

SENATE AMENDMENTS

2nd Printing

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H.B. No. 2730

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the continuation and functions of the Department of
3 Public Safety of the State of Texas and the Texas Private Security
4 Board; providing a penalty.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 ARTICLE 1. CHANGES TO VEHICLE INSPECTION PROGRAM

7 SECTION 1.01. Section 548.006(i), Transportation Code, is
8 amended to read as follows:

9 (i) The committee shall hold a meeting at least once [~~at~~
10 ~~least two meetings~~] each quarter [~~year~~].

11 SECTION 1.02. Subchapter A, Chapter 548, Transportation
12 Code, is amended by adding Section 548.008 to read as follows:

13 Sec. 548.008. VEHICLE INSPECTION PROGRAM DIRECTOR. (a)
14 The vehicle inspection program is managed by a program director.
15 The program director may not be a commissioned officer.

16 (b) The office of the vehicle inspection program director
17 must be located in Austin, Texas.

18 (c) The duties of the program director include:

19 (1) responsibility for the quality of the vehicle
20 inspection program;

21 (2) coordination of the regional offices;

22 (3) compilation of regional and statewide performance
23 data;

24 (4) the establishment of best practices and

1 distribution of those practices to the regional offices;

2 (5) setting goals for the entire program, in
3 consultation with the public safety director or the public safety
4 director's designee, and setting goals for each regional office in
5 consultation with the regional managers;

6 (6) monitoring the progress toward the goals set in
7 Subdivision (5) and evaluating the program based on that progress;
8 and

9 (7) coordination with the Texas Highway Patrol to
10 enforce provisions related to vehicle inspection.

11 (d) The regional offices shall make reports as requested by
12 the program director.

13 SECTION 1.03. Section 548.501, Transportation Code, is
14 amended by amending Subsection (a) and adding Subsection (c) to
15 read as follows:

16 (a) Except as provided by Sections 548.503 and 548.504, the
17 fee for inspection of a motor vehicle other than a moped is \$14
18 [~~\$12.50~~]. The fee for inspection of a moped is \$6.75 [~~\$5.75~~]. The
19 fee for a verification form issued as required by Section 548.256 is
20 \$2 [~~\$1~~].

21 (c) An inspection station may collect the applicable
22 inspection fee at the time of the original inspection of a vehicle,
23 regardless of whether an inspection certificate is issued at that
24 time. An inspection fee may be included with charges for other
25 products or services but must be shown on a work order for the
26 products or services as a separate item. An inspection fee may be
27 advertised in conjunction with other products or services.

ARTICLE 2. DIVISION OF EMERGENCY MANAGEMENT

PART A. ORGANIZATION OF DIVISION

SECTION 2A.01. Section 418.004, Government Code, is amended by amending Subdivision (2) and adding Subdivision (9) to read as follows:

(2) "Division" means the Texas Division of Emergency Management [~~division of emergency management in the office of the governor~~].

(9) "Department" means the Department of Public Safety of the State of Texas.

SECTION 2A.02. Sections 418.041(a), (b), and (c), Government Code, are amended to read as follows:

(a) The Texas Division of Emergency Management [~~division of emergency management~~] is a division of the department [~~office of the governor~~].

(b) The division is managed by a chief [~~director~~] appointed by the public safety director of the department, with the approval of the governor. The chief [~~director~~] serves at the pleasure of the public safety director [~~governor~~]. The chief must possess professional training and knowledge consisting of not less than five years of managerial or strategic planning experience in matters relating to public safety, security, emergency services, and emergency response.

(c) At least once every two months, the following shall meet to coordinate efforts, prevent overlap of activities, and ensure that the state's approach to emergency management and homeland security is unified:

1 (1) a representative of the department;

2 (2) a representative of the division;

3 (3) a representative of the governor's office of
4 homeland security;

5 (4) the presiding officer of the Homeland Security
6 Council; and

7 (5) a state agency representative from the emergency
8 management council, selected by the chair of the emergency
9 management council. [The director shall appoint a state
10 coordinator.]

11 SECTION 2A.03. Section 418.072, Government Code, is amended
12 to read as follows:

13 Sec. 418.072. DISASTER EMERGENCY FUNDING BOARD. The
14 disaster emergency funding board is composed of:

15 (1) the governor;

16 (2) the lieutenant governor;

17 (3) the commissioner of insurance;

18 (4) the executive commissioner of the Health and
19 [Department of] Human Services Commission; and

20 (5) the chief [~~director~~] of the division.

21 SECTION 2A.04. Section 418.074(b), Government Code, is
22 amended to read as follows:

23 (b) If a gift, grant, or loan is accepted by the state, the
24 governor, or the emergency management council or chief of the
25 division [~~state coordinator~~] if designated by the governor, may
26 dispense the gift, grant, or loan directly to accomplish the
27 purpose for which it was made or may allocate and transfer to a

1 political subdivision services, equipment, supplies, materials, or
2 funds in the amount the governor or the governor's designee may
3 determine.

4 SECTION 2A.05. Section 431.082, Government Code, is amended
5 by adding Subsection (d) to read as follows:

6 (d) A member of the Texas State Guard called to state active
7 duty in response to a state emergency is a temporary employee of the
8 state while on state active duty.

9 PART B. OTHER AMENDMENTS, INCLUDING CONFORMING AMENDMENTS

10 REFLECTING DIVISION'S NAME CHANGE

11 SECTION 2B.01. Section 12.0012, Agriculture Code, is
12 amended to read as follows:

13 Sec. 12.0012. NOTIFICATION. The department shall, upon
14 submission for publication, notify the Texas Division of Emergency
15 Management [~~division of emergency management in the office of the~~
16 ~~governor~~] of each quarantine it adopts. The department shall
17 thereafter cooperate with the Texas Division of Emergency
18 Management [~~division of emergency management~~] in implementing any
19 necessary safeguards to protect the state's agricultural resources
20 from potential economic, health, or ecological disaster that may
21 result from the quarantined pest or disease.

22 SECTION 2B.02. Sections 88.303(a) and (d), Education Code,
23 are amended to read as follows:

24 (a) Notwithstanding any other law, during any period in
25 which Texas Task Force 1 is activated by the Texas Division of
26 Emergency Management [~~governor's division of emergency~~
27 ~~management~~], or during any training session sponsored or sanctioned

1 by Texas Task Force 1, a participating nongovernment member or
2 local government employee member is included in the coverage
3 provided under Chapter 501, Labor Code, in the same manner as an
4 employee, as defined by Section 501.001, Labor Code.

5 (d) Notwithstanding Section 412.0123, Labor Code, as added
6 by Chapter 1098, Acts of the 75th Legislature, Regular Session,
7 1997, the Texas Division of Emergency Management [~~governor's~~
8 ~~division of emergency management~~] shall reimburse the State Office
9 of Risk Management for the actual medical and indemnity benefits
10 paid on behalf of a covered member of Texas Task Force 1 at the
11 beginning of the next state fiscal year occurring after the date the
12 benefits are paid.

13 SECTION 2B.03. Section 418.014(e), Government Code, is
14 amended to read as follows:

15 (e) An executive order or proclamation shall be
16 disseminated promptly by means intended to bring its contents to
17 the attention of the general public. An order or proclamation shall
18 be filed promptly with the division [~~of emergency management~~], the
19 secretary of state, and the county clerk or city secretary in each
20 area to which it applies unless the circumstances attendant on the
21 disaster prevent or impede the filing.

22 SECTION 2B.04. The heading to Subchapter C, Chapter 418,
23 Government Code, is amended to read as follows:

24 SUBCHAPTER C. TEXAS DIVISION OF EMERGENCY MANAGEMENT

25 SECTION 2B.05. Subchapter C, Chapter 418, Government Code,
26 is amended by adding Section 418.050 to read as follows:

27 Sec. 418.050. REENTRY CREDENTIALING PILOT PROGRAM. (a) The

1 division shall consider implementing a pilot program for a reentry
2 credentialing process for reentry into areas previously evacuated
3 because of a disaster or threat of disaster.

4 (b) If the division implements a pilot project under this
5 section, the reentry credentials issued under the project must:

- 6 (1) be uniform and commonly constructed;
7 (2) have common card holder information; and
8 (3) have security features equivalent to the security
9 features of a Texas driver's license.

10 (c) The division may not require residents of an evacuated
11 area to participate in or comply with a reentry credentialing
12 process under this section.

13 SECTION 2B.06. Section 418.073(d), Government Code, is
14 amended to read as follows:

15 (d) The ~~[governor's]~~ division ~~[of emergency management]~~
16 shall administer the disaster contingency fund and shall develop
17 and implement rules and procedures for providing emergency
18 assistance from the fund. The division shall annually report to the
19 speaker of the house of representatives and the lieutenant governor
20 expenditures from the fund, the overall status of the fund, and any
21 changes to rules and procedures regarding the fund.

22 SECTION 2B.07. Section 421.021(a), Government Code, is
23 amended to read as follows:

24 (a) The Homeland Security Council is composed of the
25 governor or the governor's designee, the speaker of the house of
26 representatives or the speaker's designee, the lieutenant governor
27 or the lieutenant governor's designee, and one representative of

1 each of the following entities, appointed by the single statewide
2 elected or appointed governing officer, administrative head, or
3 chair, as appropriate, of the entity:

- 4 (1) Department of Agriculture;
- 5 (2) office of the attorney general;
- 6 (3) General Land Office;
- 7 (4) Public Utility Commission of Texas;
- 8 (5) Department of State Health Services;
- 9 (6) Department of Information Resources;
- 10 (7) Department of Public Safety of the State of Texas;
- 11 (8) Texas Division of Emergency Management [~~division~~
12 ~~of emergency management of the office of the governor~~];
- 13 (9) adjutant general's department;
- 14 (10) Texas Commission on Environmental Quality;
- 15 (11) Railroad Commission of Texas;
- 16 (12) Texas Strategic Military Planning Commission;
- 17 (13) Texas Department of Transportation;
- 18 (14) Commission on State Emergency Communications;
- 19 (15) Office of State-Federal Relations;
- 20 (16) secretary of state;
- 21 (17) Senate Committee on Transportation and Homeland
22 Security;
- 23 (18) House Committee on Defense and Veterans' Affairs
24 [~~and State-Federal Relations~~];
- 25 (19) Texas Animal Health Commission;
- 26 (20) Texas Association of Regional Councils;
- 27 (21) Texas Commission on Law Enforcement Officer

1 Standards and Education;

2 (22) state fire marshal's office;

3 (23) Texas Education Agency;

4 (24) Texas Commission on Fire Protection;

5 (25) Parks and Wildlife Department;

6 (26) Texas Forest Service; and

7 (27) Texas Water Development Board.

8 SECTION 2B.08. Section 661.907(b), Government Code, is
9 amended to read as follows:

10 (b) The number of certified disaster service volunteers who
11 are eligible for leave under this section may not exceed 350 state
12 employees at any one time during a fiscal year. The Texas Division
13 of Emergency Management [~~division of emergency management in the~~
14 ~~governor's office~~] shall coordinate the establishment and
15 maintenance of the list of eligible employees.

16 SECTION 2B.09. Section 661.919(b), Government Code, is
17 amended to read as follows:

18 (b) The number of amateur radio operators who are eligible
19 for leave under this section may not exceed 350 state employees at
20 any one time during a state fiscal year. The Texas Division of
21 Emergency Management [~~division of emergency management in the~~
22 ~~governor's office~~] shall coordinate the establishment and
23 maintenance of the list of eligible employees.

24 SECTION 2B.10. Section 501.001(5), Labor Code, is amended
25 to read as follows:

26 (5) "Employee" means a person who is:

27 (A) in the service of the state pursuant to an

1 election, appointment, or express oral or written contract of hire;

2 (B) paid from state funds but whose duties
3 require that the person work and frequently receive supervision in
4 a political subdivision of the state;

5 (C) a peace officer employed by a political
6 subdivision, while the peace officer is exercising authority
7 granted under:

8 (i) Article 2.12, Code of Criminal
9 Procedure; or

10 (ii) Articles 14.03(d) and (g), Code of
11 Criminal Procedure;

12 (D) a member of the state military forces, as
13 defined by Section 431.001, Government Code, who is engaged in
14 authorized training or duty; or

15 (E) a Texas Task Force 1 member, as defined by
16 Section 88.301, Education Code, who is activated by the Texas
17 Division of Emergency Management [~~governor's division of emergency~~
18 ~~management~~] or is injured during [~~any~~] training [~~session~~] sponsored
19 or sanctioned by Texas Task Force 1.

20 SECTION 2B.11. Sections 16.055(a) and (b), Water Code, are
21 amended to read as follows:

22 (a) The chief [~~coordinator~~] of the Texas Division of
23 Emergency Management [~~division of emergency management of the~~
24 ~~office of the governor~~] is the state drought manager. The state
25 drought manager is responsible for managing and coordinating the
26 drought response component of the state water plan.

27 (b) The drought preparedness council is created and shall

1 meet as necessary to carry out the provisions of this section. The
2 council is composed of one representative from each of the
3 following entities, appointed by the administrative head of that
4 entity:

- 5 (1) the Texas Division of Emergency Management
6 [~~division of emergency management of the office of the governor~~];
- 7 (2) the board;
- 8 (3) the commission;
- 9 (4) the Parks and Wildlife Department;
- 10 (5) the Department of Agriculture;
- 11 (6) the Texas AgriLife [~~Agricultural~~] Extension
12 Service;
- 13 (7) the State Soil and Water Conservation Board;
- 14 (8) the Texas Department of Housing and Community
15 Affairs;
- 16 (9) the Texas Forest Service;
- 17 (10) the Texas Department of Transportation;
- 18 (11) the Texas Department of Economic Development; and
- 19 (12) a representative of groundwater management
20 interests who is appointed by the governor.

21 SECTION 2B.12. Section 1(3), Chapter 350 (S.B. 1101), Acts
22 of the 71st Legislature, Regular Session, 1989 (Article 6419c,
23 Vernon's Texas Civil Statutes), is amended to read as follows:

24 (3) "Division of emergency management" means the Texas
25 Division of Emergency Management [~~division of emergency management~~
26 ~~of the office of the governor~~].

27 SECTION 2B.13. A reference in law or a rule to the

1 "governor's division of emergency management" or the "division of
2 emergency management in the office of the governor" means the Texas
3 Division of Emergency Management in the Department of Public Safety
4 of the State of Texas.

5 ARTICLE 3. ADMINISTRATIVE SUSPENSION OF DRIVER'S LICENSE FOR
6 INTOXICATION OFFENSES

7 SECTION 3.01. Section 524.038, Transportation Code, is
8 amended by amending Subsection (d) and adding Subsection (e) to
9 read as follows:

10 (d) An affidavit from an expert witness [~~a person~~] whose
11 presence is timely requested under this section is inadmissible if
12 the expert witness [~~person~~] fails to appear at a hearing without a
13 showing of good cause. Otherwise, an affidavit under this section
14 may be submitted in lieu of an appearance at the hearing by the
15 [~~breath test operator, breath test technical supervisor, or~~] expert
16 witness.

17 (e) An affidavit from a breath test operator or breath test
18 technical supervisor is admissible unless the judge determines that
19 justice requires the breath test operator or breath test technical
20 supervisor to be present.

21 SECTION 3.02. Section 524.039, Transportation Code, is
22 amended to read as follows:

23 Sec. 524.039. APPEARANCE OF TECHNICIANS AT HEARING. (a)
24 Not [~~Notwithstanding Section 524.038, if not~~] later than the fifth
25 day before the date of a scheduled hearing, the department
26 ~~receives from~~ the person who requested a hearing may apply to the
27 State Office of Administrative Hearings to issue a subpoena for the

1 attendance [~~written notice, including a facsimile transmission,~~
2 ~~requesting the presence at the hearing]~~ of the breath test operator
3 who took the specimen of the person's breath to determine alcohol
4 concentration or the certified breath test technical supervisor
5 responsible for maintaining and directing the operation of the
6 breath test instrument used to analyze the specimen of the person's
7 breath, or both[~~, each requested person must appear at the~~
8 ~~hearing]~~. The State Office of Administrative Hearings shall issue
9 the subpoena only on a showing of good cause.

10 (b) The department may reschedule a hearing once not less
11 than 48 hours before the hearing if a [~~the~~] person subpoenaed
12 [~~requested to attend~~] under Subsection (a) is unavailable. The
13 department may also reschedule the hearing on showing good cause
14 that a [~~the~~] person subpoenaed [~~requested~~] under Subsection (a) is
15 not available at the time of the hearing.

16 SECTION 3.03. The changes in law made by this article by the
17 amendment of Sections 524.038 and 524.039, Transportation Code,
18 apply only to a hearing conducted on or after September 1, 2009. A
19 hearing conducted before September 1, 2009, is covered by the law in
20 effect immediately before that date, and the former law is
21 continued in effect for that purpose.

22 SECTION 3.04. This article takes effect September 1, 2009.

23 ARTICLE 4. CHANGES TO PRIVATE SECURITY ACT

24 SECTION 4.01. Section 1702.002, Occupations Code, is
25 amended by amending Subdivisions (2), (3), (5), (11), (12), (13),
26 (17), (19), (20), and (21) and adding Subdivision (6-b) to read as
27 follows:

1 (2) "Branch office" means an office that is:

2 (A) identified to the public as a place from
3 which business is conducted, solicited, or advertised; and

4 (B) at a place other than the principal place of
5 business as shown in board [~~commission~~] records.

6 (3) "Branch office license" means a permit issued by
7 the board [~~commission~~] that entitles a person to operate at a branch
8 office as a security services contractor or investigations company.

9 (5) "Commissioned security officer" means a security
10 officer to whom a security officer commission has been issued by the
11 board [~~commission~~].

12 (6-b) "Endorsement" means a permit entitling an
13 individual holding a registration to perform a service regulated by
14 this chapter for an appropriately licensed company.

15 (11) "Letter of authority" means a permit issued by
16 the board [~~commission~~] that entitles the security department of a
17 private business or a political subdivision to employ a
18 commissioned security officer.

19 (12) "License" means a permit issued by the board
20 [~~commission~~] that entitles a person to operate as a security
21 services contractor or investigations company.

22 (13) "License holder" means a person to whom the board
23 [~~commission~~] issues a license.

24 (17) "Personal protection officer endorsement
25 [~~authorization~~]" means a permit issued by the board [~~commission~~]
26 that entitles an individual to act as a personal protection
27 officer.

1 (19) "Registrant" means an individual who has
2 registered with the board [~~commission~~] under Section 1702.221.

3 (20) "Registration" means a permit issued by the board
4 [~~commission~~] to an individual described by Section 1702.221.

5 (21) "Security officer commission" means an
6 authorization issued by the board [~~commission~~] that entitles a
7 security officer to carry a firearm.

8 SECTION 4.02. Section 1702.004, Occupations Code, is
9 amended to read as follows:

10 Sec. 1702.004. GENERAL SCOPE OF REGULATION. (a) The board,
11 in addition to performing duties required by other law or
12 exercising powers granted by other law:

13 (1) licenses investigations companies and security
14 services contractors;

15 (2) issues commissions to certain security officers;

16 (3) issues endorsements [~~authorizations~~] to certain
17 security officers engaged in the personal protection of
18 individuals;

19 (4) registers and endorses:

20 (A) certain individuals connected with a license
21 holder; and

22 (B) certain individuals employed in a field
23 connected to private investigation or private security; and

24 (5) regulates license holders, security officers,
25 [~~and~~] registrants, and endorsement holders under this chapter.

26 (b) The board shall adopt rules necessary to comply with
27 Chapter 53 [~~does not apply to this chapter or to any licensing,~~

1 ~~regulatory, or disciplinary determinations made under this~~
2 ~~chapter]. In its rules under this section, the board shall list the~~
3 ~~specific offenses for each category of regulated persons for which~~
4 ~~a conviction would constitute grounds for the board to take action~~
5 ~~under Section 53.021.~~

6 SECTION 4.03. The heading to Subchapter B, Chapter 1702,
7 Occupations Code, is amended to read as follows:

8 SUBCHAPTER B. TEXAS [~~COMMISSION ON~~] PRIVATE SECURITY BOARD

9 SECTION 4.04. Section 1702.021, Occupations Code, is
10 amended to read as follows:

11 Sec. 1702.021. BOARD [~~COMMISSION~~] MEMBERSHIP. (a) The
12 Texas Private Security Board consists of seven members appointed by
13 the governor with the advice and consent of the senate as follows:

14 (1) four public members, each of whom is a citizen of
15 the United States;

16 (2) one member who is licensed under this chapter as a
17 private investigator;

18 (3) one member who is licensed under this chapter as an
19 alarm systems company; and

20 (4) one member who is licensed under this chapter as
21 the owner or operator of a guard company.

22 (b) Appointments to the board [~~commission~~] shall be made
23 without regard to the race, color, disability, sex, religion, age,
24 or national origin of the appointee.

25 [~~(c) On presentation by a commission member of the~~
26 ~~constitutional oath taken by the member, together with the~~
27 ~~certificate of appointment, the secretary of state shall issue a~~

1 ~~commission to the member as evidence of the member's authority to~~
2 ~~act as a commission member.]~~

3 SECTION 4.05. Section 1702.023, Occupations Code, is
4 amended to read as follows:

5 Sec. 1702.023. ELIGIBILITY OF PUBLIC MEMBERS. The board's
6 ~~[commission's]~~ public members must be representatives of the
7 general public. A person may not be a public member of the board
8 ~~[commission]~~ if the person or the person's spouse:

9 (1) is registered, commissioned, certified, or
10 licensed by a regulatory agency in the field of private
11 investigations or private security;

12 (2) is employed by or participates in the management
13 of a business entity or other organization regulated by or
14 receiving money from the board ~~[commission]~~;

15 (3) owns or controls, directly or indirectly, more
16 than a 10 percent interest in a business entity or other
17 organization regulated by or receiving money from the board
18 ~~[commission]~~; or

19 (4) uses or receives a substantial amount of tangible
20 goods, services, or money from the board ~~[commission]~~ other than
21 compensation or reimbursement authorized by law for board
22 ~~[commission]~~ membership, attendance, or expenses.

23 SECTION 4.06. Sections 1702.024(b) and (c), Occupations
24 Code, are amended to read as follows:

25 (b) A person may not be a board ~~[commission]~~ member, and may
26 not be a department ~~[commission]~~ employee whose primary duties
27 include private security regulation and who is employed in a "bona

1 fide executive, administrative, or professional capacity," as that
2 phrase is used for purposes of establishing an exemption to the
3 overtime provisions of the federal Fair Labor Standards Act of 1938
4 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, if:

5 (1) the person is an officer, employee, or paid
6 consultant of a Texas trade association in the field of private
7 investigation or private security; or

8 (2) the person's spouse is an officer, manager, or paid
9 consultant of a Texas trade association in the field of private
10 investigation or private security.

11 (c) A person may not be a board [~~commission~~] member or act as
12 general counsel to the board [~~commission~~] or agency if the person is
13 required to register as a lobbyist under Chapter 305, Government
14 Code, because of the person's activities for compensation on behalf
15 of a profession related to the operation of the agency.

16 SECTION 4.07. Section 1702.027, Occupations Code, is
17 amended to read as follows:

18 Sec. 1702.027. GROUNDS FOR REMOVAL. (a) It is a ground for
19 removal from the board [~~commission~~] that a member:

20 (1) does not have the qualifications required by
21 Section 1702.021 at the time of taking office;

22 (2) does not maintain the qualifications required by
23 Section 1702.021 during service on the board [~~commission~~];

24 (3) is ineligible for membership under Section
25 1702.023 or 1702.024;

26 (4) cannot, because of illness or disability,
27 discharge the member's duties for a substantial part of the member's

1 term; or

2 (5) is absent from more than half of the regularly
3 scheduled board [~~commission~~] meetings that the member is eligible
4 to attend during a calendar year without an excuse approved by a
5 majority vote of the board [~~commission~~].

