.

SECTION 3. Amends Section 411.205(a), Government Code, as follows:

(a) Requires a license holder, if the license holder is carrying a handgun on or about the license holder's person when a magistrate or a peace officer demands that the license holder display identification, to display both the license holder's driver's license or identification certificate issued by DPS and the license holder's handgun license, including any expired license that remains in the person's possession. Provides that a person who fails or refuses to display the person's identification, rather than the person's license, and handgun license as required by this subsection is subject to suspension of the person's license as provided by Section 411.187 (Suspension of License) or, if the license is expired, a refusal to renew the person's license for the applicable period of suspension provided by that section.

SECTION 4. Effective date: upon passage or September 1, 2009.