

BILL ANALYSIS

Senate Research Center
83R10392 ADM-D

H.B. 3142
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Agriculture, Rural Affairs & Homeland Security
5/16/2013
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 3142 amends current law relating to handguns used to demonstrate proficiency in handgun use for purposes of obtaining a concealed handgun license.

RULEMAKING AUTHORITY

Rulemaking authority of a state agency, including the Texas Parks and Wildlife Department, the Department of Public Safety of the State of Texas, and the Lower Colorado River Authority, previously restricted is modified in SECTION 11 (Section 62.082, Parks and Wildlife Code) of this bill.

Rulemaking authority previously granted to the public safety director is rescinded in SECTION 14 (Section 411.184, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 11.041(a), Alcoholic Beverage Code, to require each holder of a permit who is not otherwise required to display a sign under Section 411.204 (Special Texas Rangers), Government Code, to display in a prominent place on the permit holder's premises a sign giving notice that it is unlawful for a person to carry a weapon on the premises unless the weapon is a concealed handgun, rather than unless the weapon is a concealed handgun of the same category, the person is licensed to carry under Subchapter H (License to Carry a Concealed Handgun), Chapter 411, Government Code.

SECTION 2. Amends Section 11.61(e), Alcoholic Beverage Code, to provide that this subsection does not apply to certain persons, including a person who possesses a concealed handgun, rather than who possesses a concealed handgun of the same category, the person is licensed to carry under Subchapter H, Chapter 411, Government Code, unless the person is on the premises of a certain business.

SECTION 3. Amends Section 61.11(a), Alcoholic Beverage Code, to require each holder of a license who is not otherwise required to display a sign under Section 411.204, Government Code, to display in a prominent place on the license holder's premises a sign giving notice that it is unlawful for a person to carry a weapon on the premises unless the weapon is a concealed handgun, rather than a concealed handgun of the same category, the person is licensed to carry under Subchapter H, Chapter 411, Government Code.

SECTION 4. Amends Section 61.71(f), Alcoholic Beverage Code, to provide that this subsection does not apply to certain persons, including a person who possesses a concealed handgun, rather than who possesses a concealed handgun of the same category, the person is licensed to carry under Subchapter H, Chapter 411, Government Code, unless the person is on the premises of a business described by Section 46.035(b)(1), Penal Code.

SECTION 5. Amends Section 411.177(a), Government Code, to delete existing text authorizing the Department of Public Safety of the State of Texas (DPS) to issue a license to carry handguns only of the categories for which the applicant has demonstrated proficiency in the form and manner required by DPS.

SECTION 6. Amends Section 411.179(a), Government Code, to delete existing text requiring that a license include a statement of the category or categories of handguns the license holder may carry as provided by Subsection (b) (relating to providing that one of the categories of handguns is SA, which includes any handguns, whether semi-automatic or not).

SECTION 7. Amends Section 411.187(a), Government Code, to delete existing text requiring DPS to suspend a license under this section (Suspension of License) if the license holder carries a concealed handgun under the authority of this subchapter of a different category than the license holder is licensed to carry or fails to return a previously issued license after a license is modified as required by Section 411.184(d) (relating to requiring the license holder, on receipt of a modified license, to return the previously issued license to DPS) and to make nonsubstantive changes.

SECTION 8. Amends Sections 411.188(a) and (d), Government Code, as follows:

(a) Requires that one part of a course to teach handgun proficiency must be classroom instruction and the other part must be range instruction and an actual demonstration by the applicant of the applicant's ability to safely and proficiently use a handgun, rather than to safely and proficiently use the applicable category of handgun.

(d) Requires that the proficiency examination include a written section on certain subjects and a physical demonstration of proficiency in the use of one or more handguns, rather than of one or more handguns of specific categories, and in handgun safety procedures.