6 (b) The validity of an action of the board [~~commission~~] is
7 not affected by the fact that it is taken when a ground for removal
8 of a board [~~commission~~] member exists.

9 (c) If the chief administrator [~~director~~] has knowledge
10 that a potential ground for removal exists, the chief administrator
11 [~~director~~] shall notify the presiding officer of the board
12 [~~commission~~] of the potential ground. The presiding officer shall
13 then notify the governor and the attorney general that a potential
14 ground for removal exists. If the potential ground for removal
15 involves the presiding officer, the chief administrator [~~director~~]
16 shall notify the next highest ranking officer of the board
17 [~~commission~~], who shall then notify the governor and the attorney
18 general that a potential ground for removal exists.

19 SECTION 4.08. Section 1702.028, Occupations Code, is
20 amended to read as follows:

21 Sec. 1702.028. PER DIEM; REIMBURSEMENT. (a) A board
22 [~~commission~~] member is entitled to a per diem as set by legislative
23 appropriation for each day the member engages in the business of the
24 board [~~commission~~].

25 (b) A member is entitled to reimbursement for travel
26 [~~transportation~~] expenses incurred while conducting board
27 business, including expenses for transportation, meals, and

1 lodging, as prescribed by the General Appropriations Act. [A
2 ~~member may not receive compensation for travel expenses, including~~
3 ~~expenses for meals and lodging, other than transportation~~
4 ~~expenses.~~]

5 SECTION 4.09. Section 1702.029, Occupations Code, is
6 amended to read as follows:

7 Sec. 1702.029. MEETINGS. The board [~~commission~~] shall meet
8 at regular intervals to be decided by the board [~~commission~~].

9 SECTION 4.10. Section 1702.030, Occupations Code, is
10 amended to read as follows:

11 Sec. 1702.030. TRAINING. (a) A person who is appointed to
12 and qualifies for office as a board [~~commission~~] member may not
13 vote, deliberate, or be counted as a member in attendance at a board
14 [~~commission~~] meeting until the person completes a training program
15 that complies with this section.

16 (b) The training program must provide the person with
17 information regarding:

- 18 (1) this chapter;
- 19 (2) the programs operated by the board [~~commission~~];
- 20 (3) the role and functions of the board [~~commission~~];
- 21 (4) the rules of the board [~~commission~~], with an
22 emphasis on the rules that relate to disciplinary and investigatory
23 authority;
- 24 (5) the current budget for the board [~~commission~~];
- 25 (6) the results of the most recent formal audit of the
26 board [~~commission~~];
- 27 (7) the requirements of:

1 (A) the open meetings law, Chapter 551,
2 Government Code;

3 (B) the public information law, Chapter 552,
4 Government Code;

5 (C) the administrative procedure law, Chapter
6 2001, Government Code; and

7 (D) other laws relating to public officials,
8 including conflict of interest laws; and

9 (8) any applicable ethics policies adopted by the
10 board [~~commission~~] or the Texas Ethics Commission.

11 (c) A person appointed to the board [~~commission~~] is entitled
12 to reimbursement, as provided by the General Appropriations Act,
13 for the travel expenses incurred in attending the training program
14 regardless of whether the attendance at the program occurs before
15 or after the person qualifies for office.

16 SECTION 4.11. The heading to Subchapter C, Chapter 1702,
17 Occupations Code, is amended to read as follows:

18 SUBCHAPTER C. CHIEF ADMINISTRATOR [~~DIRECTOR~~] AND PERSONNEL

19 SECTION 4.12. Section 1702.041, Occupations Code, is
20 amended to read as follows:

21 Sec. 1702.041. CHIEF ADMINISTRATOR [~~DIRECTOR~~]. (a) The
22 [~~director is the~~] chief administrator is responsible for the
23 administration of this chapter under the direction of the board
24 [~~commission~~]. The chief administrator [~~director~~] shall perform
25 duties as prescribed by the board and the department [~~commission~~].

26 (b) The chief administrator [~~director~~] is a full-time
27 employee of the department [~~commission~~]. A board [~~commission~~]

1 member may not serve as chief administrator [~~director~~].

2 SECTION 4.13. Section 1702.042, Occupations Code, is
3 amended to read as follows:

4 Sec. 1702.042. PERSONNEL; CONFLICT OF INTEREST. An
5 employee of the department whose primary duties include private
6 security regulation [~~commission~~] may not:

7 (1) have a financial or business interest, contingent
8 or otherwise, in a security services contractor or investigations
9 company; or

10 (2) be licensed under this chapter.

11 SECTION 4.14. Section 1702.043, Occupations Code, is
12 amended to read as follows:

13 Sec. 1702.043. DIVISION OF RESPONSIBILITIES. The board
14 [~~commission~~] shall develop and implement policies that clearly
15 separate the policy-making responsibilities of the board
16 [~~commission~~] and the management responsibilities of the chief
17 administrator [~~director~~] and staff of the department [~~commission~~].

18 SECTION 4.15. Section 1702.044, Occupations Code, is
19 amended to read as follows:

20 Sec. 1702.044. QUALIFICATIONS AND STANDARDS OF CONDUCT
21 INFORMATION. The chief administrator [~~director~~] or the chief
22 administrator's [~~director's~~] designee shall provide to board
23 [~~commission~~] members and to agency employees, as often as
24 necessary, information regarding the requirements for office or
25 employment under this chapter, including information regarding a
26 person's responsibilities under applicable laws relating to
27 standards of conduct for state officers or employees.

1 SECTION 4.16. The heading to Subchapter D, Chapter 1702,
2 Occupations Code, is amended to read as follows:

3 SUBCHAPTER D. POWERS AND DUTIES OF BOARD [~~COMMISSION~~]

4 SECTION 4.17. Section 1702.061, Occupations Code, is
5 amended to read as follows:

6 Sec. 1702.061. GENERAL POWERS AND DUTIES OF BOARD
7 [~~COMMISSION~~]. (a) The board [~~Texas Commission on Private~~
8 ~~Security~~] shall perform the functions and duties provided by this
9 chapter.

10 (b) The board [~~commission~~] shall adopt rules and general
11 policies to guide the agency in the administration of this chapter.

12 (c) The rules and policies adopted by the board [~~commission~~]
13 under Subsection (b) must be consistent with this chapter and other
14 board [~~commission~~] rules adopted under this chapter and with any
15 other applicable law, state rule, or federal regulation.

16 (d) The board [~~commission~~] has the powers and duties to:

17 (1) determine the qualifications of license holders,
18 registrants, endorsement holders, and commissioned security
19 officers;

20 (2) investigate alleged violations of this chapter and
21 of board [~~commission~~] rules;

22 (3) adopt rules necessary to implement this chapter;
23 and

24 (4) establish and enforce standards governing the
25 safety and conduct of each person licensed, registered, or
26 commissioned under this chapter.

27 (e) The board [~~commission~~] shall have a seal in the form

1 prescribed by the board [~~commission~~].

2 [~~(f) The commission may commission investigators who are~~
3 ~~employed full-time by the commission as peace officers for the~~
4 ~~limited purpose of assisting the commission in investigating~~
5 ~~alleged violations of this chapter and of commission rules.~~]

6 SECTION 4.18. Subchapter D, Chapter 1702, Occupations Code,
7 is amended by adding Section 1702.0612 to read as follows:

8 Sec. 1702.0612. NEGOTIATED RULEMAKING AND ALTERNATIVE
9 DISPUTE RESOLUTION. (a) The board shall develop and implement a
10 policy to encourage the use of:

11 (1) negotiated rulemaking procedures under Chapter
12 2008, Government Code, for the adoption of board rules; and

13 (2) appropriate alternative dispute resolution
14 procedures under Chapter 2009, Government Code, to assist in the
15 resolution of internal and external disputes under the board's
16 jurisdiction.

17 (b) The board's procedures relating to alternative dispute
18 resolution must conform, to the extent possible, to any model
19 guidelines issued by the State Office of Administrative Hearings
20 for the use of alternative dispute resolution by state agencies.

21 (c) The board shall designate a trained person to:

22 (1) coordinate the implementation of the policy
23 adopted under Subsection (a);

24 (2) serve as a resource for any training needed to
25 implement the procedures for negotiated rulemaking or alternative
26 dispute resolution; and

27 (3) collect data concerning the effectiveness of those

1 procedures, as implemented by the board.

2 SECTION 4.19. Section 1702.062, Occupations Code, is
 3 amended to read as follows:

4 Sec. 1702.062. FEES. (a) The board [~~commission~~] by rule
 5 shall establish reasonable and necessary fees that produce
 6 sufficient revenue to administer this chapter. The fees may not
 7 produce unnecessary fund balances. [~~and may not exceed the~~
 8 ~~following amounts:~~

- 9 [~~Class A license~~ ~~_____~~ ~~\$350 (original and renewal)~~
- 10 [~~Class B license~~ ~~_____~~ ~~\$400 (original and renewal)~~
- 11 [~~Class C license~~ ~~_____~~ ~~\$540 (original and renewal)~~
- 12 [~~Class D license~~ ~~_____~~ ~~\$400 (original and renewal)~~
- 13 [~~Reinstate suspended license~~ ~~_____~~ ~~\$150~~
- 14 [~~Assignment of license~~ ~~_____~~ ~~\$150~~
- 15 [~~Change name of license~~ ~~_____~~ ~~\$ 75~~
- 16 [~~Delinquency fee~~ ~~_____~~ ~~_____~~
- 17 [~~Branch office certificate and renewal~~ ~~_____~~ ~~\$300~~
- 18 [~~Registration fee for private investigator, manager, branch~~
 19 ~~office manager, locksmith, electronic access control device~~
 20 ~~installer, and alarm systems installer~~ ~~\$ 30 (original and renewal)~~
- 21 [~~Registration fee for noncommissioned security officer~~ ~~\$ 30~~
 22 ~~(original and renewal)~~
- 23 [~~Registration fee for security salesperson~~ ~~_____~~ ~~\$ 30~~
- 24 [~~Registration fee for alarm systems monitor~~ ~~_____~~ ~~\$ 30~~
- 25 [~~Registration fee for dog trainer~~ ~~_____~~ ~~\$ 30~~
- 26 [~~Registration fee for owner, officer, partner, or~~
 27 ~~shareholder of a license holder~~ ~~_____~~ ~~\$ 50~~

1	[Registration fee for security consultant	\$300
2	[Registration fee for employee of license holder	\$ 30
3	[Security officer commission fee	\$ 50
4	(original and renewal)	
5	[School instructor fee	\$100
6	(original and renewal)	
7	[School approval fee	\$350
8	(original and renewal)	
9	[Letter of authority fee for private business and political	
10	subdivision	\$400
11	[Letter of authority renewal fee for private business and	
12	political subdivision	\$225
13	[Letter of authority fee for commissioned officer,	
14	noncommissioned officer, or personal protection officer for	
15	political subdivision	\$ 10
16	[FBI fingerprint check	\$ 25
17	[Duplicate pocket card	\$ 10
18	[Employee information update fee	\$ 15
19	[Burglar alarm sellers renewal fee	\$ 30
20	[Personal protection officer authorization	\$ 50]

21 (b) The board ~~[In addition to other fees established under~~
 22 ~~this chapter, the commission]~~ may charge a fee each time the board
 23 ~~[commission]~~ requires a person regulated under this chapter to
 24 resubmit a set of fingerprints for processing by the board
 25 ~~[commission]~~ during the application process for a license,
 26 registration, endorsement, or commission. The board ~~[commission]~~
 27 shall set the fee in an amount that is reasonable and necessary to

1 cover the [~~commission's~~] administrative expenses related to
2 processing the fingerprints.

3 (c) A person whose pocket card has not expired is not
4 eligible to receive from the board [~~commission~~] another pocket card
5 in the same classification in which the pocket card is held.

6 SECTION 4.20. The heading to Section 1702.063, Occupations
7 Code, is amended to read as follows:

8 Sec. 1702.063. BOARD [~~COMMISSION~~] USE OF FINES.

9 SECTION 4.21. Section 1702.0635, Occupations Code, is
10 amended to read as follows:

11 Sec. 1702.0635. RESTRICTIONS ON CERTAIN RULES. The board
12 [~~commission~~] may not adopt rules or establish unduly restrictive
13 experience or education requirements that limit a person's ability
14 to be licensed as an electronic access control device company or be
15 registered as an electronic access control device installer.

16 SECTION 4.22. Section 1702.064, Occupations Code, is
17 amended to read as follows:

18 Sec. 1702.064. RULES RESTRICTING ADVERTISING OR
19 COMPETITIVE BIDDING. (a) The board [~~commission~~] may not adopt
20 rules restricting advertising or competitive bidding by a person
21 regulated by the board [~~commission~~] except to prohibit false,
22 misleading, or deceptive practices by the person.

23 (b) The board [~~commission~~] may not include in its rules to
24 prohibit false, misleading, or deceptive practices by a person
25 regulated by the board [~~commission~~] a rule that:

26 (1) restricts the person's use of any medium for
27 advertising;

1 (2) restricts the person's personal appearance or use
2 of the person's personal voice in an advertisement;

3 (3) relates to the size or duration of an
4 advertisement by the person; or

5 (4) restricts the person's advertisement under a trade
6 name.

7 SECTION 4.23. Section 1702.0645, Occupations Code, is
8 amended to read as follows:

9 Sec. 1702.0645. PAYMENT OF FEES AND FINES. (a) The board
10 [~~commission~~] may adopt rules regarding the method of payment of a
11 fee or a fine assessed under this chapter.

12 (b) Rules adopted under this section may:

13 (1) authorize the use of electronic funds transfer or
14 a valid credit card issued by a financial institution chartered by a
15 state or the federal government or by a nationally recognized
16 credit organization approved by the board [~~commission~~]; and

17 (2) require the payment of a discount or a reasonable
18 service charge for a credit card payment in addition to the fee or
19 the fine.

20 SECTION 4.24. Section 1702.066, Occupations Code, is
21 amended to read as follows:

22 Sec. 1702.066. SERVICE OF PROCESS; SERVICE OF DOCUMENTS ON
23 BOARD [~~COMMISSION~~]. Legal process and documents required by law to
24 be served on or filed with the board [~~commission~~] must be served on
25 or filed with the chief administrator [~~director~~] at the designated
26 office of the board [~~commission~~].

27 SECTION 4.25. Section 1702.067, Occupations Code, is

1 amended to read as follows:

2 Sec. 1702.067. BOARD [~~COMMISSION~~] RECORDS; EVIDENCE. An
3 official record of the board [~~commission~~] or an affidavit by the
4 chief administrator [~~director~~] as to the content of the record is
5 prima facie evidence of a matter required to be kept by the board
6 [~~commission~~].

7 SECTION 4.26. Section 1702.068, Occupations Code, is
8 amended to read as follows:

9 Sec. 1702.068. APPEAL BOND NOT REQUIRED. The board
10 [~~commission~~] is not required to give an appeal bond in any cause
11 arising under this chapter.

12 SECTION 4.27. Section 1702.081, Occupations Code, is
13 amended to read as follows:

14 Sec. 1702.081. PUBLIC INTEREST INFORMATION. (a) The board
15 [~~commission~~] shall prepare information of interest to consumers or
16 recipients of services regulated under this chapter describing the
17 board's [~~commission's~~] regulatory functions and the procedures by
18 which complaints are filed with and resolved by the board
19 [~~commission~~].

20 (b) The board [~~commission~~] shall make the information
21 available to the public and appropriate state agencies.

22 SECTION 4.28. Section 1702.082, Occupations Code, is
23 amended to read as follows:

24 Sec. 1702.082. COMPLAINTS. (a) The board [~~commission by~~
25 ~~rule shall establish methods by which consumers and service~~
26 ~~recipients are notified of the name, mailing address, and telephone~~
27 ~~number of the commission for the purpose of directing complaints to~~

1 ~~the commission. The commission may provide for that notice:~~

2 ~~[(1) on each registration form, application, or~~
3 ~~written contract for services of a person regulated under this~~
4 ~~chapter,~~

5 ~~[(2) on a sign prominently displayed in the place of~~
6 ~~business of each person regulated under this chapter, or~~

7 ~~[(3) in a bill for services provided by a person~~
8 ~~regulated under this chapter.~~

9 ~~[(b) The commission]~~ shall maintain a system to promptly and
10 efficiently act on complaints ~~[file on each written complaint]~~
11 filed with the board ~~[commission]~~. The board shall maintain
12 information about parties to the complaint, ~~[file must include:~~

13 ~~[(1) the name of the person who filed the complaint,~~

14 ~~[(2) the date the complaint is received by the~~
15 ~~commission,~~

16 ~~[(3)]~~ the subject matter of the complaint, [+]

17 ~~[(4) the name of each person contacted in relation to~~
18 ~~the complaint,~~

19 ~~[(5)]~~ a summary of the results of the review or
20 investigation of the complaint, [+] and its disposition

21 ~~[(6) an explanation of the reason the file was closed,~~
22 ~~if the agency closed the file without taking action other than to~~
23 ~~investigate the complaint].~~

24 (b) ~~[(e)]~~ The board ~~[commission]~~ shall make information
25 available describing its ~~[provide to the person filing the~~
26 ~~complaint a copy of the commission's policies and]~~ procedures for
27 ~~[relating to]~~ complaint investigation and resolution.

1 (c) The board shall periodically [~~(d) Unless it would~~
2 ~~jeopardize an undercover investigation, the commission shall~~
3 ~~provide to each person who is a subject of the complaint a copy of~~
4 ~~the commission's policies and procedures relating to complaint~~
5 ~~investigation and resolution.~~

6 [~~(e) The commission, at least quarterly until final~~
7 ~~disposition of the complaint, shall]~~ notify the [~~person filing the~~
8 complaint parties [~~and each person who is a subject of the~~
9 ~~complaint]~~ of the status of the complaint until final disposition
10 [~~investigation unless the notice would jeopardize an undercover~~
11 ~~investigation]~~.

12 SECTION 4.29. Section 1702.083, Occupations Code, is
13 amended to read as follows:

14 Sec. 1702.083. PUBLIC PARTICIPATION. The board
15 [~~commission~~] shall develop and implement policies that provide the
16 public with a reasonable opportunity to appear before the board
17 [~~commission~~] and to speak on any issue under the board's
18 [~~commission's~~] jurisdiction.

19 SECTION 4.30. Section 1702.084, Occupations Code, is
20 amended to read as follows:

21 Sec. 1702.084. PUBLIC ACCESS TO CERTAIN RECORDS OF
22 DISCIPLINARY ACTIONS. (a) The board [~~commission~~] shall make
23 available to the public through a toll-free telephone number,
24 Internet website, or other easily accessible medium determined by
25 the board [~~commission~~] the following information relating to a
26 disciplinary action taken during the preceding three years
27 regarding a person regulated by the board [~~commission~~]:

- 1 (1) the identity of the person;
- 2 (2) the nature of the complaint that was the basis of
- 3 the disciplinary action taken against the person; and
- 4 (3) the disciplinary action taken by the board
- 5 [~~commission~~].

6 (b) In providing the information, the board [~~commission~~]

7 shall present the information in an impartial manner, use language

8 that is commonly understood, and, if possible, avoid jargon

9 specific to the security industry.

10 (c) The board [~~commission~~] shall update the information on a

11 monthly basis.

12 (d) The board [~~commission~~] shall maintain the

13 confidentiality of information regarding the identification of a

14 complainant.

15 SECTION 4.31. Section 1702.103, Occupations Code, is

16 amended to read as follows:

17 Sec. 1702.103. CLASSIFICATION AND LIMITATION OF LICENSES.

18 (a) The license classifications are:

19 (1) Class A: investigations company license, covering

20 operations of an investigations company;

21 (2) Class B: security services contractor license,

22 covering operations of a security services contractor;

23 (3) Class C: covering the operations included within

24 Class A and Class B; [~~and~~]

25 (4) Class F: level III training school license;

26 (5) Class O: alarm level I training school license;

27 (6) Class P: private business letter of authority

1 license;

2 (7) Class X: government letter of authority license;

3 and

4 (8) Class T: telematics license [~~Class D: electronic~~
5 ~~access control device license, covering operations of an electronic~~
6 ~~access control device company~~].

7 (b) A [~~Class A, B, C, or D~~] license described by this chapter
8 does not authorize the license holder to perform a service for which
9 the license holder has not qualified. A person may not engage in an
10 operation outside the scope of that person's license. The board
11 [~~commission~~] shall indicate on the license the services the license
12 holder is authorized to perform. The license holder may not perform
13 a service unless it is indicated on the license.

14 (c) A license is not assignable unless the assignment is
15 approved in advance by the board [~~commission~~].

16 (d) The board [~~commission~~] shall prescribe by rule the
17 procedure under which a license may be terminated.

18 (e) The board by rule may establish other license
19 classifications for activities expressly regulated by this chapter
20 and may establish qualifications and practice requirements
21 consistent with this chapter for those license classifications.

22 SECTION 4.32. Section 1702.110, Occupations Code, is
23 amended to read as follows:

24 Sec. 1702.110. APPLICATION FOR LICENSE. An application for
25 a license under this chapter must be in the form prescribed by the
26 board [~~commission~~] and include:

27 (1) the full name and business address of the

1 applicant;

2 (2) the name under which the applicant intends to do
3 business;

4 (3) a statement as to the general nature of the
5 business in which the applicant intends to engage;

6 (4) a statement as to the classification for which the
7 applicant requests qualification;

8 (5) if the applicant is an entity other than an
9 individual, the full name and residence address of each partner,
10 officer, and director of the applicant, and of the applicant's
11 manager;

12 (6) if the applicant is an individual, two
13 classifiable sets of fingerprints of the applicant or, if the
14 applicant is an entity other than an individual, of each officer and
15 of each partner or shareholder who owns at least a 25 percent
16 interest in the applicant;

17 (7) a verified statement of the applicant's experience
18 qualifications in the particular classification in which the
19 applicant is applying;

20 (8) a report from the department [~~Texas Department of~~
21 ~~Public Safety~~] stating the applicant's record of any convictions
22 for a Class B misdemeanor or equivalent offense or a greater
23 offense;

24 (9) the social security number of the individual
25 making the application; and

26 (10) other information, evidence, statements, or
27 documents required by the board [~~commission~~].

1 SECTION 4.33. Section 1702.111, Occupations Code, is
2 amended to read as follows:

3 Sec. 1702.111. ISSUANCE OF BRANCH OFFICE LICENSE. (a) A
4 license holder, in accordance with Section 1702.129, shall notify
5 the board [~~commission~~] in writing of the establishment of a branch
6 office and file in writing with the board [~~commission~~] the address
7 of the branch office.

8 (b) On application by a license holder, the board
9 [~~commission~~] shall issue a branch office license.

10 SECTION 4.34. Section 1702.112, Occupations Code, is
11 amended to read as follows:

12 Sec. 1702.112. FORM OF LICENSE. The board [~~commission~~]
13 shall prescribe the form of a license, including a branch office
14 license. The license must include:

- 15 (1) the name of the license holder;
- 16 (2) the name under which the license holder is to
17 operate; and
- 18 (3) the license number and the date the license was
19 issued.

20 SECTION 4.35. Sections 1702.113(a) and (c), Occupations
21 Code, are amended to read as follows:

22 (a) An applicant for a license, certificate of
23 registration, endorsement, or security officer commission or the
24 applicant's manager must be at least 18 years of age and must not:

- 25 (1) [~~have been convicted in any jurisdiction of two or~~
26 ~~more felony offenses, unless full pardons have been granted for all~~
27 ~~convictions for reasons relating to wrongful convictions;~~

1 ~~[(2) have been convicted in any jurisdiction of any of~~
2 ~~the following:~~

3 ~~[(A) a single felony or equivalent offense for~~
4 ~~which the 20th anniversary of the date of conviction has not~~
5 ~~occurred before the date of application, unless a full pardon has~~
6 ~~been granted for reasons relating to a wrongful conviction; or~~

7 ~~[(B) a Class A misdemeanor or equivalent offense~~
8 ~~for which the 10th anniversary of the date of conviction has not~~
9 ~~occurred before the date of application, unless a full pardon has~~
10 ~~been granted for reasons relating to a wrongful conviction;~~

11 ~~[(3)]~~ at the time of application be charged with the
12 commission of a Class A misdemeanor or felony offense, under an
13 information or indictment;

14 ~~[(4) in the 10 years preceding the date of~~
15 ~~application, have been adjudicated as having engaged in delinquent~~
16 ~~conduct violating a penal law of the grade of felony;]~~

17 (2) ~~[(5)]~~ have been found by a court to be incompetent
18 by reason of a mental defect or disease and not have been restored
19 to competency;

20 (3) ~~[(6)]~~ have been dishonorably discharged from the
21 United States armed services, discharged from the United States
22 armed services under other conditions determined by the board to be
23 prohibitive, or dismissed from the United States armed services if
24 a commissioned officer in the United States armed services; or

25 (4) ~~[(7)]~~ be required to register in this or any other
26 state as a sex offender, unless the applicant is approved by the
27 board under Section 1702.3615.

1 (c) For purposes of this section, an offense under the laws
2 of this state, another state, or the United States is considered[+]

3 ~~[(1) a felony if the offense:~~

4 ~~[(A) at the time of conviction was designated by~~
5 ~~a law of this state as a felony, including a state jail felony;~~

6 ~~[(B) contains all the elements of an offense~~
7 ~~designated by a law of this state as a felony, including a state~~
8 ~~jail felony; or~~

9 ~~[(C) is punishable by confinement for one year or~~
10 ~~more in a penitentiary;~~

11 ~~[(2) a Class A misdemeanor if the offense is not a~~
12 ~~felony and the offense:~~

13 ~~[(A) at the time of conviction was designated by~~
14 ~~a law of this state as a Class A misdemeanor;~~

15 ~~[(B) contains all the elements of an offense~~
16 ~~designated by a law of this state as a Class A misdemeanor; or~~

17 ~~[(C) provides as a possible punishment~~
18 ~~confinement in a jail other than a state jail felony facility; or~~

19 ~~[(3)] a Class B misdemeanor if the offense is not a~~
20 ~~felony or Class A misdemeanor and the offense:~~

21 (1) ~~[(A)]~~ at the time of conviction was designated by
22 a law of this state as a Class B misdemeanor;

23 (2) ~~[(B)]~~ contains all the elements of an offense
24 designated by a law of this state as a Class B misdemeanor; or

25 (3) ~~[(C)]~~ provides as a possible punishment
26 confinement in a jail other than a state jail felony facility.

27 SECTION 4.36. Section 1702.114, Occupations Code, is

1 amended to read as follows:

2 Sec. 1702.114. ADDITIONAL QUALIFICATIONS FOR
3 INVESTIGATIONS COMPANY LICENSE. (a) An applicant for a license to
4 engage in the business of an investigations company or the
5 applicant's manager must have, before the date of the application,
6 three consecutive years' experience in the investigative field as
7 an employee, manager, or owner of an investigations company or
8 satisfy other requirements set by the board [~~commission~~].

9 (b) The applicant's experience must be:

10 (1) reviewed by the board [~~commission~~] or the chief
11 administrator [~~director~~]; and

12 (2) determined to be adequate to qualify the applicant
13 to engage in the business of an investigations company.

14 SECTION 4.37. Section 1702.115, Occupations Code, is
15 amended to read as follows:

16 Sec. 1702.115. ADDITIONAL QUALIFICATIONS FOR SECURITY
17 SERVICES CONTRACTOR LICENSE. (a) An applicant for a license to
18 engage in the business of a security services contractor or the
19 applicant's manager must have, before the date of the application,
20 two consecutive years' experience in each security services field
21 for which the person applies as an employee, manager, or owner of a
22 security services contractor or satisfy other requirements set by
23 the board [~~commission~~].

24 (b) The applicant's experience must have been obtained
25 legally and must be:

26 (1) reviewed by the board [~~commission~~] or the chief
27 administrator [~~director~~]; and

1 (2) determined to be adequate to qualify the applicant
2 to engage in the business of a security services contractor.

3 SECTION 4.38. Section 1702.116, Occupations Code, is
4 amended to read as follows:

5 Sec. 1702.116. QUALIFICATIONS FOR GUARD DOG COMPANY
6 LICENSE; INSPECTIONS. (a) An applicant for a license to engage in
7 the business of a guard dog company must:

8 (1) meet the requirements of Sections 1702.113 and
9 1702.115; and

10 (2) present evidence satisfactory to the board
11 [~~commission~~] that the applicant will comply with the rules adopted
12 under this section.

13 (b) After consulting the [~~Texas~~] Department of State Health
14 Services, the board [~~commission~~] shall adopt rules to ensure that
15 the areas in which a guard dog company houses, exercises, or trains
16 its animals are securely enclosed by a six-foot chain-link fence or
17 made equally secure.

18 (c) The board [~~commission~~] shall conduct regular
19 inspections to ensure compliance with the rules adopted under this
20 section.

21 SECTION 4.39. Sections 1702.117(a), (c), and (d),
22 Occupations Code, are amended to read as follows:

23 (a) The board [~~commission~~] shall require an applicant for a
24 commission, license, registration, or endorsement under this
25 chapter or the applicant's manager to demonstrate qualifications in
26 the person's license classification, including knowledge of
27 applicable state laws and board [~~commission~~] rules, by taking an

1 examination to be determined by the board [~~commission~~].

2 (c) The board [~~commission~~] shall set the reexamination fee
3 in an amount not to exceed the amount of the renewal fee for the
4 license classification for which application was made.

5 (d) The board [~~commission~~] shall develop and provide to a
6 person who applies to take the examination under Subsection (a)
7 material containing all applicable state laws and board
8 [~~commission~~] rules.

9 SECTION 4.40. Section 1702.118, Occupations Code, is
10 amended to read as follows:

11 Sec. 1702.118. EXAMINATION RESULTS. (a) Not later than the
12 30th day after the date a person takes a licensing examination under
13 this chapter, the board [~~commission~~] shall notify the person of the
14 examination results.

15 (b) If an examination is graded or reviewed by a testing
16 service:

17 (1) the board [~~commission~~] shall notify the person of
18 the examination results not later than the 14th day after the date
19 the board [~~commission~~] receives the results from the testing
20 service; and

21 (2) if notice of the examination results will be
22 delayed for longer than 90 days after the examination date, the
23 board [~~commission~~] shall notify the person of the reason for the
24 delay before the 90th day.

25 (c) The board [~~commission~~] may require a testing service to
26 notify a person of the results of the person's examination.

27 (d) If requested in writing by a person who fails a

1 licensing examination administered under this chapter, the board
2 [~~commission~~] shall furnish the person with an analysis of the
3 person's performance on the examination.

4 SECTION 4.41. Section 1702.1183, Occupations Code, is
5 amended to read as follows:

6 Sec. 1702.1183. RECIPROCAL LICENSE FOR CERTAIN FOREIGN
7 APPLICANTS. (a) The board [~~commission~~] may waive any prerequisite
8 to obtaining a license for an applicant who holds a license issued
9 by another jurisdiction with which this state has a reciprocity
10 agreement.

11 (b) The board [~~commission~~] may make an agreement, subject to
12 the approval of the governor, with another state to allow for
13 licensing by reciprocity.

14 SECTION 4.42. Section 1702.1186, Occupations Code, is
15 amended to read as follows:

16 Sec. 1702.1186. PROVISIONAL LICENSE. (a) The board
17 [~~commission~~] may issue a provisional license to an applicant
18 currently licensed in another jurisdiction who seeks an equivalent
19 license in this state and who:

20 (1) has been licensed in good standing as an
21 investigations company or security services contractor for at least
22 two years in another jurisdiction, including a foreign country,
23 that has licensing requirements substantially equivalent to the
24 requirements of this chapter;

25 (2) has passed a national or other examination
26 recognized by the board [~~commission~~] relating to the practice of
27 private investigations or security services contracting; and

1 (3) is sponsored by a person licensed by the board
2 [~~commission~~] under this chapter with whom the provisional license
3 holder will practice during the time the person holds a provisional
4 license.

5 (b) A provisional license is valid until the date the board
6 [~~commission~~] approves or denies the provisional license holder's
7 application for a license. The board [~~commission~~] shall issue a
8 license under this chapter to the provisional license holder if:

9 (1) the provisional license holder is eligible to be
10 licensed under Section 1702.1183; or

11 (2) the provisional license holder:

12 (A) passes the part of the examination under
13 Section 1702.117(a) that relates to the applicant's knowledge and
14 understanding of the laws and rules relating to the practice of an
15 investigations company or security services contractor in this
16 state;

17 (B) is verified by the board [~~commission~~] as
18 meeting the academic and experience requirements for a license
19 under this chapter; and

20 (C) satisfies any other licensing requirements
21 under this chapter.

22 (c) The board [~~commission~~] must approve or deny a
23 provisional license holder's application for a license not later
24 than the 180th day after the date the provisional license is issued.
25 The board [~~commission~~] may extend the 180-day period if the results
26 of an examination have not been received by the board [~~commission~~]
27 before the end of that period.

1 (d) The board [~~commission~~] may establish a fee for
2 provisional licenses in an amount reasonable and necessary to cover
3 the cost of issuing the license.

4 SECTION 4.43. Section 1702.120(b), Occupations Code, is
5 amended to read as follows:

6 (b) An individual may not apply to the board [~~commission~~] to
7 serve as manager of an investigations company, guard company, alarm
8 systems company, armored car company, courier company, or guard dog
9 company without the intent to maintain that supervisory position on
10 a daily basis for that company.

11 SECTION 4.44. Section 1702.121, Occupations Code, is
12 amended to read as follows:

13 Sec. 1702.121. TERMINATION OF MANAGER. A license holder
14 shall notify the board [~~commission~~] in writing not later than the
15 14th day after the date a manager ceases to be manager of the
16 license holder's business. The license remains in effect for a
17 reasonable period after notice is given as provided by board
18 [~~commission~~] rule pending the board's [~~commission's~~] determination
19 of the qualification of another manager under this subchapter.

20 SECTION 4.45. Section 1702.122, Occupations Code, is
21 amended to read as follows:

22 Sec. 1702.122. TEMPORARY CONTINUATION OF LICENSE HOLDER'S
23 BUSINESS. Under the terms provided by board [~~commission~~] rule, a
24 license holder's business may continue for a temporary period if
25 the individual on the basis of whose qualifications a license under
26 this chapter has been obtained ceases to be connected with the
27 license holder.

1 SECTION 4.46. Section 1702.123, Occupations Code, is
2 amended to read as follows:

3 Sec. 1702.123. INSURANCE; BOND. (a) A license holder shall
4 maintain on file with the board [~~commission~~] at all times the surety
5 bond and certificate of insurance required by this chapter.

6 (b) The board [~~commission~~] shall immediately suspend the
7 license of a license holder who violates Subsection (a).

8 (c) The board [~~commission~~] may rescind the license
9 suspension if the license holder provides proof to the board
10 [~~commission~~] that the bond or the insurance coverage is still in
11 effect. The license holder must provide the proof in a form
12 satisfactory to the board [~~commission~~] not later than the 10th day
13 after the date the license is suspended.

14 (d) After suspension of the license, the board [~~commission~~]
15 may not reinstate the license until an application, in the form
16 prescribed by the board [~~commission~~], is filed accompanied by a
17 proper bond, insurance certificate, or both. The board
18 [~~commission~~] may deny the application notwithstanding the
19 applicant's compliance with this section:

20 (1) for a reason that would justify suspending,
21 revoking, or denying a license; or

22 (2) if, during the suspension, the applicant performs
23 a practice for which a license is required.

24 SECTION 4.47. Section 1702.125, Occupations Code, is
25 amended to read as follows:

26 Sec. 1702.125. BOND REQUIREMENT. A bond executed and filed
27 with the board [~~commission~~] under this chapter remains in effect

1 until the surety terminates future liability by providing to the
2 board [~~commission~~] at least 30 days' notice of the intent to
3 terminate liability.

4 SECTION 4.48. Sections 1702.127(b) and (c), Occupations
5 Code, are amended to read as follows:

6 (b) A license holder shall maintain a record containing
7 information related to the license holder's employees as required
8 by the board [~~commission~~].

9 (c) A license holder shall maintain for board [~~commission~~]
10 inspection at the license holder's principal place of business or
11 branch office two recent color photographs, of a type required by
12 the board [~~commission~~], of each applicant, registrant,
13 commissioned security officer, and employee of the license holder.

14 SECTION 4.49. Section 1702.129, Occupations Code, is
15 amended to read as follows:

16 Sec. 1702.129. NOTICE OF CERTAIN CHANGES; BRANCH OFFICES.

17 (a) A license holder shall notify the board [~~commission~~] not later
18 than the 14th day after the date of:

19 (1) a change of address for the license holder's
20 principal place of business;

21 (2) a change of a name under which the license holder
22 does business; or

23 (3) a change in the license holder's officers or
24 partners.

25 (b) A license holder shall notify the board [~~commission~~] in
26 writing not later than the 14th day after the date a branch office:

27 (1) is established;

1 (2) is closed; or

2 (3) changes address or location.

3 SECTION 4.50. Section 1702.131, Occupations Code, is
4 amended to read as follows:

5 Sec. 1702.131. ADVERTISING. An advertisement by a license
6 holder soliciting or advertising business must contain the license
7 holder's company name and address as stated in board [~~commission~~]
8 records.

9 SECTION 4.51. Section 1702.161(b), Occupations Code, is
10 amended to read as follows:

11 (b) An individual employed as a security officer may not
12 knowingly carry a firearm during the course of performing duties as
13 a security officer unless the board [~~commission~~] has issued a
14 security officer commission to the individual.

15 SECTION 4.52. Section 1702.162, Occupations Code, is
16 amended to read as follows:

17 Sec. 1702.162. EMPLOYER'S APPLICATION FOR SECURITY OFFICER
18 COMMISSION. The employer of a security officer who applies for a
19 security officer commission for the officer must submit an
20 application to the board [~~commission~~] on a form provided by the
21 board [~~commission~~].

22 SECTION 4.53. Section 1702.165, Occupations Code, is
23 amended to read as follows:

24 Sec. 1702.165. ISSUANCE OF SECURITY OFFICER COMMISSION;
25 POCKET CARD. (a) The board [~~commission~~], with the concurrence of
26 the department [~~Texas Department of Public Safety~~]:

27 (1) may issue a security officer commission to an

1 individual employed as a uniformed security officer; and

2 (2) shall issue a security officer commission to a
3 qualified employee of an armored car company that is a carrier
4 conducting the armored car business under a federal or state permit
5 or certificate.

6 (b) A security officer commission issued under this section
7 must be in the form of a pocket card designed by the board
8 [~~commission~~] that identifies the security officer.

9 SECTION 4.54. Section 1702.167, Occupations Code, is
10 amended to read as follows:

11 Sec. 1702.167. TERMINATION OF EMPLOYMENT AS COMMISSIONED
12 SECURITY OFFICER; TRANSFER OF COMMISSION. The holder of a security
13 officer commission who terminates employment with one employer may
14 transfer the individual's commission to a new employer if, not
15 later than the 14th day after the date the individual begins the new
16 employment, the new employer notifies the board [~~commission~~] of the
17 transfer of employment on a form prescribed by the board
18 [~~commission~~], accompanied by payment of the employee information
19 update fee.

20 SECTION 4.55. Sections 1702.1675(a), (b), (c), (d), (e),
21 (f), and (i), Occupations Code, are amended to read as follows:

22 (a) The board [~~commission~~] shall establish a basic training
23 course for commissioned security officers. The course must
24 include, at a minimum:

- 25 (1) general security officer training issues;
26 (2) classroom instruction on handgun proficiency; and
27 (3) range instruction on handgun proficiency.

1 (b) The course must be offered and taught by schools and
2 instructors approved by the board [~~commission~~]. To receive board
3 [~~commission~~] approval, a school or an instructor must submit an
4 application to the board [~~commission~~] on a form provided by the
5 board [~~commission~~].

6 (c) The basic training course approved by the board
7 [~~commission~~] must consist of a minimum of 30 hours.

8 (d) The general security officer training portion of the
9 course must include instruction on:

10 (1) board [~~commission~~] rules and applicable state
11 laws;

12 (2) field note taking and report writing; and

13 (3) any other topics of security officer training
14 curriculum the board [~~commission~~] considers necessary.

15 (e) The board [~~commission~~] shall develop a commissioned
16 security officer training manual that contains applicable state
17 laws and board [~~commission~~] rules to be used in the instruction and
18 training of commissioned security officers.

19 (f) The board [~~commission~~] shall adopt rules necessary to
20 administer the provisions of this section concerning the training
21 requirements of this chapter.

22 (i) The board [~~commission~~] by rule shall establish minimum
23 standards for handgun proficiency that are at least as stringent as
24 the standards for handgun proficiency developed by the public
25 safety director under Section 411.188, Government Code.

26 SECTION 4.56. Section 1702.168, Occupations Code, is
27 amended to read as follows:

1 Sec. 1702.168. FIREARM REQUIREMENTS. (a) In addition to
2 the requirements of Section 1702.163(a), the board [~~commission~~] by
3 rule shall establish other qualifications for individuals who are
4 employed in positions requiring the carrying of firearms. The
5 qualifications may include:

- 6 (1) physical and mental standards;
7 (2) standards of good moral character; and
8 (3) other requirements that relate to the competency
9 and reliability of individuals to carry firearms.

10 (b) The board [~~commission~~] shall prescribe appropriate
11 forms and adopt rules by which evidence is presented that the
12 requirements are fulfilled.

13 SECTION 4.57. Sections 1702.1685(b) and (d), Occupations
14 Code, are amended to read as follows:

15 (b) Only a board-approved [~~commission-approved~~] instructor
16 may administer the handgun proficiency examination.

17 (d) The school shall maintain the records of the required
18 proficiency and make the records available for inspection by the
19 board [~~commission~~].

20 SECTION 4.58. Section 1702.171, Occupations Code, is
21 amended to read as follows:

22 Sec. 1702.171. SECURITY OFFICER COMMISSION RECORDS. The
23 board [~~commission~~] shall adopt rules for the maintenance of records
24 relating to an individual to whom the board [~~commission~~] has issued
25 a security officer commission.

26 SECTION 4.59. Section 1702.183, Occupations Code, is
27 amended to read as follows:

1 Sec. 1702.183. APPLICATION FOR LETTER OF AUTHORITY. A
2 security department of a private business or of a political
3 subdivision that applies for a security officer commission for an
4 individual employed by the security department must submit an
5 application to the board [~~commission~~] for a letter of authority on a
6 form provided by the board [~~commission~~].

7 SECTION 4.60. The heading to Subchapter I, Chapter 1702,
8 Occupations Code, is amended to read as follows:

9 SUBCHAPTER I. PERSONAL PROTECTION OFFICER ENDORSEMENT

10 [~~AUTHORIZATION~~] REQUIREMENTS

11 SECTION 4.61. Section 1702.201, Occupations Code, is
12 amended to read as follows:

13 Sec. 1702.201. PERSONAL PROTECTION OFFICER ENDORSEMENT
14 [~~AUTHORIZATION~~] REQUIRED. A commissioned security officer may not
15 act as a personal protection officer unless the officer holds a
16 personal protection officer endorsement [~~authorization~~].

17 SECTION 4.62. Section 1702.203, Occupations Code, is
18 amended to read as follows:

19 Sec. 1702.203. APPLICATION FOR PERSONAL PROTECTION OFFICER
20 ENDORSEMENT [~~AUTHORIZATION~~]. An applicant for a personal
21 protection officer endorsement [~~authorization~~] must submit a
22 written application on a form prescribed by the board [~~commission~~].

23 SECTION 4.63. Section 1702.204, Occupations Code, is
24 amended to read as follows:

25 Sec. 1702.204. PERSONAL PROTECTION OFFICER ENDORSEMENT
26 [~~AUTHORIZATION~~]; QUALIFICATIONS. (a) An applicant for a personal
27 protection officer endorsement [~~authorization~~] must be at least 21

1 years of age and must provide:

2 (1) a certificate of completion of the basic security
3 officer training course;

4 (2) proof that the applicant:

5 (A) has been issued a security officer
6 commission;

7 (B) is employed at the time of application by an
8 investigations company or guard company licensed by the board
9 [~~commission~~]; and

10 (C) has completed the required training in
11 nonlethal self-defense or defense of a third person; and

12 (3) proof of completion and the results of the
13 Minnesota Multiphasic Personality Inventory psychological testing.

14 (b) The board [~~commission~~] by rule shall require an
15 applicant for a personal protection officer endorsement
16 [~~authorization~~] to complete the Minnesota Multiphasic Personality
17 Inventory test. The board [~~commission~~] may use the results of the
18 test to evaluate the applicant's psychological fitness.

19 SECTION 4.64. Section 1702.205(a), Occupations Code, is
20 amended to read as follows:

21 (a) The board [~~commission~~] shall establish a 15-hour course
22 for a personal protection officer consisting of training in
23 nonlethal self-defense or defense of a third person.

24 SECTION 4.65. Section 1702.206, Occupations Code, is
25 amended to read as follows:

26 Sec. 1702.206. CONCEALED FIREARMS. An individual acting as
27 a personal protection officer may not carry a concealed firearm

1 unless the officer:

2 (1) is either:

3 (A) engaged in the exclusive performance of the
4 officer's duties as a personal protection officer for the employer
5 under whom the officer's personal protection officer endorsement
6 [~~authorization~~] is issued; or

7 (B) traveling to or from the officer's place of
8 assignment; and

9 (2) carries the officer's security officer commission
10 and personal protection officer endorsement [~~authorization~~] on the
11 officer's person while performing the officer's duties or traveling
12 as described by Subdivision (1) and presents the commission and
13 endorsement [~~authorization~~] on request.

14 SECTION 4.66. Section 1702.221, Occupations Code, is
15 amended to read as follows:

16 Sec. 1702.221. REGISTRATION AND ENDORSEMENT REQUIRED. (a)
17 To perform any activity regulated by this chapter, the individual
18 must:

19 (1) register in accordance with the requirements of
20 this chapter and related administrative rules;

21 (2) obtain the proper endorsement under Subsection
22 (b); and

23 (3) be employed by a company licensed under this
24 chapter.