SECTION 9. Amends Section 411.1882(a), Government Code, to delete existing text authorizing a person who is serving in this state as a judge or justice of a federal court, as an active judicial officer, as defined by Section 411.201 (Active and Retired Judicial Officers), or as a district attorney, assistant district attorney, criminal district attorney, assistant criminal district attorney, county attorney, or assistant county attorney to establish handgun proficiency for the purposes of this subchapter by obtaining from a handgun proficiency instructor approved by the Commission on Law Enforcement Officer Standards and Education for purposes of Section 1702.1675 (Training Programs), Occupations Code, a sworn statement that designates the categories of handguns with respect to which the person demonstrated proficiency and to make nonsubstantive changes.

SECTION 10. Amends Section 411.199(e), Government Code, to require a retired peace officer who obtains a license under this subchapter to maintain, rather than to maintain for the category of weapon licensed, the proficiency required for a peace officer under Section 1701.355 (Continuing Demonstration of Weapons Proficiency), Occupations Code.

SECTION 11. Amends Sections 62.082(d) and (e), Parks and Wildlife Code, as follows:

(d) Provides that Section 62.081 (Weapons Prohibited) does not apply to certain individuals, including:

(1)-(3) Makes no change to these subdivisions; or

(4) a person who:

(A) possesses a concealed handgun and a license issued under Subchapter H, Chapter 411, Government Code, to carry a concealed handgun, rather than to carry a concealed handgun of the same category as a handgun the person is carrying; or

(B) under circumstances in which the person would be justified in the use of deadly force under Chapter 9 (Justification Excluding Criminal Responsibility), Penal Code, shoots a handgun, the person is licensed to carry under Subchapter H, Chapter 411, Government Code, rather than shoots a handgun of the same category as a handgun the person is licensed to carry under Subchapter H, Chapter 411, Government Code.

(e) Prohibits a state agency, including the Texas Parks and Wildlife Department, DPS, and the Lower Colorado River Authority, from adopting a rule that prohibits a person who possesses a license issued under Subchapter H, Chapter 411, Government Code, from entering or crossing the land of the Lower Colorado River Authority while:

(1) possessing a concealed handgun, rather than a concealed handgun of the same category as a handgun the person is licensed to carry; or

(2) under circumstances in which the person would be justified in the use of deadly force under Chapter 9, Penal Code, shooting a handgun, rather than a handgun of the same category as a handgun the person is licensed to carry.

SECTION 12. Amends Section 30.05(f), Penal Code, to provide that it is a defense to prosecution under this section (Criminal Trespass) that the basis on which entry on the property or land or in the building was forbidden is that entry with a handgun was forbidden; and the person was carrying a concealed handgun and a license issued under Subchapter H, Chapter 411, Government Code, to carry a concealed handgun, rather than a concealed handgun of the same category the person was carrying.

SECTION 13. Amends Section 46.15(b), Penal Code, to provide that Section 46.02 (Unlawful Carrying Weapons) does not apply to certain persons, including a person who is carrying a concealed handgun and a valid license issued under Subchapter H, Chapter 411, Government Code, to carry a concealed handgun, rather than a concealed handgun of the same category as the handgun the person is carrying.

SECTION 14. Repealer: Section 411.171(1) (defining "action in this subchapter (License to Carry a Concealed Handgun)), Government Code.

Repealer: Section 411.179(b) (relating to providing that a category of handguns contains handguns that are not prohibited by law and are of certain actions), Government Code.

Repealer: Section 411.184 (Modification), Government Code.

Repealer: Sections 411.188(e) (relating to authorizing only a qualified handgun instructor to administer the proficiency examination to modify a license) and (h) (relating to requiring a license holder who wishes to modify a license to allow the license holder to carry a handgun of a different category than the license indicates to apply in person to a qualified handgun instructor to demonstrate the required knowledge and proficiency in that category), Government Code.

SECTION 15. (a) Provides that the change in law made by this Act to Subchapter H, Chapter 411, Government Code, applies only to a license issued or renewed under that subchapter on or after the effective date of this Act.

(b) Provides that the changes in law made by this Act to the Alcoholic Beverage Code, Parks and Wildlife Code, and Penal Code, apply only to civil or criminal proceedings involving the carrying of a handgun on or after the effective date of this Act by a person licensed to carry a concealed handgun under Subchapter H, Chapter 411, Government Code, as amended by this Act.

SECTION 16. Effective date: upon passage or September 1, 2013.