25 (b) An individual must obtain the appropriate endorsement
26 [~~register~~] in accordance with the requirements of this chapter and
27 related administrative rules if the individual:

- 1 (1) is employed as:
- 2 (A) an alarm instructor;
- 3 (B) an alarm systems installer;
- 4 (C) an [] alarm systems monitor;
- 5 (D) an [] electronic access control device
6 installer;
- 7 (E) a level 3 classroom or firearm instructor;
- 8 (F) a [] locksmith;
- 9 (G) a [] dog trainer;
- 10 (H) a [] manager or branch office manager;
- 11 (I) a [] noncommissioned security officer;
- 12 (J) a level 4 personal protection instructor;
- 13 (K) a [] private investigator;
- 14 (L) a [] private security consultant;
- 15 (M) a [~~]~~ security salesperson; or
- 16 (N) an individual whose duties include
17 performing another activity for which an endorsement is required
18 under Subsection (e); or

19 (2) is an owner, officer, partner, or shareholder of a
20 license holder.

21 (c) [~~(b)~~] Registration and endorsement under this chapter
22 does not preclude an individual from performing additional duties
23 or services authorized by the individual's employer that are not
24 regulated by this chapter. An individual who performs more than one
25 of the services that require an endorsement under this section must
26 obtain an endorsement for each service.

27 (d) In addition to the services listed in Subsection (a), a

1 person holding a security officer commission must also obtain an
2 endorsement for personal protection if the individual performs the
3 services described by Section 1702.202.

4 (e) The board by rule may require a person to hold an
5 endorsement for performing other activity expressly regulated by
6 this chapter.

7 SECTION 4.67. Section 1702.2226(b), Occupations Code, is
8 amended to read as follows:

9 (b) A person registered as an electronic access control
10 device installer may not install alarm systems unless the person
11 holds an endorsement [~~is registered~~] under this chapter as an alarm
12 systems installer.

13 SECTION 4.68. The heading to Subchapter J, Chapter 1702,
14 Occupations Code, is amended to read as follows:

15 SUBCHAPTER J. REGISTRATION AND ENDORSEMENT REQUIREMENTS;
16 [~~REGISTRANT~~] DUTIES OF REGISTRANT AND ENDORSEMENT HOLDER

17 SECTION 4.69. Section 1702.228, Occupations Code, is
18 amended to read as follows:

19 Sec. 1702.228. EMPLOYEE OF LICENSE HOLDER; REGISTRATION
20 PERMITTED. An employee of a license holder who is employed in a
21 capacity that is not subject to mandatory registration under this
22 subchapter may register with the board [~~commission~~].

23 SECTION 4.70. Section 1702.230, Occupations Code, is
24 amended to read as follows:

25 Sec. 1702.230. APPLICATION FOR REGISTRATION OR
26 ENDORSEMENT. (a) An application for registration or endorsement
27 must be verified and include:

1 (1) the applicant's full name, residence address,
2 residence telephone number, date and place of birth, and social
3 security number;

4 (2) a statement that:

5 (A) lists each name used by the applicant, other
6 than the name by which the applicant is known at the time of
7 application, and an explanation stating each place where each name
8 was used, the date of each use, and a full explanation of the
9 reasons the name was used; or

10 (B) states that the applicant has never used a
11 name other than the name by which the applicant is known at the time
12 of application;

13 (3) the name and address of the applicant's employer
14 and, if applicable, the applicant's consulting firm;

15 (4) the date the employment commenced;

16 (5) a letter from the license holder requesting that
17 the applicant be registered or endorsed;

18 (6) the title of the position occupied by the
19 applicant and a description of the applicant's duties; and

20 (7) any other information, evidence, statement, or
21 document required by the board [~~commission~~].

22 (b) The employer of the applicant shall make a reasonable
23 attempt to verify the information required under Subsection (a)(1).

24 SECTION 4.71. Section 1702.2305, Occupations Code, is
25 amended to read as follows:

26 Sec. 1702.2305. PROVISIONAL REGISTRATION. (a) The board
27 [~~commission~~] may issue a provisional registration to an applicant

1 currently registered in another jurisdiction who seeks an
2 equivalent registration in this state and who:

3 (1) has been registered in good standing in the field
4 in which the registration is sought for at least two years in
5 another jurisdiction, including a foreign country, that has
6 registration requirements substantially equivalent to the
7 requirements of this chapter;

8 (2) has passed a national or other examination
9 recognized by the board [~~commission~~] relating to practice in the
10 field in which the registration is sought; and

11 (3) is employed by a person licensed by the board
12 [~~commission~~] under this chapter with whom the provisional
13 registration holder will practice during the time the person holds
14 a provisional registration.

15 (b) A provisional registration is valid until the date the
16 board [~~commission~~] approves or denies the provisional registration
17 holder's application for a registration. The board [~~commission~~]
18 shall issue a registration under this chapter to the provisional
19 registration holder if the provisional registration holder is
20 eligible to be registered under this chapter.

21 (c) The board [~~commission~~] must approve or deny a
22 provisional registration holder's application for a registration
23 not later than the 180th day after the date the provisional
24 registration is issued. The board [~~commission~~] may extend the
25 180-day period if the results of an examination have not been
26 received by the board [~~commission~~] before the end of that period.

27 (d) The board [~~commission~~] may establish a fee for

1 provisional registration in an amount reasonable and necessary to
2 cover the cost of issuing the registration.

3 SECTION 4.72. Section 1702.232, Occupations Code, is
4 amended to read as follows:

5 Sec. 1702.232. POCKET CARDS. (a) The board [~~commission~~]
6 shall issue a pocket card for each registrant under this chapter. A
7 pocket card for an owner, officer, partner, or shareholder of a
8 license holder shall be issued to the license holder.

9 (b) The board [~~commission~~] shall determine the size,
10 design, and content of the pocket card.

11 (c) The pocket card must:

12 (1) state the name of the registrant;

13 (2) contain a color photograph and the signature of
14 the registrant; [~~and~~]

15 (3) state the date the card was issued and the card's
16 expiration date; and

17 (4) state each endorsement held by the registrant and
18 the date the endorsement expires.

19 SECTION 4.73. Section 1702.234, Occupations Code, is
20 amended to read as follows:

21 Sec. 1702.234. REGISTRATION AND ENDORSEMENT TRANSFER. A
22 registrant may transfer the registrant's registration and
23 endorsements from one employer to another employer if, not later
24 than the 14th day after the date the registrant begins the new
25 employment, the new employer notifies the board [~~commission~~] of the
26 transfer of employment on a form prescribed by the board
27 [~~commission~~] accompanied by payment of the employee information

1 update fee.

2 SECTION 4.74. Section 1702.235, Occupations Code, is
3 amended to read as follows:

4 Sec. 1702.235. PREEMPLOYMENT CHECK FOR NONCOMMISSIONED
5 SECURITY OFFICERS. A person may not hire a noncommissioned
6 security officer unless the person conducts a preemployment check
7 as required by board [~~commission~~] rule.

8 SECTION 4.75. Section 1702.236, Occupations Code, is
9 amended to read as follows:

10 Sec. 1702.236. EXAMINATION AND TRAINING REQUIREMENTS FOR
11 ELECTRONIC ACCESS CONTROL DEVICE INSTALLERS. (a) The board
12 [~~commission~~] shall require an individual who applies for an
13 endorsement [~~registration~~] as an electronic access control device
14 installer to pass an examination given by the board [~~commission~~] or
15 a person approved by the board [~~commission~~]. The examination must
16 cover material related to access control.

17 (b) [~~(c)~~] On and after September 1, 2005, the board
18 [~~commission~~] by rule may allow an electronic access control device
19 installer to obtain or renew an endorsement [~~a certificate of~~
20 ~~registration~~] by fulfilling the requirements of a board-approved
21 [~~commission-approved~~], industry-based educational training
22 program.

23 SECTION 4.76. Sections 1702.239(a), (b), and (d),
24 Occupations Code, are amended to read as follows:

25 (a) The board [~~commission~~] may require that an individual
26 employed as an alarm systems installer or security salesperson hold
27 a certification by a board-approved [~~commission-approved~~] training

1 program to renew an endorsement [~~an initial registration~~]. The
2 board [~~commission~~] may approve only nationally recognized training
3 programs that consist of at least 16 hours of classroom study in the
4 areas of work allowed by the endorsement [~~registration~~]. To be
5 approved, a training program must offer at least two certification
6 programs each year, sufficient to complete the requirements of this
7 subsection, within 100 miles of each county in the state that has a
8 population of more than 500,000.

9 (b) The board [~~commission~~] may require an individual who has
10 completed a training program under Subsection (a) to pass an
11 examination given by the board [~~commission~~] or by a person approved
12 by the board [~~commission~~]. The board [~~commission~~] may approve
13 examinations in conjunction with training programs approved under
14 Subsection (a). The individual's performance on the examination
15 must demonstrate the individual's qualifications to perform the
16 duties allowed by the individual's endorsement [~~registration~~].

17 (d) If the board [~~commission~~] requires certification or
18 examination under this section, the board [~~commission~~] shall
19 implement rules to require that to renew an endorsement [~~a~~
20 ~~registration~~], an individual who is employed as an alarm systems
21 installer or a security salesperson and who has already once
22 renewed the endorsement [~~registration~~] must obtain continuing
23 education credits related to the line of work for which the
24 individual is licensed. If the board [~~commission~~] requires the
25 continuing education, the chief administrator [~~director~~] must
26 approve classes offered by nationally recognized organizations,
27 and participants in the classes must qualify according to board

1 [~~commission~~] rules.

2 SECTION 4.77. Section 1702.240(b), Occupations Code, is
3 amended to read as follows:

4 (b) An employee of a license holder who is employed
5 exclusively as an undercover agent is not required to register with
6 the board [~~commission~~].

7 SECTION 4.78. Subchapter J, Chapter 1702, Occupations Code,
8 is amended by adding Section 1702.241 to read as follows:

9 Sec. 1702.241. JURISPRUDENCE EXAMINATION. (a) The board
10 may develop and administer at least twice each calendar year a
11 jurisprudence examination to determine the knowledge that an
12 applicant for an endorsement has of this chapter, board rules, and
13 any other applicable laws of this state affecting the applicant's
14 activities regulated under this chapter.

15 (b) Before the board may administer a jurisprudence
16 examination under this section, the board shall adopt rules to
17 implement this section, including rules related to the development
18 and administration of the examination, examination fees,
19 guidelines for reexamination, grading the examination, and
20 providing notice of examination results. The board may design
21 different examinations for different types of endorsements.

22 SECTION 4.79. Sections 1702.282(a), (c), and (e),
23 Occupations Code, are amended to read as follows:

24 (a) The board shall conduct a criminal history check,
25 including a check of any criminal history record information
26 maintained by the Federal Bureau of Investigation, in the manner
27 provided by Subchapter F, Chapter 411, Government Code, on each

1 applicant for a license, registration, security officer
2 commission, letter of approval, permit, endorsement, or
3 certification. An applicant is not eligible for a license,
4 registration, commission, letter of approval, permit, endorsement,
5 or certification if the check reveals that the applicant has
6 committed an act that constitutes grounds for the denial of the
7 license, registration, commission, letter of approval, permit,
8 endorsement, or certification. Except as provided by Subsection
9 (d), each applicant shall include in the application two complete
10 sets of fingerprints on forms prescribed by the board accompanied
11 by the fee set by the board.

12 (c) A license, registration, security officer commission,
13 letter of approval, permit, endorsement, or certification issued by
14 the board is conditional on the board's receipt of criminal history
15 record information.

16 (e) On receipt of notice that a check of the applicant's
17 criminal record has uncovered an unresolved and potentially
18 disqualifying arrest that occurred before the 10th anniversary of
19 the date the application is filed, the applicant must provide a
20 letter of reference from the county sheriff, prosecuting attorney,
21 or judge of the county in which the applicant was arrested stating
22 that a record of a disposition related to the arrest does not exist,
23 and to the best of the county sheriff's, prosecuting attorney's, or
24 judge's knowledge the applicant is free of any disqualifying
25 convictions. If the applicant fails to provide either the letter of
26 reference or documentary proof of the final disposition of the
27 arrest, the application is considered incomplete and the applicant

1 may not be issued a license, commission, endorsement, or
2 certificate of registration under this chapter.

3 SECTION 4.80. Section 1702.283, Occupations Code, is
4 amended to read as follows:

5 Sec. 1702.283. CRUELTY TO ANIMALS. A person who has been
6 convicted of cruelty to animals under Section 42.09 or 42.092,
7 Penal Code:

8 (1) is ineligible for a license as a guard dog company
9 or for endorsement [~~registration~~] as a dog trainer; and

10 (2) may not be employed to work with dogs as a security
11 officer by a security services contractor or security department of
12 a private business that uses dogs to protect individuals or
13 property or to conduct investigations.

14 SECTION 4.81. Section 1702.285, Occupations Code, is
15 amended to read as follows:

16 Sec. 1702.285. FALSE REPRESENTATION. A person may not
17 represent falsely that the person:

18 (1) is employed by a license holder; or

19 (2) is licensed, registered, endorsed, or
20 commissioned under this chapter.

21 SECTION 4.82. Sections 1702.301(c), (d), (e), (f), (g), and
22 (h), Occupations Code, are amended to read as follows:

23 (c) A personal protection officer endorsement
24 [~~authorization~~] expires on the expiration date of the security
25 officer commission under which the individual's endorsement
26 [~~authorization~~] is issued.

27 (d) Endorsement [~~Registration~~] as a private investigator,

1 manager, branch office manager, alarm systems installer, security
2 consultant, security salesperson, alarm systems monitor, or dog
3 trainer expires on the second anniversary of the date of
4 endorsement [~~registration~~].

5 (e) Endorsement [~~Registration~~] as an owner, officer,
6 partner, or shareholder of a license holder expires on the second
7 anniversary of the date of endorsement [~~registration~~].

8 (f) Endorsement [~~Registration~~] as a noncommissioned
9 security officer expires on the second anniversary of the date of
10 endorsement [~~registration~~].

11 (g) A letter of authority, or a school approval or school
12 instructor approval letter issued by the board [~~commission~~],
13 expires on the first anniversary of the date of issuance.

14 (h) A license, ~~or~~ registration, or endorsement issued
15 under this chapter, other than one specified in this section,
16 expires on the date specified by this chapter or by board
17 [~~commission~~] rule.

18 SECTION 4.83. Section 1702.302, Occupations Code, is
19 amended to read as follows:

20 Sec. 1702.302. LICENSE RENEWAL. (a) A person who is
21 otherwise eligible to renew a license may renew an unexpired
22 license by paying the required renewal fee to the board
23 [~~commission~~] before the expiration date of the license. A person
24 whose license has expired may not engage in activities that require
25 a license until the license has been renewed.

26 (b) A person whose license has been expired for 90 days or
27 less may renew the license by paying to the board [~~commission~~] a

1 renewal fee that is equal to 1-1/2 times the normally required
2 renewal fee.

3 (c) A person whose license has been expired for longer than
4 90 days but less than one year may renew the license by paying to the
5 board [~~commission~~] a renewal fee that is equal to two times the
6 normally required renewal fee.

7 (d) A person whose license has been expired for one year or
8 more may not renew the license. The person may obtain a new license
9 by complying with the requirements and procedures, including the
10 examination requirements, for obtaining an original license.

11 (e) Not later than the 30th day before the date a person's
12 license is scheduled to expire, the board [~~commission~~] shall send
13 written notice of the impending expiration to the person at the
14 person's last known address according to the board's [~~commission's~~]
15 records.

16 SECTION 4.84. Section 1702.303, Occupations Code, is
17 amended to read as follows:

18 Sec. 1702.303. RENEWAL OF EXPIRED LICENSE BY OUT-OF-STATE
19 PRACTITIONER. A person who was licensed in this state, moved to
20 another state, and is currently licensed and has been in practice in
21 the other state for the two years preceding the date the person
22 applies for renewal may obtain a new license without reexamination.
23 The person must pay to the board [~~commission~~] a fee that is equal to
24 two times the normally required renewal fee for the license.

25 SECTION 4.85. Section 1702.304, Occupations Code, is
26 amended to read as follows:

27 Sec. 1702.304. STAGGERED RENEWAL; PRORATION OF LICENSE FEE.

1 The board [~~commission~~] by rule may adopt a system under which
2 licenses expire on various dates during the year. For the year in
3 which the expiration date of a license is changed, the board
4 [~~commission~~] shall prorate license fees on a monthly basis so that
5 each license holder pays only that portion of the license fee that
6 is allocable to the number of months during which the license is
7 valid. On renewal of the license on the new expiration date, the
8 total license renewal fee is payable.

9 SECTION 4.86. Section 1702.307, Occupations Code, is
10 amended to read as follows:

11 Sec. 1702.307. REGISTRATION RENEWAL. (a) An individual
12 who is otherwise eligible to renew a registration may renew an
13 unexpired registration by paying the required renewal fee to the
14 board [~~commission~~] before the expiration date of the registration.
15 An individual whose registration has expired may not engage in
16 activities that require a registration until the registration has
17 been renewed.

18 (b) An individual whose registration has been expired for 90
19 days or less may renew the registration by paying to the board
20 [~~commission~~] a renewal fee that is equal to 1-1/2 times the normally
21 required renewal fee.

22 (c) An individual whose registration has been expired for
23 more than 90 days but less than one year may renew the registration
24 by paying to the board [~~commission~~] a renewal fee that is equal to
25 two times the normally required renewal fee.

26 (d) An individual whose registration has been expired for
27 one year or more may not renew the registration. The individual may

1 obtain a new registration by complying with the requirements and
2 procedures, including any examination required by the board
3 [~~commission~~], for obtaining an original registration.

4 (e) An individual who was registered in this state, moved to
5 another state, and is currently registered and has been in practice
6 in the other state for the two years preceding the date of
7 application may obtain a new registration without reexamination.
8 The individual must pay to the board [~~commission~~] a fee that is
9 equal to two times the normally required renewal fee for the
10 registration.

11 (f) Not later than the 30th day before the expiration date
12 of an individual's registration, the board [~~commission~~] shall send
13 written notice of the impending expiration to the individual at the
14 individual's last known address according to board [~~commission~~]
15 records.

16 SECTION 4.87. Sections 1702.308(b) and (c), Occupations
17 Code, are amended to read as follows:

18 (b) The board [~~commission~~] shall recognize, prepare, or
19 administer continuing education programs for license holders,
20 commissioned security officers, and endorsement holders
21 [~~registrants~~]. The board [~~commission~~] shall set the minimum number
22 of hours that must be completed and the types of programs that may
23 be offered.

24 (c) A license holder, commissioned security officer, or
25 endorsement holder [~~registrant~~] must participate in the programs to
26 the extent required by the board [~~commission~~] to keep the person's
27 license, commission, or endorsement [~~registration~~]. A license

1 holder, commissioned security officer, or endorsement holder
2 [~~registrant~~] shall submit evidence of compliance with the board's
3 [~~commission's~~] continuing education requirements in a manner
4 prescribed by the board [~~commission~~].

5 SECTION 4.88. Section 1702.309(a), Occupations Code, is
6 amended to read as follows:

7 (a) The board [~~commission~~] by rule shall develop a
8 continuing education course required for renewal of a security
9 officer commission. Only a board-approved [~~commission-approved~~]
10 instructor may administer the continuing education course. The
11 course must include at least six hours of instruction determined by
12 the chief administrator [~~director~~] of the board [~~commission~~].

13 SECTION 4.89. Sections 1702.321(b), (c), and (e),
14 Occupations Code, are amended to read as follows:

15 (b) The provisions of this chapter relating to security
16 officer commissions apply to a person employed by a political
17 subdivision whose duties include serving as a security guard,
18 security watchman, or security patrolman on property owned or
19 operated by the political subdivision if the governing body of the
20 political subdivision files a written request with the board
21 [~~commission~~] for the board [~~commission~~] to issue a commission to
22 the political subdivision's employees with those duties.

23 (c) The board [~~commission~~] may not charge a fee for issuing
24 a commission to an officer under Subsection (b). The board
25 [~~commission~~] shall issue to the officer a pocket card designating
26 the political subdivision that employs the officer.

27 (e) The board [~~commission~~] may approve a security officer

1 training program conducted by the political subdivision in
2 accordance with Sections 1702.1675 and 1702.168.

3 SECTION 4.90. Sections 1702.361(a) and (b), Occupations
4 Code, are amended to read as follows:

5 (a) Subject to the board's final order under the hearing
6 provisions of this subchapter, the department, for conduct
7 described by Subsection (b), may:

8 (1) deny an application or revoke, suspend, or refuse
9 to renew a license, registration, endorsement, or security officer
10 commission;

11 (2) reprimand a license holder, registrant, or
12 commissioned security officer; or

13 (3) place on probation a person whose license,
14 registration, endorsement, or security officer commission has been
15 suspended.

16 (b) The department shall take disciplinary action described
17 by Subsection (a) on proof:

18 (1) that the applicant, license holder, registrant,
19 endorsement holder, or commissioned security officer has:

20 (A) violated this chapter or a rule adopted under
21 this chapter;

22 (B) become ineligible for licensure, ~~or~~
23 registration, or endorsement under Section 1702.113, or a
24 commission under Section 1702.163, if applicable, other than an
25 action for which the department has taken summary action under
26 Section 1702.364;

27 (C) engaged in fraud, deceit, or

1 misrepresentation;

2 (D) made a material misstatement in an
3 application for or renewal of a license, registration, endorsement,
4 or commission; [~~or~~]

5 (E) failed to pay in full an administrative
6 penalty assessed under Subchapter Q, for which the board has issued
7 a final order; or

8 (F) performed any service for which an
9 endorsement is required under this chapter and either:

10 (i) was not employed with a company
11 licensed under this chapter at the time the service was performed;
12 or

13 (ii) performed the service for a company
14 licensed under this chapter that was not listed on the individual's
15 registration without informing the board of the individual's
16 employment with the company within a reasonable period; or

17 (2) that the license holder of a registrant or
18 commissioned security officer has submitted to the department
19 sufficient evidence that the registrant or commissioned security
20 officer:

21 (A) engaged in fraud or deceit while employed by
22 the license holder; or

23 (B) committed theft while performing work as a
24 registrant or commissioned security officer.

25 SECTION 4.91. Section 1702.362, Occupations Code, is
26 amended to read as follows:

27 Sec. 1702.362. FAILURE TO FILE REQUIRED NOTICE. The board

1 [~~commission~~] may suspend or revoke a license if the license holder
2 fails to notify the board [~~commission~~] as required by Section
3 1702.121 that a manager has ceased to be the manager of the license
4 holder.

5 SECTION 4.92. Section 1702.363, Occupations Code, is
6 amended to read as follows:

7 Sec. 1702.363. APPLICATION OF ADMINISTRATIVE PROCEDURE
8 ACT. Except as provided by Sections 1702.3615(b) and 1702.364, a
9 person regulated under this chapter against whom the board
10 [~~commission~~] has taken action is entitled to a hearing before the
11 State Office of Administrative Hearings. A proceeding under this
12 section is a contested case that is governed by Chapter 2001,
13 Government Code.

14 SECTION 4.93. Sections 1702.364(a), (d), (f), and (h),
15 Occupations Code, are amended to read as follows:

16 (a) On receiving written notice from a law enforcement
17 agency that a person has been charged with or convicted of an
18 offense that would make the person ineligible for a license,
19 certificate of registration, endorsement, or security officer
20 commission under Section 1702.113 or 1702.163, the department
21 shall:

22 (1) summarily deny the person's application for a
23 license, registration, endorsement, or security officer
24 commission;

25 (2) in the event of pending charges, summarily suspend
26 the person's license, certificate of registration, endorsement, or
27 security officer commission; or

1 (3) in the event of a conviction, summarily revoke the
2 person's license, certificate of registration, endorsement, or
3 security officer commission.

4 (d) At a preliminary hearing, the person must show cause
5 why:

6 (1) the application should not have been denied;

7 (2) the registration, license, endorsement, or
8 security officer commission should not have been suspended; or

9 (3) the registration, license, endorsement, or
10 commission should not have been revoked.

11 (f) The dismissal of a complaint, information, or
12 indictment or an acquittal releases the person from automatic
13 grounds for a summary denial of an application or summary
14 suspension of a registration, endorsement, or security officer
15 commission under this section. A conviction for the offense giving
16 rise to a summary suspension is automatic grounds for immediate,
17 summary revocation.

18 (h) The administrative law judge shall make findings of fact
19 and conclusions of law regarding the person's eligibility for a
20 license, registration, or endorsement under this section and
21 promptly issue to the board a proposal for a decision.

22 SECTION 4.94. Section 1702.365, Occupations Code, is
23 amended to read as follows:

24 Sec. 1702.365. ABDUCTION OF CHILD. The board [~~commission~~]
25 shall revoke a person's license, registration, endorsement, or
26 security officer commission or deny a person's application for, or
27 renewal of, a license, registration, endorsement, or security

1 officer commission on proof that the person or an agent of the
2 person has, after the date of application for a license,
3 registration, endorsement, or security officer commission,
4 abducted or attempted to abduct by force or the threat of force or
5 by misrepresentation, stealth, or unlawful entry a child who at the
6 time of the abduction or attempt is under the care and control of a
7 person who:

8 (1) has custody or physical possession of the child
9 under a court order; or

10 (2) is exercising the care and control with the
11 consent of a person who has custody or physical possession of the
12 child under a court order.

13 SECTION 4.95. Sections 1702.367(a), (c), (d), and (e),
14 Occupations Code, are amended to read as follows:

15 (a) For an investigation conducted under this chapter, the
16 board [~~commission~~] may issue a subpoena to compel the attendance of
17 a witness or the production of a pertinent record or document. The
18 hearings officer may administer oaths and require testimony or
19 evidence to be given under oath.

20 (c) A person required to testify or to produce a record or
21 document on any matter properly under inquiry by the board
22 [~~commission~~] who refuses to testify or to produce the record or
23 document on the ground that the testimony or the production of the
24 record or document would incriminate or tend to incriminate the
25 person is nonetheless required to testify or to produce the record
26 or document. A person who is required to testify or to produce a
27 record or document under this subsection is not subject to

1 indictment or prosecution for a transaction, matter, or thing
2 concerning which the person truthfully testifies or produces
3 evidence.

4 (d) If a witness refuses to obey a subpoena or to give
5 evidence relevant to proper inquiry by the board [~~commission~~], the
6 board [~~commission~~] may petition a district court of the county in
7 which the hearing is held to compel the witness to obey the subpoena
8 or to give the evidence. The court shall immediately issue process
9 to the witness and shall hold a hearing on the petition as soon as
10 possible.

11 (e) An investigator employed by the board [~~commission~~] may
12 take statements under oath in an investigation of a matter covered
13 by this chapter.

14 SECTION 4.96. Section 1702.368, Occupations Code, is
15 amended to read as follows:

16 Sec. 1702.368. NOTIFICATION OF CONVICTION FOR CERTAIN
17 OFFENSES. The department [~~Texas Department of Public Safety~~] shall
18 notify the board [~~commission~~] and the police department of the
19 municipality and the sheriff's department of the county in which a
20 person licensed, registered, or commissioned under this chapter
21 resides of the conviction of the person for a Class B misdemeanor or
22 equivalent offense or a greater offense.

23 SECTION 4.97. Subchapter O, Chapter 1702, Occupations Code,
24 is amended by adding Section 1702.372 to read as follows:

25 Sec. 1702.372. RECUSAL OF BOARD MEMBER. (a) A board member
26 who participated in the investigation of a complaint or in informal
27 settlement negotiations regarding the complaint:

1 (1) may not vote on the matter at a board meeting
2 related to the complaint; and

3 (2) shall state at the meeting the reason for which the
4 member is prohibited from voting on the matter.

5 (b) A statement under Subsection (a)(2) shall be entered
6 into the minutes of the meeting.

7 SECTION 4.98. Section 1702.381(b), Occupations Code, is
8 amended to read as follows:

9 (b) A person who contracts with or employs a person who is
10 required to hold a license, [~~certificate of~~] registration,
11 endorsement, or security officer commission under this chapter
12 knowing that the person does not hold the required license,
13 registration, endorsement [~~certificate~~], or commission or who
14 otherwise, at the time of contract or employment, is in violation of
15 this chapter may be assessed a civil penalty to be paid to the state
16 in an amount not to exceed \$10,000 for each violation.

17 SECTION 4.99. Section 1702.386(a), Occupations Code, is
18 amended to read as follows:

19 (a) A person commits an offense if the person contracts with
20 or employs a person who is required to hold a license, registration,
21 endorsement [~~certificate~~], or commission under this chapter
22 knowing that the person does not hold the required license,
23 registration, endorsement [~~certificate~~], or commission or who
24 otherwise, at the time of contract or employment, is in violation of
25 this chapter.

26 SECTION 4.100. Section 1702.3863(a), Occupations Code, is
27 amended to read as follows:

1 (a) A person commits an offense if the person contracts with
2 or is employed by a bail bond surety as defined by Chapter 1704 to
3 secure the appearance of a person who has violated Section 38.10,
4 Penal Code, unless the person is:

5 (1) a peace officer;

6 (2) an individual endorsed or licensed as a private
7 investigator or the manager of a licensed investigations company;
8 or

9 (3) a commissioned security officer employed by a
10 licensed guard company.

11 SECTION 4.101. Section 1702.387(a), Occupations Code, is
12 amended to read as follows:

13 (a) A person commits an offense if the person fails to
14 surrender or immediately return to the board [~~commission~~] the
15 person's registration, commission, pocket card, or other
16 identification issued to the person by the board [~~commission~~] on
17 notification of a summary suspension or summary denial under
18 Section 1702.364.

19 SECTION 4.102. Section 1702.388(b), Occupations Code, is
20 amended to read as follows:

21 (b) An offense under this section is a Class A misdemeanor,
22 except that the offense is a felony of the third degree if the
23 person has previously been convicted under this chapter of failing
24 to hold a license, registration, endorsement, certificate, or
25 commission that the person is required to hold under this chapter.

26 SECTION 4.103. Section 1702.402, Occupations Code, is
27 amended by amending Subsection (a) and adding Subsection (c) to

1 read as follows:

2 (a) Each day a violation continues or occurs is a separate
3 violation for purposes of imposing a penalty. The amount of each
4 separate violation may not exceed \$5,000 [~~\$500~~].

5 (c) The board by rule shall develop a standardized penalty
6 schedule based on the criteria listed in Subsection (b).

7 SECTION 4.104. Section 1702.406(b), Occupations Code, is
8 amended to read as follows:

9 (b) The notice of the board's order given to the person must
10 include a statement of the right of the person to judicial review of
11 the order. Judicial review is under the substantial evidence rule
12 as provided by Subchapter G, Chapter 2001, Government Code.

13 SECTION 4.105. The following provisions of the Occupations
14 Code are repealed:

- 15 (1) Section 1702.002(4);
- 16 (2) Section 1702.003;
- 17 (3) Section 1702.045;
- 18 (4) Section 1702.046;
- 19 (5) Section 1702.047;
- 20 (6) Section 1702.065;
- 21 (7) Section 1702.069;
- 22 (8) Section 1702.113(e);
- 23 (9) Section 1702.364(j); and
- 24 (10) Subchapter K.

25 SECTION 4.106. (a) Not later than January 1, 2010, the
26 Texas Private Security Board and the Department of Public Safety
27 shall adopt the rules required by or under Section 1702.062,

1 Occupations Code, as amended by this article. The fee schedule in
2 effect under Section 1702.062, Occupations Code, before the
3 effective date of this article is continued in effect until new fees
4 are adopted under Section 1702.062, Occupations Code, as amended by
5 this article.

6 (b) The requirement to pass a jurisprudence examination
7 under Section 1702.241, Occupations Code, as added by this article,
8 applies only to an individual who applies for a registration or
9 endorsement under Chapter 1702, Occupations Code, on or after the
10 date specified by the Texas Private Security Board in the event the
11 board begins requiring applicants to pass a jurisprudence
12 examination, but not earlier than September 1, 2010.

13 (c) The changes in law made by this article related to the
14 filing, investigation, or resolution of a complaint under Chapter
15 1702, Occupations Code, as amended by this article, apply only to a
16 complaint filed with the Texas Private Security Board on or after
17 the effective date of this article. A complaint filed before the
18 effective date of this article is governed by the law as it existed
19 immediately before that date, and the former law is continued in
20 effect for that purpose.

21 (d) The changes in law made by this article governing the
22 authority of the Texas Private Security Board and the Department of
23 Public Safety to issue, renew, or revoke a license, registration,
24 endorsement, or commission under Chapter 1702, Occupations Code,
25 apply only to an application for an original or renewal license,
26 registration, endorsement, or commission filed with the Texas
27 Private Security Board under Chapter 1702, Occupations Code, as

1 amended by this article, on or after the effective date of this
2 article. An application filed before the effective date of this
3 article is governed by the law in effect at the time the application
4 was filed, and the former law is continued in effect for that
5 purpose.

6 (e) The change in law made by this article with respect to
7 conduct that is grounds for imposition of a disciplinary sanction
8 applies only to conduct that occurs on or after the effective date
9 of this article. Conduct that occurs before the effective date of
10 this article is governed by the law in effect on the date the
11 conduct occurred, and the former law is continued in effect for that
12 purpose.

13 (f) Section 1702.372, Occupations Code, as added by this
14 article, applies only to a hearing conducted on or after the
15 effective date of this article, regardless of the date on which the
16 complaint was filed. A complaint on which a hearing is conducted
17 before the effective date of this article is governed by the law in
18 effect on the date the hearing was conducted, and the former law is
19 continued in effect for that purpose.

20 (g) The holder of a Class D license under Chapter 1702,
21 Occupations Code, as amended by this article, shall be considered
22 to hold a Class B license on the effective date of this article. On
23 the expiration of the Class D license, the license holder may renew
24 the license as a Class B license.

25 SECTION 4.107. This article takes effect September 1, 2009.

26 ARTICLE 5. GENERAL PROVISIONS

27 SECTION 5.01. Section 411.002, Government Code, is amended

1 by amending Subsection (c) and adding Subsections (d) and (e) to
2 read as follows:

3 (c) The Department of Public Safety of the State of Texas is
4 subject to Chapter 325 (Texas Sunset Act). Unless continued in
5 existence as provided by that chapter, the department is abolished
6 and Subsections (a) and (b) expire September 1, 2015 [~~2009~~].

7 (d) Not later than December 1, 2010, the Sunset Advisory
8 Commission shall review and prepare a written report for submission
9 to the legislature on the department's implementation of:

10 (1) the recommendations in the 2008 audit of the
11 department's information technology system; and

12 (2) a civilian business model for the operation of the
13 driver's license division that focuses on improving customer
14 service by:

15 (A) using best practices in call center
16 technology and monitoring customer service calls;

17 (B) expanding operating hours at driver's
18 license offices; and

19 (C) decreasing the time the department takes to
20 send a replacement driver's license.

21 (e) The Sunset Advisory Commission shall submit the report
22 required by Subsection (d) not later than February 15, 2011. This
23 subsection and Subsection (d) expire August 31, 2011.

24 SECTION 5.02. Section 411.0035, Government Code, is amended
25 to read as follows:

26 Sec. 411.0035. MEMBER AND GENERAL COUNSEL RESTRICTION. (a)
27 In this section, "Texas trade association" means a cooperative and

1 voluntarily joined statewide association of business or
2 professional competitors in this state designed to assist its
3 members and its industry or profession in dealing with mutual
4 business or professional problems and in promoting their common
5 interest.

6 (b) A person may not be [~~serve as~~] a member of the commission
7 and may not be a department employee employed in a "bona fide
8 executive, administrative, or professional capacity," as that
9 phrase is used for purposes of establishing an exemption to the
10 overtime provisions of the federal Fair Labor Standards Act of 1938
11 (29 U.S.C. Section 201 et seq.), if:

12 (1) the person is an officer, employee, or paid
13 consultant of a Texas trade association in the field of law
14 enforcement or private security; or

15 (2) the person's spouse is an officer, manager, or paid
16 consultant of a Texas trade association in the field of law
17 enforcement or private security.

18 (c) A person may not be a member of the commission or act as
19 the general counsel to the commission if the person is required to
20 register as a lobbyist under Chapter 305 because of the person's
21 activities for compensation on behalf of a profession related to
22 the operation of the commission.

23 SECTION 5.03. Subchapter A, Chapter 411, Government Code,
24 is amended by adding Section 411.0042 to read as follows:

25 Sec. 411.0042. DIVISION OF RESPONSIBILITIES. The
26 commission shall develop and implement policies that clearly
27 separate the policymaking responsibilities of the commission and

1 the management responsibilities of the director and the staff of
2 the department.

3 SECTION 5.04. Subchapter A, Chapter 411, Government Code,
4 is amended by adding Section 411.0043 to read as follows:

5 Sec. 411.0043. TECHNOLOGY POLICY. The commission shall
6 implement a policy requiring the department to use appropriate
7 technological solutions to improve the department's ability to
8 perform its functions. The policy must ensure that the public is
9 able to interact with the department on the Internet.

10 SECTION 5.05. Subchapter A, Chapter 411, Government Code,
11 is amended by adding Section 411.0044 to read as follows:

12 Sec. 411.0044. NEGOTIATED RULEMAKING AND ALTERNATIVE
13 DISPUTE RESOLUTION. (a) The commission shall develop and
14 implement a policy to encourage the use of:

15 (1) negotiated rulemaking procedures under Chapter
16 2008 for the adoption of department rules; and

17 (2) appropriate alternative dispute resolution
18 procedures under Chapter 2009 to assist in the resolution of
19 internal and external disputes under the department's
20 jurisdiction.

21 (b) The department's procedures relating to alternative
22 dispute resolution must conform, to the extent possible, to any
23 model guidelines issued by the State Office of Administrative
24 Hearings for the use of alternative dispute resolution by state
25 agencies.

26 (c) The commission shall designate a trained person to:

27 (1) coordinate the implementation of the policy

1 adopted under Subsection (a);

2 (2) serve as a resource for any training needed to
3 implement the procedures for negotiated rulemaking or alternative
4 dispute resolution; and

5 (3) collect data concerning the effectiveness of those
6 procedures, as implemented by the department.

7 SECTION 5.06. Section 411.005, Government Code, is amended
8 by amending Subsections (a) and (c) and adding Subsection (d) to
9 read as follows:

10 (a) The commission shall appoint a citizen of the United
11 States [~~this state~~] as public safety director. The director serves
12 until removed by the commission.

13 (c) The commission shall select the director, and the
14 director shall select an assistant director, on the basis of the
15 person's training, experience, and qualifications for the
16 position. The director and each [~~an~~] assistant director must,
17 during the six-year period before appointment to the department as
18 the director or as an assistant director, have been serving for a
19 period of not less than five consecutive years as:

20 (1) a full-time peace officer commissioned by a state,
21 federal, local, or tribal law enforcement agency; and

22 (2) the head of or a senior manager in a state,
23 federal, local, or tribal law enforcement agency [~~five years'~~
24 ~~experience, preferably in police or public administration~~].

25 (d) The director and an assistant director are entitled to
26 annual salaries as provided by the legislature.

27 SECTION 5.07. Section 411.015(b), Government Code, is

1 amended to read as follows:

2 (b) ~~[The number of divisions may not exceed the number of~~
3 ~~divisions existing on August 22, 1957.]~~ The division relating to
4 the Texas Rangers may not be abolished.

5 SECTION 5.08. Sections 411.0195(a), (b), and (c),
6 Government Code, are amended to read as follows:

7 (a) The department shall maintain a system to promptly and
8 efficiently act on ~~[prepare information of public interest~~
9 ~~describing the functions of the department and the department's~~
10 ~~procedures by which]~~ complaints ~~[are]~~ filed with ~~[and resolved by]~~
11 the department. The department shall maintain ~~[make the]~~
12 information about parties to the complaint, the subject matter of
13 the complaint, a summary of the results of the review or
14 investigation of the complaint, and its disposition ~~[available to~~
15 ~~the public and appropriate state agencies].~~

16 (b) The department shall make information available
17 describing its procedures for complaint investigation and
18 resolution ~~[director by rule shall establish methods by which~~
19 ~~consumers and service recipients are notified of the name, mailing~~
20 ~~address, and telephone number of the department for the purpose of~~
21 ~~directing complaints to the department].~~

22 (c) The department shall periodically notify the complaint
23 parties of the status of the complaint until final disposition
24 ~~[maintain a file on each written complaint filed with the~~
25 ~~department. The file must include:~~

- 26 ~~[(1) the name of the person who filed the complaint,~~
27 ~~[(2) the date the complaint is received by the~~

1 ~~department,~~

2 ~~[(3) the subject matter of the complaint,~~

3 ~~[(4) the name of each person contacted in relation to~~
4 ~~the complaint,~~

5 ~~[(5) a summary of the results of the review or~~
6 ~~investigation of the complaint, and~~

7 ~~[(6) an explanation of the reason the file was closed,~~
8 ~~if the agency closed the file without taking action other than to~~
9 ~~investigate the complaint].~~

10 SECTION 5.09. Section 411.188, Government Code, is amended
11 by adding Subsection (j) to read as follows:

12 (j) The department may offer online, or allow a qualified
13 handgun instructor to offer online, the continuing education
14 instruction course and written section of the proficiency
15 examination required to renew a license.

16 SECTION 5.10. Section 411.190, Government Code, is amended
17 by adding Subsection (d-1) to read as follows:

18 (d-1) The department shall ensure that an applicant may
19 renew certification under Subsection (d) from any county in this
20 state by using an online format to complete the required retraining
21 courses if:

22 (1) the applicant is renewing certification for the
23 first time; or

24 (2) the applicant completed the required retraining
25 courses in person the previous time the applicant renewed the
26 certificate.

27 SECTION 5.11. The heading to Section 411.244, Government

1 Code, is amended to read as follows:

2 Sec. 411.244. OFFICE OF INSPECTOR GENERAL [~~INTERNAL~~
3 ~~AFFAIRS~~].

4 SECTION 5.12. Sections 411.244(a), (b), (d), (e), and (f),
5 Government Code, are amended to read as follows:

6 (a) The commission [~~director~~] shall establish the office of
7 inspector general, which is responsible for:

8 (1) acting to prevent and detect criminal conduct
9 within the department; and

10 (2) independently and objectively investigating:

11 (A) criminal activity occurring in all divisions
12 of the department;

13 (B) allegations of wrongdoing by department
14 employees;

15 (C) crimes committed on department property; and

16 (D) serious breaches of department policy
17 [~~internal affairs~~].

18 (b) The office of inspector general [~~internal affairs~~] has
19 original departmental jurisdiction over all investigations
20 occurring on department property or involving department
21 employees. The office shall coordinate, but need not conduct, all
22 investigations under this section.

23 (d) The commission has direct oversight over the office of
24 inspector general, including decisions regarding budget and
25 staffing. The commission [~~director~~] shall appoint the inspector
26 general [~~head of the office of internal affairs~~]. The inspector
27 general [~~head of the office of internal affairs~~] serves until

1 removed by the commission [~~director~~]. The commission shall
2 establish policies to ensure that the commission continues to
3 oversee the office of inspector general as required by this
4 subsection and to ensure that the office of inspector general
5 retains and exercises its original jurisdiction under Subsection
6 (b).

7 (e) The inspector general [~~head of the office of internal~~
8 ~~affairs~~] shall report directly to the commission [~~director~~]
9 regarding performance of and activities related to investigations,
10 report to the director for administrative purposes, and provide the
11 director with information regarding investigations as appropriate.

12 (f) The inspector general [~~head of the office of internal~~
13 ~~affairs~~] shall present at each regularly scheduled commission
14 meeting and at other appropriate times:

15 (1) reports of investigations; and

16 (2) a summary of information relating to
17 investigations conducted under this section that includes analysis
18 of the number, type, and outcome of investigations, trends in the
19 investigations, and recommendations to avoid future complaints.

20 SECTION 5.13. Sections 411.0195(d) and (e), Government
21 Code, are repealed.

22 SECTION 5.14. The changes in law made by this article by the
23 amendment of Section 411.0035, Government Code, apply only to a
24 person first appointed to the Public Safety Commission or employed
25 by the Department of Public Safety of the State of Texas on or after
26 the effective date of this Act. A person first appointed or
27 employed before the effective date of this Act is governed by the

1 law in effect immediately before that date, and the former law is
2 continued in effect for that purpose.

3 SECTION 5.15. The changes in law made by this article by the
4 amendment of Section 411.0195, Government Code, apply only to a
5 complaint filed on or after the effective date of this Act. A
6 complaint filed before the effective date of this Act is governed by
7 the law in effect when the complaint was filed, and the former law
8 is continued in effect for that purpose.

9 SECTION 5.16. The Department of Public Safety of the State
10 of Texas shall take action as necessary to ensure that an applicant
11 may renew a qualified handgun instructor certification from any
12 county in this state, as required by Section 411.190(d-1),
13 Government Code, as added by this Act, not later than March 1, 2010.

14 SECTION 5.17. The Department of Public Safety shall develop
15 customer service training requirements that at a minimum must be
16 completed by the staff of the driver license division that interact
17 with the public. Each new employee of the division that is required
18 to complete this training, as a condition of employment, must do so
19 by the end of the third month of employment. Thereafter, each
20 employee that the training applies to shall participate annually in
21 this training.

22 SECTION 5.18. The Department of Public Safety shall develop
23 cultural diversity training requirements to be completed by all
24 staff of the drivers license division. Each new employee of the
25 division, as a condition of employment, must complete the training
26 by the end of the third month of employment. Thereafter, each
27 employee in the division shall participate annually in the

1 diversity training.

2 SECTION 5.19. The Department of Public Safety shall develop
3 training requirements regarding proof of citizenship documents. At
4 a minimum, this training must be completed by all staff in the
5 drivers license division. Each new employee of this division, as a
6 condition of employment, must complete the training by the end of
7 the third month of employment. Thereafter, each employee of the
8 division shall participate annually in this training.

9 ARTICLE 6. ADDITIONAL PROVISIONS

10 SECTION 6.01. Section 411.00755(b), Government Code, is
11 amended to read as follows:

12 (b) The [~~Notwithstanding Chapter 552, the~~] personnel
13 records of a commissioned officer of the department may not be
14 disclosed or otherwise made available to the public, except the
15 department shall release in accordance with Chapter 552:

- 16 (1) any letter, memorandum, or document relating to:
17 (A) a commendation, congratulation, or honor
18 bestowed on the officer for an action, duty, or activity that
19 relates to the officer's official duties; and
20 (B) misconduct by the officer, if the letter,
21 memorandum, or document resulted in disciplinary action;
22 (2) the state application for employment submitted by
23 the officer, but not including any attachments to the application;
24 (3) any reference letter submitted by the officer;
25 (4) any letter of recommendation for the officer;
26 (5) any employment contract with the officer;
27 (6) any periodic evaluation of the officer by a

1 supervisor;

2 (7) any document recording a promotion or demotion of
3 the officer;

4 (8) any request for leave by the officer;

5 (9) any request by the officer for transfers of shift
6 or duty assignments;

7 (10) any documents presented to the commission in
8 connection with a public hearing under Section 411.007(f);

9 (11) the officer's:

10 (A) name;

11 (B) age;

12 (C) dates of employment;

13 (D) positions held; and

14 (E) gross salary; and

15 (12) information about the location of the officer's
16 department duty assignments.

17 SECTION 6.02. Section 411.192, Government Code, is amended
18 by amending Subsections (a) and (d) and adding Subsection (e) to
19 read as follows:

20 (a) The department shall disclose to a criminal justice
21 agency information contained in its files and records regarding
22 whether a named individual or any individual named in a specified
23 list is licensed under this subchapter. Information on an
24 individual subject to disclosure under this section includes the
25 individual's name, date of birth, gender, race, ~~and~~ zip code,
26 telephone number, e-mail address, and Internet website address.

27 Except as otherwise provided by this section and by Section

1 411.193, all other records maintained under this subchapter are
2 confidential and are not subject to mandatory disclosure under the
3 open records law, Chapter 552.

4 (d) Except as provided by Subsection (e), [This section
5 does not prohibit] the department shall make [from making] public
6 and distribute [distributing] to the public at no cost lists of
7 individuals who are certified as qualified handgun instructors by
8 the department. The department shall include on the lists each
9 individual's name, telephone number, e-mail address, and Internet
10 website address. The department shall make the list available on
11 the department's Internet website.

12 (e) An individual who is certified as a qualified handgun
13 instructor may request in writing that the department not disclose
14 all or part of the information described by Subsection (d)
15 regarding the individual. The department shall remove all or part
16 of the individual's information from the list as requested.

17 SECTION 6.03. The heading to Section 418.005, Government
18 Code, is amended to read as follows:

19 Sec. 418.005. EMERGENCY MANAGEMENT TRAINING FOR APPOINTED
20 OFFICERS.

21 SECTION 6.04. Subchapter A, Chapter 418, Government Code,
22 is amended by adding Section 418.0051 to read as follows:

23 Sec. 418.0051. EMERGENCY MANAGEMENT TRAINING FOR ELECTED
24 PUBLIC OFFICERS. An elected public officer of the state or of a
25 political subdivision whose duties include emergency management
26 responsibilities or who plays a role in emergency preparedness,
27 response, or recovery may attend the training provided under

1 Section 418.005 appropriate to the individual's position.

2 SECTION 6.05. Section 614.151(2), Government Code, as added
3 by Chapter 1159 (H.B. 12), Acts of the 80th Legislature, Regular
4 Session, 2007, is amended to read as follows:

5 (2) "Law enforcement officer" means a person who [+
6 [~~(A)~~] is a commissioned peace officer [+
7 [~~(B) is~~] employed by a law enforcement agency [+
8 and

9 [~~(C) is compensated according to:~~

10 [~~(i) Schedule C of the position~~
11 ~~classification salary schedule prescribed by the General~~
12 ~~Appropriations Act if the person is employed by a law enforcement~~
13 ~~agency other than the Parks and Wildlife Department; or~~

14 [~~(ii) Schedule B or C of the position~~
15 ~~classification salary schedule prescribed by the General~~
16 ~~Appropriations Act if the person is employed by the Parks and~~
17 ~~Wildlife Department].~~

18 SECTION 6.06. Section 614.152, Government Code, as added by
19 Chapter 1159 (H.B. 12), Acts of the 80th Legislature, Regular
20 Session, 2007, is amended to read as follows:

21 Sec. 614.152. PHYSICAL FITNESS PROGRAMS AND STANDARDS. (a)
22 Each [~~Out of appropriated funds, each~~] law enforcement agency shall
23 adopt physical fitness programs that a law enforcement officer must
24 participate in and physical fitness standards that a law
25 enforcement officer must meet [~~to continue employment with the~~
26 ~~agency as a law enforcement officer~~]. The standards as applied to
27 an officer must directly relate to the officer's job duties and

1 shall include individual fitness goals specific to the officer's
2 age, weight, and gender. A law enforcement agency shall use the
3 services of a consultant to aid the agency in developing the
4 standards.

5 (a-1) Each law enforcement agency shall adopt a reward
6 policy that provides for reward incentives to officers who
7 participate in the program and meet the standards adopted under
8 Subsection (a). The reward incentives under the policy must be an
9 amount of administrative leave of not more than four days per year.

10 (a-2) An agency may adopt physical readiness standards
11 independent of other law enforcement agencies.

12 (b) Except as provided by Subsection (c), the inability of
13 an officer to participate in a program or meet ~~[a violation of]~~ a
14 standard adopted under Subsection (a) is just cause to ~~[discharge~~
15 ~~an officer or:~~

16 ~~[(1)]~~ transfer an officer to a position that is not
17 compensated according to Schedule C of the position classification
18 salary schedule prescribed by the General Appropriations Act ~~[, or~~

19 ~~[(2) for a law enforcement officer employed by the~~
20 ~~Parks and Wildlife Department and compensated according to Schedule~~
21 ~~B of the position classification salary schedule prescribed by the~~
22 ~~General Appropriations Act, transfer the officer to a position that~~
23 ~~does not require the employee to be a commissioned peace officer].~~

24 (c) A law enforcement agency may exempt a law enforcement
25 officer from participating in a program or meeting a standard under
26 Subsection (a) based on the facts and circumstances of the
27 individual case, including whether an officer was injured in the

1 line of duty.

2 SECTION 6.07. Section 411.171(4), Government Code, is
3 amended to read as follows:

4 (4) "Convicted" means an adjudication of guilt or,
5 except as provided in Section 411.1711, an order of deferred
6 adjudication entered against a person by a court of competent
7 jurisdiction whether or not the imposition of the sentence is
8 subsequently probated and the person is discharged from community
9 supervision. The term does not include an adjudication of guilt or
10 an order of deferred adjudication that has been subsequently:

11 (A) expunged; ~~[or]~~

12 (B) pardoned under the authority of a state or
13 federal official; or

14 (C) otherwise vacated, set aside, annulled,
15 invalidated, voided, or sealed under any state or federal law.

16 SECTION 6.08. Section 521.005, Transportation Code, is
17 amended to read as follows:

18 Sec. 521.005. RULEMAKING AUTHORITY. (a) The department
19 may adopt rules necessary to administer this chapter.

20 (b) The department may not adopt or implement a new rule or
21 directive that is consistent with the REAL ID Act of 2005 (49 U.S.C.
22 Section 30301 et seq.), unless otherwise authorized by this
23 chapter.

24 SECTION 6.09. Subchapter C, Chapter 522, Transportation
25 Code, is amended by adding Section 522.034 to read as follows:

26 Sec. 522.034. HEALTH MANAGEMENT AND WELLNESS PROGRAM. (a)
27 The department shall establish a health management and wellness

1 program to educate each applicant for a commercial driver's license
2 or commercial driver learner's permit on health risks that may
3 increase the risk that an operator may cause an accident while
4 driving a commercial motor vehicle. At a minimum, the program must
5 include information on:

- 6 (1) high blood pressure;
- 7 (2) high cholesterol; and
- 8 (3) diabetes.

9 (b) The department shall make the health management and
10 wellness information required by Subsection (a) available to each
11 applicant:

- 12 (1) in person, at the time the applicant submits an
13 application for a commercial driver's license or commercial driver
14 learner's permit; and
- 15 (2) on the department's Internet website.

16 SECTION 6.10. Subchapter S, Chapter 521, Transportation
17 Code, is amended by adding Section 521.4565 to read as follows:

18 Sec. 521.4565. CONSPIRING TO MANUFACTURE COUNTERFEIT
19 LICENSE OR CERTIFICATE. (a) In this section:

20 (1) "Combination," "conspires to commit," "profits,"
21 and "criminal street gang" have the meanings assigned by Section
22 71.01, Penal Code.

23 (2) "Conspires to manufacture or produce" means that:

24 (A) a person agrees with one or more other
25 persons to engage in the manufacture or production of a forged or
26 counterfeit instrument; and

27 (B) the person and one or more of the other

1 persons perform an overt act in pursuance of the agreement.

2 (3) "Instrument" means a driver's license, commercial
3 driver's license, or personal identification certificate.

4 (4) "Public servant" has the meaning assigned by
5 Section 1.07, Penal Code.

6 (b) A person commits an offense if the person establishes,
7 maintains, or participates in or conspires to establish, maintain,
8 or participate in a combination or criminal street gang, or
9 participates in the profits of a combination or criminal street
10 gang, with the intent to manufacture or produce a forged or
11 counterfeit instrument for the purpose of selling, distributing, or
12 delivering the instrument. An agreement that constitutes
13 conspiring to manufacture or produce may be inferred from the acts
14 of the parties.

15 (c) An offense under this section is a state jail felony,
16 except that an offense committed by a public servant is a felony of
17 the third degree.

18 SECTION 6.11. Section 708.151, Transportation Code, is
19 amended to read as follows:

20 Sec. 708.151. NOTICE OF SURCHARGE. (a) The department
21 shall send notices as required by Subsection (b) to [~~notify~~] the
22 holder of a driver's license when [~~of the assessment of~~] a surcharge
23 is assessed on that license. Each notice must:

24 (1) be sent by first class mail [~~sent~~] to the person's
25 most recent address as shown on the records of the department or to
26 the person's most recent forwarding address on record with the
27 United States Postal Service if it is different;

1 (2) [~~• The notice must~~] specify the date by which the
2 surcharge must be paid;

3 (3) state the total dollar amount of the surcharge
4 which must be paid, the number of monthly payments required under an
5 installment payment plan, and the minimum monthly payment required
6 for a person to enter and maintain an installment payment plan with
7 the department; and

8 (4) state the consequences of a failure to pay the
9 surcharge.

10 (b) The department shall send a first notice not later than
11 the fifth day after the date the surcharge is assessed. Any notice
12 under this section shall also include a conspicuous notice
13 regarding the ability of a person to qualify as indigent under
14 Section 708.158 and the procedures to establish with the department
15 their indigent status so that they may qualify for the reduced
16 surcharges as set forth in Section 708.158.

17 (c) Once a person is recognized as an indigent under Section
18 708.158, the department shall send a new notification to that
19 person which accurately reflects the reduced surcharges owed.

20 (d) If on or before the 45th day after the date the first
21 notice was sent the person fails to pay the amount of the surcharge
22 or fails to enter into an installment payment agreement with the
23 department, the department shall send a second notice. If on or
24 before the 60th day after the date the second notice was sent the
25 person fails to pay the amount of the surcharge or fails to enter
26 into an installment payment agreement with the department, the
27 department shall send a third notice which advises the person that

1 his/her driving privileges are suspended.

2 SECTION 6.12. Section 708.152(a), Transportation Code, is
3 amended to read as follows:

4 (a) If on [~~before~~] the 60th [~~30th~~] day after the date the
5 department sends a second notice under Section 708.151 the person
6 fails to pay the amount of a surcharge on the person's license or
7 fails to enter into an installment payment agreement with the
8 department, the license of the person is automatically suspended.
9 The person's license may not be suspended under this section before
10 the 105th day after the surcharge was assessed by the department.

11 SECTION 6.13. Section 708.153(b), Transportation Code, is
12 amended to read as follows:

13 (b) A rule under this section:

14 (1) may not require [~~permit~~] a person to pay a
15 surcharge over a period of less [~~more~~] than 36 consecutive months
16 for surcharges in the amount of \$500 or more; may not require a
17 person to pay a surcharge over a period of less than 24 consecutive
18 months for surcharges of \$250 to \$499; and may not require a person
19 to pay a surcharge over a period of less than 12 consecutive months
20 for surcharges of \$249 or less; and

21 (2) may provide that if the person fails to make any
22 [~~a~~] required monthly installment payment, the department may
23 reestablish the installment plan upon receipt of a payment in the
24 amount at least equal to a required monthly installment payment [~~or~~
25 ~~declare the amount of the unpaid surcharge immediately due and~~
26 ~~payable~~].

27 SECTION 6.14. Section 708.157(c), Transportation Code, is

1 amended to read as follows:

2 (c) The department by rule shall [~~may~~] establish an
3 indigency program for holders of a driver's license on which a
4 surcharge has been assessed for certain offenses, as determined by
5 the department.

6 SECTION 6.15. Subchapter D, Chapter 708, Transportation
7 Code, is amended by adding Section 708.158 to read as follows:

8 Sec. 708.158. INDIGENT STATUS AND REDUCTION OF SURCHARGES.

9 (a) The department shall waive 75 percent of all surcharges
10 assessed under Chapter 708 for a person meeting the criteria set
11 forth in Subsections (b) and (c) hereof.

12 (b) The department shall waive 80 percent of all surcharges
13 against a person who is indigent. For the purposes of this
14 subsection, a person is indigent if the person provides evidence
15 described by Subsection (c) to the department.

16 (c) A person must provide the following information to the
17 department that the person's income or the person's household
18 income does not exceed 125 percent of the applicable income level
19 established by the federal poverty guidelines, and the following
20 documentation may be used as such proof:

21 (1) a copy of the person's most recent federal income
22 tax return;

23 (2) a copy of the person's most recent statement of
24 wages; or

25 (3) documentation from a federal agency, state agency,
26 or school district that indicates that the person or, if the person
27 is a dependent as defined by Section 152 of the Internal Revenue

1 Code, the taxpayer claiming the person as a dependent, receives
2 assistance from:

3 (A) the food stamp program or the financial
4 assistance program established under Chapter 31, Human Resources
5 Code;

6 (B) the federal special supplemental nutrition
7 program for women, infants, and children authorized by 42 U.S.C.
8 Section 1786;

9 (C) the medical assistance program under Chapter
10 32, Human Resources Code;

11 (D) the child health plan program under Chapter
12 62, Health and Safety Code; or

13 (E) the national free or reduced-price lunch
14 program established under 42 U.S.C. Section 1751 et seq.

15 SECTION 6.16. Article 2.131, Code of Criminal Procedure, is
16 amended to read as follows:

17 Art. 2.131. RACIAL PROFILING PROHIBITED. (a) A peace
18 officer may not engage in racial profiling.

19 (b) A civilian employee of the Department of Public Safety
20 assigned to a driver's license facility of that department may not
21 engage in racial profiling in issuing an original, renewal, or
22 duplicate driver's license, commercial driver's license, or
23 personal identification certificate.

24 SECTION 6.17. Article 2.132, Code of Criminal Procedure, is
25 amended by adding Subsection (g) to read as follows:

26 (g) To the extent that they can be made applicable, the
27 provisions of Subsections (b)(1), (2), (3), (4), and (5) also apply

1 to civilian employees of the Department of Public Safety who are
2 assigned to the driver's license facilities of the department.

3 SECTION 6.18. Section 22.0834, Education Code, is amended
4 by adding Subsection (k) to read as follows:

5 (k) The requirements of this section apply to an entity that
6 contracts directly with a school district, open-enrollment charter
7 school, or shared services arrangement and any subcontractor of the
8 entity. For purposes of this subsection, "subcontractor" means an
9 entity that contracts with another entity that is not a school
10 district, open-enrollment charter school, or shared services
11 arrangement to provide services to a school district,
12 open-enrollment charter school, or shared services arrangement.

13 SECTION 6.19. (a) In this section:

14 (1) "Authorized employee" means an officer of the
15 Texas Highway Patrol or other law enforcement officer commissioned
16 by the director of the department.

17 (2) "Department" means the Department of Public
18 Safety.

19 (3) "Pilot program" means the pilot fingerprint
20 identification program established under this section.

21 (b) If sufficient funds are available, the department shall
22 develop and implement a program in one or more counties of this
23 state to pilot the use by authorized employees of a mobile
24 fingerprint identification system to perform fingerprint checks in
25 the field as an aid to law enforcement.

26 (c) In implementing the pilot program, the department shall
27 use a portable, lightweight mobile fingerprint scanner developed

1 for law enforcement that is secure, uses encrypted data
2 transmissions for protection of the public, and does not require
3 the authorized employee to carry additional equipment for the
4 scanner to receive the data. The department shall make its existing
5 automated fingerprint identification system available for use
6 during the period of the pilot program.

7 (d) The department shall comply with all state procurement
8 requirements in implementing the pilot program.

9 (e) The department may work with and enter into memorandums
10 of understanding with municipalities to implement the pilot
11 program.

12 (f) Under the pilot program, an authorized employee may not
13 check the fingerprint of a person without the verbal consent of that
14 person.

15 (g) The department may extend the pilot program to
16 additional counties if the department determines that the expansion
17 would be cost-effective.

18 (h) The department shall begin implementation of the pilot
19 program not later than January 1, 2010, and shall conduct the pilot
20 program for at least 12 months.

21 (i) Not later than February 1, 2011, the department shall
22 report to the governor, the lieutenant governor, the speaker of the
23 house of representatives, and the Sunset Advisory Commission
24 regarding the pilot program. The report must include the
25 department's recommendations for continuation or expansion of the
26 pilot program and an evaluation of the department's use of the
27 mobile fingerprint identification system, including:

1 (1) the appropriateness of conducting remote
2 fingerprint checks;

3 (2) the value of remote fingerprint checking in
4 combating crime and enforcing department rules and other laws of
5 this state;

6 (3) the impact of using remote fingerprint checks on
7 the efficiency of authorized employees;

8 (4) the impact of using remote fingerprint checks on
9 the safety of authorized employees; and

10 (5) any reduction in inconvenience to a person who is
11 not carrying a required license.

12 SECTION 6.20. Subject to the availability of funds, all
13 department employees charged with processing applications for and
14 issuing driver's licenses and/or identification cards shall
15 receive a one-time pay raise in the amount of \$3,000 per year upon
16 meeting the following qualifications:

17 (1) completion of all training requirements;

18 (2) a minimum of six months consecutive employment
19 with the department in the same position; and

20 (3) a satisfactory job review by the employee's
21 immediate supervisor.

22 ARTICLE 7. CERTAIN AGENCY ACCESS TO DATABASES

23 SECTION 7.01 Subchapter C, Chapter 481, Health and Safety
24 Code, is amended by adding Section 481.0762 to read as follows:

25 Sec. 481.0762. CERTAIN AGENCY ACCESS TO DATABASES.

26 Notwithstanding any other provision of law, the director shall when
27 it becomes technologically feasible permit the Texas State Board of

1 Pharmacy and the Texas Medical Board to have independent direct
2 access to any information submitted to the director or the
3 department for their respective applicants or licensees relating to
4 controlled substance prescriptions, including information
5 submitted by electronic transfer of prescriptions for controlled
6 substances created under Subchapter C, Chapter 481, including any
7 information received, collected, maintained, or compiled under
8 Section 481.076 or 481.0761.

9 ARTICLE 8. GRANTS FOR HOMELAND SECURITY AND BORDER SECURITY

10 PURPOSES

11 SECTION 8.01. Subchapter A, Chapter 411, Government Code,
12 is amended by adding Section 411.0133 to read as follows:

13 Sec. 411.0133. HOMELAND SECURITY AND BORDER SECURITY
14 GRANTS. (a) Notwithstanding any other law, including Section
15 772.006, the department is the only entity of state government that
16 may select the recipient of state or federal funds granted by the
17 state for homeland security or border security purposes.

18 (b) Another state entity with state or federal funds to be
19 granted for homeland security or border security purposes shall:

20 (1) remit the funds to the department, which shall
21 administer the grant; or

22 (2) notify the department and award the grant to the
23 person selected by the department.

24 (c) The department by rule shall adopt a formula for
25 selecting the recipients of grants for homeland security and border
26 security purposes. The formula must fully consider the needs of the
27 communities or entities applying for the grants and must give

1 emphasis to:

2 (1) the quality of homeland security or border
3 security information collected by applicants;

4 (2) the number of suspects with authority in a
5 criminal enterprise apprehended by the applicants; and

6 (3) the amount of illegal substances, contraband
7 currency, and ammunition and number of firearms and stolen vehicles
8 seized by the applicants.

9 (d) The department may not award a grant using a method
10 other than the formula under Subsection (c).

11 (e) Not later than December 1 of each year, the department
12 shall submit a report to the governor, lieutenant governor, speaker
13 of the house of representatives, and members of the legislature
14 regarding the department's activities under this section during the
15 preceding state fiscal year.

16 SECTION 8.02. Sections 421.0025(b) and (c), Government
17 Code, are amended to read as follows:

18 (b) The Border Security Council shall develop and recommend
19 to the Department of Public Safety of the State of Texas [~~office of~~
20 ~~the governor~~] performance standards, reporting requirements, audit
21 methods, and other procedures to ensure that funds allocated by the
22 department [~~office of the governor~~] for purposes related to
23 security at or near this state's international border are used
24 properly and that the recipients of the funds are accountable for
25 the proper use of the funds.

26 (c) The Border Security Council shall advise the Department
27 of Public Safety of the State of Texas [~~office of the governor~~]

1 regarding the allocation of funds by the department [~~office~~] for
2 purposes related to security at or near this state's international
3 border. Recommendations relating to the allocation of those funds
4 must be made by a majority of the members of the council.

5 SECTION 8.03. The heading to Subchapter D, Chapter 421,
6 Government Code, is amended to read as follows:

7 SUBCHAPTER D. COOPERATION AND ASSISTANCE [~~FUNDING~~]

8 SECTION 8.04. Section 421.072, Government Code, is
9 repealed.

10 SECTION 8.05. This article takes effect September 1, 2009.

11 ARTICLE 9. SAFE SCHOOLS UNIT

12 SECTION 9.01. Subchapter A, Chapter 411, Government Code, is
13 amended by adding Section 411.0203 to read as follows:

14 Sec. 411.0203. SAFE SCHOOLS UNIT. (a) The commission shall
15 establish a safe schools unit pilot program in the department for
16 the 2010-2011 school year to provide school districts in counties
17 that participate in the program with information and other
18 assistance concerning the issues of juvenile delinquency, juvenile
19 substance abuse, and other law enforcement issues that affect
20 school districts.

21 (b) Not later than February 1, 2010, the director shall
22 select five counties to participate in the pilot program. The
23 director may select only a county that has a population of less than
24 500,000. At least one of the counties the director selects must
25 have a population of more than 190,000, be located along the
26 southern portion of the border between this state and Mexico, and
27 contain a municipality with a population of more than 175,000. Each

1 school district in a participating county shall participate in the
2 pilot program.

3 (c) The director shall administer the pilot program and
4 adopt rules to implement and administer the program. In adopting
5 rules, the director shall ensure that the pilot program addresses
6 law enforcement issues that affect school districts, including the
7 prevention of and intervention in juvenile delinquency and
8 substance abuse.

9 (d) This section expires August 31, 2011.

10 SECTION 9.02. As soon as practicable after the effective
11 date of this Act, the public safety director shall adopt rules as
12 necessary to implement Section 411.0203, Government Code, as added
13 by this Act.

14 ARTICLE 9A. DISCLOSURE OF CRIMINAL HISTORY RECORD INFORMATION
15 REGARDING PUBLIC SCHOOL EMPLOYEES

16 SECTION 9A.01. Section 411.084, Government Code, is amended
17 by amending Subsection (a) and adding Subsections (a-1) and (c) to
18 read as follows:

19 (a) Criminal history record information obtained from the
20 department under this subchapter, including any identification
21 information that could reveal the identity of a person about whom
22 criminal history record information is requested and information
23 that directly or indirectly indicates or implies involvement of a
24 person in the criminal justice system:

25 (1) is for the exclusive use of the authorized
26 recipient of the information; and

27 (2) may be disclosed or used by the recipient only if,

1 and only to the extent that, disclosure or use is authorized or
2 directed by:

- 3 (A) this subchapter;
- 4 (B) another statute;
- 5 (C) a rule adopted under a statute; or
- 6 (D) an order of a court of competent
7 jurisdiction.

8 (a-1) The term "criminal history record" information under
9 Subsection (a) does not refer to any specific document produced to
10 comply with this subchapter but to the information contained,
11 wholly or partly, in a document's original form or any subsequent
12 form or use.

13 (c) An agency or individual may not confirm the existence or
14 nonexistence of criminal history record information to any person
15 that is not eligible to receive the information.

16 SECTION 9A.02. Sections 411.090(b) and (c), Government Code,
17 are amended to read as follows:

18 (b) Criminal history record information obtained by the
19 board in the original form or any subsequent form [~~under Subsection~~
20 ~~(a)~~]:

21 (1) may be used only for a [~~any~~] purpose related to the
22 issuance, denial, suspension, or cancellation of a certificate
23 issued by the board;

24 (2) may not be released to any person except:

25 (A) the person who is the subject of the
26 information;

27 (B) the Texas Education Agency;

1 (C) a local or regional educational entity as
2 provided by Section 411.097; or

3 (D) by ~~[an]~~ court order ~~[or with the consent of~~
4 ~~the applicant for a certificate]; [and]~~

5 (3) is not subject to disclosure as provided by
6 Chapter 552; and

7 (4) shall be destroyed by the board after the
8 information is used for the authorized purposes.

9 (c) The department shall notify the State Board for Educator
10 Certification of the arrest of any educator, as defined by Section
11 5.001, Education Code, who has fingerprints on file with the
12 department. Any record of the notification and any information
13 contained in the notification is not subject to disclosure as
14 provided by Chapter 552.

15 SECTION 9A.03. Section 411.0901, Government Code, is
16 amended to read as follows:

17 Sec. 411.0901. ACCESS TO CRIMINAL HISTORY RECORD
18 INFORMATION: TEXAS EDUCATION AGENCY. (a) The Texas Education
19 Agency is entitled to obtain criminal history record information
20 maintained by the department about a person who:

21 (1) is employed or is an applicant for employment by a
22 school district or open-enrollment charter school;

23 (2) is employed or is an applicant for employment by a
24 shared services arrangement, if the employee's or applicant's
25 duties are or will be performed on school property or at another
26 location where students are regularly present; or

27 (3) is employed or is an applicant for employment by an

1 entity that contracts with a school district, open-enrollment
2 charter school, or shared services arrangement if:

3 (A) the employee or applicant has or will have
4 continuing duties relating to the contracted services; and

5 (B) the employee or applicant has or will have
6 direct contact with students.

7 (b) Criminal history record information obtained by the
8 agency in the original form or any subsequent form:

9 (1) may be used only for a purpose authorized by the
10 Education Code;

11 (2) may not be released to any person except:

12 (A) the person who is the subject of the
13 information;

14 (B) the State Board for Educator Certification;

15 (C) a local or regional educational entity as
16 provided by Section 411.097; or

17 (D) by court order;

18 (3) is not subject to disclosure as provided by
19 Chapter 552; and

20 (4) shall be destroyed by the agency after the
21 information is used for the authorized purposes.

22 SECTION 9A.04. Section 411.097, Government Code, is amended
23 by amending Subsection (d) and adding Subsection (f) to read as
24 follows:

25 (d) Criminal history record information obtained by a
26 school district, charter school, private school, service center,
27 commercial transportation company, or shared services arrangement

1 in the original form or any subsequent form:

2 (1) [~~under Subsection (a), (b), or (c)~~] may not be
3 released [~~or disclosed~~] to any person except:

4 (A) [~~other than~~] the individual who is the
5 subject of the information;

6 (B) [~~7~~] the Texas Education Agency;

7 (C) [~~7~~] the State Board for Educator
8 Certification;

9 (D) [~~7 or~~] the chief personnel officer of the
10 transportation company, if the information is obtained under
11 Subsection (a)(2); or

12 (E) by court order;

13 (2) is not subject to disclosure as provided by
14 Chapter 552; and

15 (3) shall be destroyed by the school district, charter
16 school, private school, service center, commercial transportation
17 company, or shared services arrangement on the earlier of:

18 (A) the first anniversary of the date the
19 information was originally obtained; or

20 (B) the date the information is used for the
21 authorized purpose.

22 (f) An employee of a school district, charter school,
23 private school, regional education service center, commercial
24 transportation company, or education shared services arrangement
25 or an entity that contracts to provide services to a school
26 district, charter school, or shared services arrangement may
27 request from the employer a copy of any criminal history record

1 information relating to that employee that the employer has
2 obtained as provided by Subchapter C, Chapter 22, Education Code.
3 The employer may charge a fee to an employee requesting a copy of
4 the information in an amount not to exceed the actual cost of
5 copying the requested criminal history record information.

6 SECTION 9A.05. Subchapter C, Chapter 22, Education Code, is
7 amended by adding Section 22.08391 to read as follows:

8 Sec. 22.08391. CONFIDENTIALITY OF INFORMATION. (a)
9 Information collected about a person to comply with this
10 subchapter, including the person's name, address, phone number,
11 social security number, driver's license number, other
12 identification number, and fingerprint records:

13 (1) may not be released except:

14 (A) to comply with this subchapter;

15 (B) by court order; or

16 (C) with the consent of the person who is the
17 subject of the information;

18 (2) is not subject to disclosure as provided by
19 Chapter 552, Government Code; and

20 (3) shall be destroyed by the requestor or any
21 subsequent holder of the information not later than the first
22 anniversary of the date the information is received.

23 (b) Any criminal history record information received by the
24 State Board for Educator Certification as provided by this
25 subchapter is subject to Section 411.090(b), Government Code.

26 (c) Any criminal history record information received by the
27 agency as provided by this subchapter is subject to Section

1 411.0901(b), Government Code.

2 (d) Any criminal history record information received by a
3 school district, charter school, private school, regional
4 education service center, commercial transportation company, or
5 education shared services arrangement or an entity that contracts
6 to provide services to a school district, charter school, or shared
7 services arrangement as provided by this subchapter is subject to
8 Section 411.097(d), Government Code.

9 SECTION 9A.06. The change in law made by this article
10 applies to information collected, assembled, or maintained before,
11 on, or after the effective date of this article.

12 ARTICLE 10. CRIMINAL HISTORY RECORD INFORMATION

13 CONCERNING CERTAIN INTOXICATION OFFENSES

14 SECTION 10.01. Section 411.135(a), Government Code, is
15 amended to read as follows:

16 (a) Any person is entitled to obtain from the department:

17 (1) any information described as public information
18 under Chapter 62, Code of Criminal Procedure, [~~as added by Chapter~~
19 ~~668, Acts of the 75th Legislature, Regular Session, 1997,~~]
20 including, to the extent available, a recent photograph of each
21 person subject to registration under that chapter; [~~and~~]

22 (2) criminal history record information maintained by
23 the department that relates to the conviction of or a grant of
24 deferred adjudication to a person for any criminal offense,
25 including arrest information that relates to the conviction or
26 grant of deferred adjudication; and

27 (3) any information described as public information

1 under Section 411.1355(a).

2 SECTION 10.02. Subchapter F, Chapter 411, Government Code,
3 is amended by adding Sections 411.1355 and 411.1356 to read as
4 follows:

5 Sec. 411.1355. PUBLIC ACCESS TO CRIMINAL HISTORY RECORD
6 INFORMATION CONCERNING CERTAIN INTOXICATION OFFENSES. (a)
7 Criminal history record information that concerns a person's
8 conviction for an offense under Section 49.04, 49.045, 49.05,
9 49.06, 49.065, 49.07, or 49.08, Penal Code, is public information
10 if the person has been previously convicted of an offense under one
11 of those sections.

12 (b) The department shall design and implement an Internet
13 website to allow any person, free of charge, to electronically
14 search for and receive information described by Subsection (a) by
15 entering specific search criteria into the website, including a zip
16 code, city, county, or name of a person. The search results:

17 (1) must include:

18 (A) the municipality in which the last known
19 address of the person convicted is located; and

20 (B) a recent photograph of the person convicted
21 taken attendant to the person's arrest; and

22 (2) may not include:

23 (A) any information regarding the convicted
24 person's social security number, driver's license number, or
25 telephone number;

26 (B) any information that would identify a victim
27 of the offense; or

1 SECTION 11.02. Section 411.172(a), Government Code, is
2 amended to read as follows:

3 (a) A person is eligible for a license to carry a concealed
4 handgun if the person:

5 (1) is a legal resident of this state for the six-month
6 period preceding the date of application under this subchapter or
7 is otherwise eligible for a license under Section 411.173(a);

8 (2) is at least 21 years of age;

9 (3) has not been convicted of a felony;

10 (4) is not charged with the commission of a Class A or
11 Class B misdemeanor or an offense under Section 42.01, Penal Code,
12 or of a felony under an information or indictment;

13 (5) is not a fugitive from justice for a felony or a
14 Class A or Class B misdemeanor;

15 (6) is not a chemically dependent person;

16 (7) is not incapable of exercising sound judgment with
17 respect to the proper use and storage of a handgun;

18 (8) has not, in the five years preceding the date of
19 application, been convicted of a Class A or Class B misdemeanor or
20 an offense under Section 42.01, Penal Code;

21 (9) is fully qualified under applicable federal and
22 state law to purchase a handgun;

23 (10) has not been finally determined to be delinquent
24 in making a child support payment administered or collected by the
25 attorney general;

26 (11) ~~[has not been finally determined to be delinquent~~
27 ~~in the payment of a tax or other money collected by the comptroller,~~

1 ~~the tax collector of a political subdivision of the state, or any~~
2 ~~agency or subdivision of the state;~~

3 ~~[(12) has not been finally determined to be in default~~
4 ~~on a loan made under Chapter 57, Education Code;~~

5 ~~[(13)]~~ is not currently restricted under a court
6 protective order or subject to a restraining order affecting the
7 spousal relationship, other than a restraining order solely
8 affecting property interests;

9 (12) ~~[(14)]~~ has not, in the 10 years preceding the
10 date of application, been adjudicated as having engaged in
11 delinquent conduct violating a penal law of the grade of felony; and

12 (13) ~~[(15)]~~ has not made any material
13 misrepresentation, or failed to disclose any material fact, in an
14 application submitted pursuant to Section 411.174 ~~[or in a request~~
15 ~~for application submitted pursuant to Section 411.175]~~.

16 SECTION 11.03. Section 411.176, Government Code, is amended
17 to read as follows:

18 Sec. 411.176. REVIEW OF APPLICATION MATERIALS. (a) On
19 receipt of ~~the~~ application materials by the department at its
20 Austin headquarters, the department shall conduct the appropriate
21 criminal history record check of the applicant through its
22 computerized criminal history system. Not later than the 30th day
23 after the date the department receives the application materials,
24 the department shall forward the materials to the director's
25 designee in the geographical area of the applicant's residence so
26 that the designee may conduct the investigation described by
27 Subsection (b). For purposes of this section, the director's

1 designee may be a noncommissioned employee of the department.

2 (b) The director's designee as needed shall conduct an
3 additional criminal history record check of the applicant and an
4 investigation of the applicant's local official records to verify
5 the accuracy of the application materials. The director's designee
6 may access any records necessary for purposes of this subsection.
7 The scope of the record check and the investigation are at the sole
8 discretion of the department, except that the director's designee
9 shall complete the record check and investigation not later than
10 the 60th day after the date the department receives the application
11 materials. The department shall send a fingerprint card to the
12 Federal Bureau of Investigation for a national criminal history
13 check of the applicant. On completion of the investigation, the
14 director's designee shall return all materials and the result of
15 the investigation to the appropriate division of the department at
16 its Austin headquarters.

17 (c) The director's designee may submit to the appropriate
18 division of the department, at the department's Austin
19 headquarters, along with the application materials a written
20 recommendation for disapproval of the application, accompanied by
21 an affidavit stating personal knowledge or naming persons with
22 personal knowledge of a ground for denial under Section 411.172.
23 The director's designee [~~in the appropriate geographical area~~] may
24 also submit the application and the recommendation that the license
25 be issued.

26 (d) On receipt at the department's Austin headquarters of
27 the application materials and the result of the investigation by

1 the director's designee, the department shall conduct any further
2 record check or investigation the department determines is
3 necessary if a question exists with respect to the accuracy of the
4 application materials or the eligibility of the applicant, except
5 that the department shall complete the record check and
6 investigation not later than the 180th day after the date the
7 department receives the application materials from the applicant.

8 SECTION 11.04. Section 411.177(b), Government Code, is
9 amended to read as follows:

10 (b) The department shall, not later than the 60th day after
11 the date of the receipt by the director's designee of the completed
12 application materials:

13 (1) issue the license;

14 (2) notify the applicant in writing that the
15 application was denied:

16 (A) on the grounds that the applicant failed to
17 qualify under the criteria listed in Section 411.172;

18 (B) based on the affidavit of the director's
19 designee submitted to the department under Section 411.176(c)
20 [~~411.176(b)~~]; or

21 (C) based on the affidavit of the qualified
22 handgun instructor submitted to the department under Section
23 411.189(c); or

24 (3) notify the applicant in writing that the
25 department is unable to make a determination regarding the issuance
26 or denial of a license to the applicant within the 60-day period
27 prescribed by this subsection and include in that notification an

1 explanation of the reason for the inability and an estimation of the
2 amount of time the department will need to make the determination.

3 SECTION 11.05. The changes in law made by this article in
4 repealing Section 411.175, Government Code, apply only to an
5 application for the issuance of a license that is submitted to the
6 Department of Public Safety on or after September 1, 2009. An
7 application submitted before September 1, 2009, is governed by the
8 law in effect when the application was submitted, and the former law
9 is continued in effect for that purpose.

10 SECTION 11.06. This article takes effect September 1, 2009.

11 ARTICLE 12. DISPLAY OF LICENSE TO

12 CARRY A CONCEALED HANDGUN

13 SECTION 12.01. Sections 411.187(a) and (c), Government
14 Code, are amended to read as follows:

15 (a) A license may be suspended under this section if the
16 license holder:

17 (1) is charged with the commission of a Class A or
18 Class B misdemeanor or an offense under Section 42.01, Penal Code,
19 or of a felony under an information or indictment;

20 (2) ~~[fails to display a license as required by Section~~
21 ~~411.205,~~

22 ~~[(3)]~~ fails to notify the department of a change of
23 address or name as required by Section 411.181;

24 (3) ~~[(4)]~~ carries a concealed handgun under the
25 authority of this subchapter of a different category than the
26 license holder is licensed to carry;

27 (4) ~~[(5)]~~ fails to return a previously issued license

1 after a license is modified as required by Section 411.184(d);

2 (5) [~~(6)~~] commits an act of family violence and is the
3 subject of an active protective order rendered under Title 4,
4 Family Code; or

5 (6) [~~(7)~~] is arrested for an offense involving family
6 violence or an offense under Section 42.072, Penal Code, and is the
7 subject of an order for emergency protection issued under Article
8 17.292, Code of Criminal Procedure.

9 (c) A license may be suspended under this section:

10 (1) for 30 days, if the person's license is subject to
11 suspension for a reason listed in Subsection (a)(2), (3) [~~(a)(3)~~],
12 or (4), [~~or (5)~~], except as provided by Subdivision (2) [~~(3)~~];

13 (2) [~~for 90 days, if the person's license is subject to~~
14 ~~suspension for a reason listed in Subsection (a)(2), except as~~
15 ~~provided by Subdivision (3)~~];

16 [~~(3)~~] for not less than one year and not more than three
17 years if the person's license is subject to suspension for a reason
18 listed in Subsection (a), other than the reason listed in
19 Subsection (a)(1), and the person's license has been previously
20 suspended for the same reason;

21 (3) [~~(4)~~] until dismissal of the charges if the
22 person's license is subject to suspension for the reason listed in
23 Subsection (a)(1); or

24 (4) [~~(5)~~] for the duration of or the period specified
25 by:

26 (A) the protective order issued under Title 4,
27 Family Code, if the person's license is subject to suspension for

1 the reason listed in Subsection (a)(5) [~~(a)(6)~~]; or

2 (B) the order for emergency protection issued
3 under Article 17.292, Code of Criminal Procedure, if the person's
4 license is subject to suspension for the reason listed in
5 Subsection (a)(6) [~~(a)(7)~~].

6 SECTION 12.02. Section 411.205, Government Code, is amended
7 to read as follows:

8 Sec. 411.205. REQUIREMENT TO DISPLAY [~~DISPLAYING~~]
9 LICENSE [~~, PENALTY~~]. [~~(a)~~] If a license holder is carrying a
10 handgun on or about the license holder's person when a magistrate or
11 a peace officer demands that the license holder display
12 identification, the license holder shall display both the license
13 holder's driver's license or identification certificate issued by
14 the department and the license holder's handgun license. [~~A person~~
15 ~~who fails or refuses to display the license and identification as~~
16 ~~required by this subsection is subject to suspension of the~~
17 ~~person's license as provided by Section 411.187.~~

18 [~~(b) A person commits an offense if the person fails or~~
19 ~~refuses to display the license and identification as required by~~
20 ~~Subsection (a) after previously having had the person's license~~
21 ~~suspended for a violation of that subsection. An offense under this~~
22 ~~subsection is a Class B misdemeanor.]~~

23 SECTION 12.03. An offense under Section 411.205, Government
24 Code, may not be prosecuted after the effective date of this
25 article. If, on the effective date of this article, a criminal
26 action is pending for an offense under Section 411.205, the action
27 is dismissed on that date. However, a final conviction for an

1 offense under Section 411.205 that exists on the effective date of
2 this article is unaffected by this article.

3 SECTION 12.04. This article takes effect September 1, 2009.

4 ARTICLE 13. DRIVER'S LICENSE ISSUED TO CERTAIN FEDERAL AND STATE
5 JUDGES AND SPOUSES

6 SECTION 13.01. Section 521.001, Transportation Code, is
7 amended by adding Subdivisions (3-a) and (8-a) to read as follows:

8 (3-a) "Federal judge" means:

9 (A) a judge of a United States court of appeals;

10 (B) a judge of a United States district court;

11 (C) a judge of a United States bankruptcy court;

12 or

13 (D) a magistrate judge of a United States
14 district court.

15 (8-a) "State judge" means:

16 (A) the judge of an appellate court, a district
17 court, or a county court at law of this state; or

18 (B) an associate judge appointed under Chapter
19 201, Family Code.

20 SECTION 13.02. Sections 521.054(a) and (b), Transportation
21 Code, are amended to read as follows:

22 (a) This section applies to a person who:

23 (1) after applying for or being issued a ~~the~~ license
24 or certificate moves to a new residence ~~from the~~ address ~~stated~~
25 ~~in the person's application for a license or certificate~~;

26 (2) has used the procedure under Section 521.121(d)
27 and whose status as a federal judge, a state judge, or the spouse of

1 a federal or state judge becomes inapplicable [~~moves from the~~
2 ~~address shown on the license or certificate held by the person~~]; or

3 (3) changes the person's name by marriage or
4 otherwise.

5 (b) A person subject to this section shall notify the
6 department of the change not later than the 30th day after the date
7 on which the change takes effect and apply for a duplicate license
8 or certificate as provided by Section 521.146. The duplicate
9 license must include the person's current residence address.

10 SECTION 13.03. Section 521.121, Transportation Code, is
11 amended by amending Subsection (a) and adding Subsection (d) to
12 read as follows:

13 (a) The driver's license must include:

14 (1) a distinguishing number assigned by the department
15 to the license holder;

16 (2) a color photograph of the entire face of the
17 holder;

18 (3) the full name and[~~7~~] date of birth[~~, and residence~~
19 ~~address~~] of the holder; [~~and~~]

20 (4) a brief description of the holder; and

21 (5) the license holder's residence address or, for a
22 license holder using the procedure under Subsection (d), the street
23 address of the courthouse in which the license holder or license
24 holder's spouse serves as a federal judge or state judge.

25 (d) The department shall establish a procedure for a federal
26 judge, a state judge, or the spouse of a federal or state judge to
27 omit the license holder's residence address on the license and to

1 include, in lieu of that address, the street address of the
2 courthouse in which the license holder or license holder's spouse
3 serves as a federal judge or state judge. In establishing the
4 procedure, the department shall require sufficient documentary
5 evidence to establish the license holder's status as a federal
6 judge, state judge, or the spouse of a federal or state judge.

7 SECTION 13.04. Section 521.142(c), Transportation Code, is
8 amended to read as follows:

9 (c) The application must state:

10 (1) the sex of the applicant;

11 (2) the residence address of the applicant, or if the
12 applicant is a federal judge, a state judge, or the spouse of a
13 federal or state judge using the procedure developed under Section
14 521.121(d), the street address of the courthouse in which the
15 applicant or the applicant's spouse serves as a federal judge or a
16 state judge;

17 (3) whether the applicant has been licensed to drive a
18 motor vehicle before;

19 (4) if previously licensed, when and by what state or
20 country;

21 (5) whether that license has been suspended or revoked
22 or a license application denied;

23 (6) the date and reason for the suspension,
24 revocation, or denial;

25 (7) whether the applicant is a citizen of the United
26 States; and

27 (8) the county of residence of the applicant.

ARTICLE 14. OPERATION OF MOTOR VEHICLES

SECTION 14.01. Section 545.413(e), Transportation Code, is amended to read as follows:

(e) It is a defense to prosecution under this section that:

(1) the person possesses a written statement from a licensed physician stating that for a medical reason the person should not wear a safety belt;

(2) the person presents to the court, not later than the 10th day after the date of the offense, a statement from a licensed physician stating that for a medical reason the person should not wear a safety belt;

(3) the person is employed by the United States Postal Service and performing a duty for that agency that requires the operator to service postal boxes from a vehicle or that requires frequent entry into and exit from a vehicle;

(4) the person is engaged in the actual delivery of newspapers from a vehicle or is performing newspaper delivery duties that require frequent entry into and exit from a vehicle;

(5) the person is employed by a public or private utility company and is engaged in the reading of meters or performing a similar duty for that company requiring the operator to frequently enter into and exit from a vehicle; ~~or~~

(6) the ~~The~~ person is operating a commercial vehicle registered as a farm vehicle under the provisions of Section 502.163 that does not have a gross weight, registered weight, or gross weight rating of 48,000 pounds or more; or

(7) the person is the operator of or a passenger in a

1 vehicle used exclusively to transport solid waste and performing
2 duties that require frequent entry into and exit from the vehicle.

3 SECTION 14.02. The change in law made by this article to
4 Section 545.413(e), Transportation Code, as amended by this
5 article, applies only to an offense under Section 545.413(a) of
6 that code, regardless of whether the offense was committed before,
7 on, or after the effective date of this Act.

8 ARTICLE 15. MOTOR VEHICLE SAFETY RESPONSIBILITY

9 SECTION 15.01. Section 601.053, Transportation Code, is
10 amended by amending Subsection (b) and adding Subsection (c) to
11 read as follows:

12 (b) Except as provided by Subsection (c), an [An] operator
13 who does not exhibit evidence of financial responsibility under
14 Subsection (a) is presumed to have operated the vehicle in
15 violation of Section 601.051.

16 (c) Subsection (b) does not apply if the peace officer
17 determines through use of the verification program established
18 under Subchapter N that financial responsibility has been
19 established for the vehicle.

20 SECTION 15.02. Subchapter N, Chapter 601, Transportation
21 Code, as added by Chapter 1325 (H.B. 3588), Acts of the 78th
22 Legislature, Regular Session, 2003, is repealed.

23 ARTICLE 16. EFFECTIVE DATE

24 SECTION 16.01. Except as otherwise provided by this Act,
25 this Act takes effect immediately if it receives a vote of
26 two-thirds of all the members elected to each house, as provided by
27 Section 39, Article III, Texas Constitution. If this Act does not

H.B. No. 2730

1 receive the vote necessary for immediate effect, this Act takes
2 effect September 1, 2009.

ADOPTED

MAY 27 2009

Patay Spaul
Secretary of the Senate

By: *J. J. Ariz*

H.B. No. 2730

Substitute the following for ___B. No. _____:

By: *[Signature]*

C.S. H.B. No. 2730

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the continuation and functions of the Department of
3 Public Safety of the State of Texas and the Texas Private Security
4 Board; providing penalties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 ARTICLE 1. CHANGES TO VEHICLE INSPECTION PROGRAM

7 SECTION 1.01. Subchapter A, Chapter 548, Transportation
8 Code, is amended by adding Section 548.008 to read as follows:

9 Sec. 548.008. VEHICLE INSPECTION PROGRAM DIRECTOR. (a)

10 The vehicle inspection program is managed by a program director.

11 The program director may not be a commissioned officer.

12 (b) The office of the vehicle inspection program director
13 must be located in Austin, Texas.

14 (c) The duties of the program director include:

15 (1) responsibility for the quality of the vehicle
16 inspection program;

17 (2) coordination of the regional offices;

18 (3) compilation of regional and statewide performance
19 data;

20 (4) the establishment of best practices and
21 distribution of those practices to the regional offices;

22 (5) setting goals for the entire program, in
23 consultation with the public safety director or the public safety
24 director's designee, and setting goals for each regional office in

1 consultation with the regional managers;

2 (6) monitoring the progress toward the goals set in
3 Subdivision (5) and evaluating the program based on that progress;
4 and

5 (7) coordination with the Texas Highway Patrol to
6 enforce provisions related to vehicle inspection.

7 (d) The regional offices shall make reports as requested by
8 the program director.

9 ARTICLE 2. DIVISION OF EMERGENCY MANAGEMENT

10 PART A. ORGANIZATION OF DIVISION

11 SECTION 2A.01. Section 418.004, Government Code, is amended
12 by amending Subdivision (2) and adding Subdivision (9) to read as
13 follows:

14 (2) "Division" means the Texas Division of Emergency
15 Management [~~division of emergency management in the office of the~~
16 ~~governor~~].

17 (9) "Department" means the Department of Public Safety
18 of the State of Texas.

19 SECTION 2A.02. Sections 418.041(a), (b), and (c),
20 Government Code, are amended to read as follows:

21 (a) The Texas Division of Emergency Management [~~division of~~
22 ~~emergency management~~] is a division of the department [~~office of~~
23 ~~the governor~~].

24 (b) The division is managed by a chief [~~director~~] appointed
25 by the public safety director of the department, with the approval
26 of the governor. The chief [~~director~~] serves at the pleasure of the
27 public safety director [~~governor~~].

1 (c) At least once every two months, the following shall meet
2 to coordinate efforts, prevent overlap of activities, and ensure
3 that the state's approach to emergency management and homeland
4 security is unified:

5 (1) a representative of the department;

6 (2) a representative of the division;

7 (3) a representative of the governor's office of
8 homeland security;

9 (4) the presiding officer of the Homeland Security
10 Council; and

11 (5) a state agency representative from the emergency
12 management council, selected by the chair of the emergency
13 management council. [~~The director shall appoint a state~~
14 coordinator.]

15 SECTION 2A.03. Section 418.072, Government Code, is amended
16 to read as follows:

17 Sec. 418.072. DISASTER EMERGENCY FUNDING BOARD. The
18 disaster emergency funding board is composed of:

19 (1) the governor;

20 (2) the lieutenant governor;

21 (3) the commissioner of insurance;

22 (4) the executive commissioner of the Health and
23 [~~Department of~~] Human Services Commission; and

24 (5) the chief [~~director~~] of the division.

25 SECTION 2A.04. Section 418.074(b), Government Code, is
26 amended to read as follows:

27 (b) If a gift, grant, or loan is accepted by the state, the

1 governor, or the emergency management council or chief of the
2 division [~~state coordinator~~] if designated by the governor, may
3 dispense the gift, grant, or loan directly to accomplish the
4 purpose for which it was made or may allocate and transfer to a
5 political subdivision services, equipment, supplies, materials, or
6 funds in the amount the governor or the governor's designee may
7 determine.

8 PART B. CONFORMING AMENDMENTS REFLECTING DIVISION'S NAME CHANGE

9 SECTION 2B.01. Section 12.0012, Agriculture Code, is
10 amended to read as follows:

11 Sec. 12.0012. NOTIFICATION. The department shall, upon
12 submission for publication, notify the Texas Division of Emergency
13 Management [~~division of emergency management in the office of the~~
14 ~~governor~~] of each quarantine it adopts. The department shall
15 thereafter cooperate with the Texas Division of Emergency
16 Management [~~division of emergency management~~] in implementing any
17 necessary safeguards to protect the state's agricultural resources
18 from potential economic, health, or ecological disaster that may
19 result from the quarantined pest or disease.

20 SECTION 2B.02. Sections 88.303(a) and (d), Education Code,
21 are amended to read as follows:

22 (a) Notwithstanding any other law, during any period in
23 which Texas Task Force 1 is activated by the Texas Division of
24 Emergency Management [~~governor's division of emergency~~
25 ~~management~~], or during any training session sponsored or sanctioned
26 by Texas Task Force 1, a participating nongovernment member or
27 local government employee member is included in the coverage

1 provided under Chapter 501, Labor Code, in the same manner as an
2 employee, as defined by Section 501.001, Labor Code.

3 (d) Notwithstanding Section 412.0123, Labor Code, as added
4 by Chapter 1098, Acts of the 75th Legislature, Regular Session,
5 1997, the Texas Division of Emergency Management [~~governor's~~
6 ~~division of emergency management~~] shall reimburse the State Office
7 of Risk Management for the actual medical and indemnity benefits
8 paid on behalf of a covered member of Texas Task Force 1 at the
9 beginning of the next state fiscal year occurring after the date the
10 benefits are paid.

11 SECTION 2B.03. Section 418.014(e), Government Code, is
12 amended to read as follows:

13 (e) An executive order or proclamation shall be
14 disseminated promptly by means intended to bring its contents to
15 the attention of the general public. An order or proclamation shall
16 be filed promptly with the division [~~of emergency management~~], the
17 secretary of state, and the county clerk or city secretary in each
18 area to which it applies unless the circumstances attendant on the
19 disaster prevent or impede the filing.

20 SECTION 2B.04. The heading to Subchapter C, Chapter 418,
21 Government Code, is amended to read as follows:

22 SUBCHAPTER C. TEXAS DIVISION OF EMERGENCY MANAGEMENT

23 SECTION 2B.05. Section 418.073(d), Government Code, is
24 amended to read as follows:

25 (d) The [~~governor's~~] division [~~of emergency management~~]
26 shall administer the disaster contingency fund and shall develop
27 and implement rules and procedures for providing emergency

1 assistance from the fund. The division shall annually report to the
2 speaker of the house of representatives and the lieutenant governor
3 expenditures from the fund, the overall status of the fund, and any
4 changes to rules and procedures regarding the fund.

5 SECTION 2B.06. Section 421.021(a), Government Code, is
6 amended to read as follows:

7 (a) The Homeland Security Council is composed of the
8 governor or the governor's designee, the speaker of the house of
9 representatives or the speaker's designee, the lieutenant governor
10 or the lieutenant governor's designee, and one representative of
11 each of the following entities, appointed by the single statewide
12 elected or appointed governing officer, administrative head, or
13 chair, as appropriate, of the entity:

- 14 (1) Department of Agriculture;
- 15 (2) office of the attorney general;
- 16 (3) General Land Office;
- 17 (4) Public Utility Commission of Texas;
- 18 (5) Department of State Health Services;
- 19 (6) Department of Information Resources;
- 20 (7) Department of Public Safety of the State of Texas;
- 21 (8) Texas Division of Emergency Management [~~division~~
22 ~~of emergency management of the office of the governor~~];
- 23 (9) adjutant general's department;
- 24 (10) Texas Commission on Environmental Quality;
- 25 (11) Railroad Commission of Texas;
- 26 (12) Texas Strategic Military Planning Commission;
- 27 (13) Texas Department of Transportation;

- 1 (14) Commission on State Emergency Communications;
2 (15) Office of State-Federal Relations;
3 (16) secretary of state;
4 (17) Senate Committee on Transportation and Homeland
5 Security;
6 (18) House Committee on Defense and Veterans' Affairs
7 [~~and State-Federal Relations~~];
8 (19) Texas Animal Health Commission;
9 (20) Texas Association of Regional Councils;
10 (21) Texas Commission on Law Enforcement Officer
11 Standards and Education;
12 (22) state fire marshal's office;
13 (23) Texas Education Agency;
14 (24) Texas Commission on Fire Protection;
15 (25) Parks and Wildlife Department;
16 (26) Texas Forest Service; and
17 (27) Texas Water Development Board.

18 SECTION 2B.07. Section 661.907(b), Government Code, is
19 amended to read as follows:

20 (b) The number of certified disaster service volunteers who
21 are eligible for leave under this section may not exceed 350 state
22 employees at any one time during a fiscal year. The Texas Division
23 of Emergency Management [~~division of emergency management in the~~
24 ~~governor's office~~] shall coordinate the establishment and
25 maintenance of the list of eligible employees.

26 SECTION 2B.08. Section 661.919(b), Government Code, is
27 amended to read as follows:

1 (b) The number of amateur radio operators who are eligible
2 for leave under this section may not exceed 350 state employees at
3 any one time during a state fiscal year. The Texas Division of
4 Emergency Management [~~division of emergency management in the~~
5 ~~governor's office~~] shall coordinate the establishment and
6 maintenance of the list of eligible employees.

7 SECTION 2B.09. Section 501.001(5), Labor Code, is amended
8 to read as follows:

9 (5) "Employee" means a person who is:

10 (A) in the service of the state pursuant to an
11 election, appointment, or express oral or written contract of hire;

12 (B) paid from state funds but whose duties
13 require that the person work and frequently receive supervision in
14 a political subdivision of the state;

15 (C) a peace officer employed by a political
16 subdivision, while the peace officer is exercising authority
17 granted under:

18 (i) Article 2.12, Code of Criminal
19 Procedure; or

20 (ii) Articles 14.03(d) and (g), Code of
21 Criminal Procedure;

22 (D) a member of the state military forces, as
23 defined by Section 431.001, Government Code, who is engaged in
24 authorized training or duty; or

25 (E) a Texas Task Force 1 member, as defined by
26 Section 88.301, Education Code, who is activated by the Texas
27 Division of Emergency Management [~~governor's division of emergency~~

1 ~~management~~] or is injured during any training session sponsored or
2 sanctioned by Texas Task Force 1.

3 SECTION 2B.10. Sections 16.055(a) and (b), Water Code, are
4 amended to read as follows:

5 (a) The chief [~~coordinator~~] of the Texas Division of
6 Emergency Management [~~division of emergency management of the~~
7 ~~office of the governor~~] is the state drought manager. The state
8 drought manager is responsible for managing and coordinating the
9 drought response component of the state water plan.

10 (b) The drought preparedness council is created and shall
11 meet as necessary to carry out the provisions of this section. The
12 council is composed of one representative from each of the
13 following entities, appointed by the administrative head of that
14 entity:

15 (1) the Texas Division of Emergency Management
16 [~~division of emergency management of the office of the governor~~];

17 (2) the board;

18 (3) the commission;

19 (4) the Parks and Wildlife Department;

20 (5) the Department of Agriculture;

21 (6) the Texas AgriLife [~~Agricultural~~] Extension
22 Service;

23 (7) the State Soil and Water Conservation Board;

24 (8) the Texas Department of Housing and Community
25 Affairs;

26 (9) the Texas Forest Service;

27 (10) the Texas Department of Transportation;

1 office as a security services contractor or investigations company.

2 (5) "Commissioned security officer" means a security
3 officer to whom a security officer commission has been issued by the
4 board [~~commission~~].

5 (6-b) "Endorsement" means a permit entitling an
6 individual holding a registration to perform a service regulated by
7 this chapter for an appropriately licensed company.

8 (11) "Letter of authority" means a permit issued by
9 the board [~~commission~~] that entitles the security department of a
10 private business or a political subdivision to employ a
11 commissioned security officer.

12 (12) "License" means a permit issued by the board
13 [~~commission~~] that entitles a person to operate as a security
14 services contractor or investigations company.

15 (13) "License holder" means a person to whom the board
16 [~~commission~~] issues a license.

17 (17) "Personal protection officer endorsement
18 [~~authorization~~]" means a permit issued by the board [~~commission~~]
19 that entitles an individual to act as a personal protection
20 officer.

21 (19) "Registrant" means an individual who has
22 registered with the board [~~commission~~] under Section 1702.221.

23 (20) "Registration" means a permit issued by the board
24 [~~commission~~] to an individual described by Section 1702.221.

25 (21) "Security officer commission" means an
26 authorization issued by the board [~~commission~~] that entitles a
27 security officer to carry a firearm.

1 SECTION 4.02. Section 1702.004, Occupations Code, is
2 amended to read as follows:

3 Sec. 1702.004. GENERAL SCOPE OF REGULATION. (a) The board,
4 in addition to performing duties required by other law or
5 exercising powers granted by other law:

6 (1) licenses investigations companies and security
7 services contractors;

8 (2) issues commissions to certain security officers;

9 (3) issues endorsements [~~authorizations~~] to certain
10 security officers engaged in the personal protection of
11 individuals;

12 (4) registers and endorses:

13 (A) certain individuals connected with a license
14 holder; and

15 (B) certain individuals employed in a field
16 connected to private investigation or private security; and

17 (5) regulates license holders, security officers,
18 [~~and~~] registrants, and endorsement holders under this chapter.

19 (b) The board shall adopt rules necessary to comply with
20 Chapter 53 [~~does not apply to this chapter or to any licensing,~~
21 ~~regulatory, or disciplinary determinations made under this~~
22 ~~chapter~~]. In its rules under this section, the board shall list the
23 specific offenses for each category of regulated persons for which
24 a conviction would constitute grounds for the board to take action
25 under Section 53.021.

26 SECTION 4.03. The heading to Subchapter B, Chapter 1702,
27 Occupations Code, is amended to read as follows:

1 SUBCHAPTER B. TEXAS [~~COMMISSION ON~~] PRIVATE SECURITY BOARD

2 SECTION 4.04. Section 1702.021, Occupations Code, is
3 amended to read as follows:

4 Sec. 1702.021. BOARD [~~COMMISSION~~] MEMBERSHIP. (a) The
5 Texas Private Security Board consists of seven members appointed by
6 the governor with the advice and consent of the senate as follows:

7 (1) four public members, each of whom is a citizen of
8 the United States;

9 (2) one member who is licensed under this chapter as a
10 private investigator;

11 (3) one member who is licensed under this chapter as an
12 alarm systems company; and

13 (4) one member who is licensed under this chapter as
14 the owner or operator of a guard company.

15 (b) Appointments to the board [~~commission~~] shall be made
16 without regard to the race, color, disability, sex, religion, age,
17 or national origin of the appointee.

18 [~~(c) On presentation by a commission member of the
19 constitutional oath taken by the member, together with the
20 certificate of appointment, the secretary of state shall issue a
21 commission to the member as evidence of the member's authority to
22 act as a commission member.]~~

23 SECTION 4.05. Section 1702.023, Occupations Code, is
24 amended to read as follows:

25 Sec. 1702.023. ELIGIBILITY OF PUBLIC MEMBERS. The board's
26 [~~commission's~~] public members must be representatives of the
27 general public. A person may not be a public member of the board

1 [~~commission~~] if the person or the person's spouse:

2 (1) is registered, commissioned, certified, or
3 licensed by a regulatory agency in the field of private
4 investigations or private security;

5 (2) is employed by or participates in the management
6 of a business entity or other organization regulated by or
7 receiving money from the board [~~commission~~];

8 (3) owns or controls, directly or indirectly, more
9 than a 10 percent interest in a business entity or other
10 organization regulated by or receiving money from the board
11 [~~commission~~]; or

12 (4) uses or receives a substantial amount of tangible
13 goods, services, or money from the board [~~commission~~] other than
14 compensation or reimbursement authorized by law for board
15 [~~commission~~] membership, attendance, or expenses.

16 SECTION 4.06. Sections 1702.024(b) and (c), Occupations
17 Code, are amended to read as follows:

18 (b) A person may not be a board [~~commission~~] member, and may
19 not be a department [~~commission~~] employee whose primary duties
20 include private security regulation and who is employed in a "bona
21 fide executive, administrative, or professional capacity," as that
22 phrase is used for purposes of establishing an exemption to the
23 overtime provisions of the federal Fair Labor Standards Act of 1938
24 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, if:

25 (1) the person is an officer, employee, or paid
26 consultant of a Texas trade association in the field of private
27 investigation or private security; or

1 (2) the person's spouse is an officer, manager, or paid
2 consultant of a Texas trade association in the field of private
3 investigation or private security.

4 (c) A person may not be a board [~~commission~~] member or act as
5 general counsel to the board [~~commission~~] or agency if the person is
6 required to register as a lobbyist under Chapter 305, Government
7 Code, because of the person's activities for compensation on behalf
8 of a profession related to the operation of the agency.

9 SECTION 4.07. Section 1702.027, Occupations Code, is
10 amended to read as follows:

11 Sec. 1702.027. GROUNDS FOR REMOVAL. (a) It is a ground for
12 removal from the board [~~commission~~] that a member:

13 (1) does not have the qualifications required by
14 Section 1702.021 at the time of taking office;

15 (2) does not maintain the qualifications required by
16 Section 1702.021 during service on the board [~~commission~~];

17 (3) is ineligible for membership under Section
18 1702.023 or 1702.024;

19 (4) cannot, because of illness or disability,
20 discharge the member's duties for a substantial part of the member's
21 term; or

22 (5) is absent from more than half of the regularly
23 scheduled board [~~commission~~] meetings that the member is eligible
24 to attend during a calendar year without an excuse approved by a
25 majority vote of the board [~~commission~~].

26 (b) The validity of an action of the board [~~commission~~] is
27 not affected by the fact that it is taken when a ground for removal

1 of a board [~~commission~~] member exists.

2 (c) If the chief administrator [~~director~~] has knowledge
3 that a potential ground for removal exists, the chief administrator
4 [~~director~~] shall notify the presiding officer of the board
5 [~~commission~~] of the potential ground. The presiding officer shall
6 then notify the governor and the attorney general that a potential
7 ground for removal exists. If the potential ground for removal
8 involves the presiding officer, the chief administrator [~~director~~]
9 shall notify the next highest ranking officer of the board
10 [~~commission~~], who shall then notify the governor and the attorney
11 general that a potential ground for removal exists.

12 SECTION 4.08. Section 1702.028, Occupations Code, is
13 amended to read as follows:

14 Sec. 1702.028. PER DIEM; REIMBURSEMENT. (a) A board
15 [~~commission~~] member is entitled to a per diem as set by legislative
16 appropriation for each day the member engages in the business of the
17 board [~~commission~~].

18 (b) A member is entitled to reimbursement for travel
19 [~~transportation~~] expenses incurred while conducting board
20 business, including expenses for transportation, meals, and
21 lodging, as prescribed by the General Appropriations Act. [A
22 ~~member may not receive compensation for travel expenses, including~~
23 ~~expenses for meals and lodging, other than transportation~~
24 ~~expenses.~~]

25 SECTION 4.09. Section 1702.029, Occupations Code, is
26 amended to read as follows:

27 Sec. 1702.029. MEETINGS. The board [~~commission~~] shall meet

1 at regular intervals to be decided by the board [~~commission~~].

2 SECTION 4.10. Section 1702.030, Occupations Code, is
3 amended to read as follows:

4 Sec. 1702.030. TRAINING. (a) A person who is appointed to
5 and qualifies for office as a board [~~commission~~] member may not
6 vote, deliberate, or be counted as a member in attendance at a board
7 [~~commission~~] meeting until the person completes a training program
8 that complies with this section.

9 (b) The training program must provide the person with
10 information regarding:

11 (1) this chapter;

12 (2) the programs operated by the board [~~commission~~];

13 (3) the role and functions of the board [~~commission~~];

14 (4) the rules of the board [~~commission~~], with an
15 emphasis on the rules that relate to disciplinary and investigatory
16 authority;

17 (5) the current budget for the board [~~commission~~];

18 (6) the results of the most recent formal audit of the
19 board [~~commission~~];

20 (7) the requirements of:

21 (A) the open meetings law, Chapter 551,
22 Government Code;

23 (B) the public information law, Chapter 552,
24 Government Code;

25 (C) the administrative procedure law, Chapter
26 2001, Government Code; and

27 (D) other laws relating to public officials,

1 including conflict of interest laws; and

2 (8) any applicable ethics policies adopted by the
3 board [~~commission~~] or the Texas Ethics Commission.

4 (c) A person appointed to the board [~~commission~~] is entitled
5 to reimbursement, as provided by the General Appropriations Act,
6 for the travel expenses incurred in attending the training program
7 regardless of whether the attendance at the program occurs before
8 or after the person qualifies for office.

9 SECTION 4.11. The heading to Subchapter C, Chapter 1702,
10 Occupations Code, is amended to read as follows:

11 SUBCHAPTER C. CHIEF ADMINISTRATOR [~~DIRECTOR~~] AND PERSONNEL

12 SECTION 4.12. Section 1702.041, Occupations Code, is
13 amended to read as follows:

14 Sec. 1702.041. CHIEF ADMINISTRATOR [~~DIRECTOR~~]. (a) The
15 [~~director is the~~] chief administrator is responsible for the
16 administration of this chapter under the direction of the board
17 [~~commission~~]. The chief administrator [~~director~~] shall perform
18 duties as prescribed by the board and the department [~~commission~~].

19 (b) The chief administrator [~~director~~] is a full-time
20 employee of the department [~~commission~~]. A board [~~commission~~]
21 member may not serve as chief administrator [~~director~~].

22 SECTION 4.13. Section 1702.042, Occupations Code, is
23 amended to read as follows:

24 Sec. 1702.042. PERSONNEL; CONFLICT OF INTEREST. An
25 employee of the department whose primary duties include private
26 security regulation [~~commission~~] may not:

27 (1) have a financial or business interest, contingent

1 or otherwise, in a security services contractor or investigations
2 company; or

3 (2) be licensed under this chapter.

4 SECTION 4.14. Section 1702.043, Occupations Code, is
5 amended to read as follows:

6 Sec. 1702.043. DIVISION OF RESPONSIBILITIES. The board
7 [~~commission~~] shall develop and implement policies that clearly
8 separate the policy-making responsibilities of the board
9 [~~commission~~] and the management responsibilities of the chief
10 administrator [~~director~~] and staff of the department [~~commission~~].

11 SECTION 4.15. Section 1702.044, Occupations Code, is
12 amended to read as follows:

13 Sec. 1702.044. QUALIFICATIONS AND STANDARDS OF CONDUCT
14 INFORMATION. The chief administrator [~~director~~] or the chief
15 administrator's [~~director's~~] designee shall provide to board
16 [~~commission~~] members and to agency employees, as often as
17 necessary, information regarding the requirements for office or
18 employment under this chapter, including information regarding a
19 person's responsibilities under applicable laws relating to
20 standards of conduct for state officers or employees.

21 SECTION 4.16. The heading to Subchapter D, Chapter 1702,
22 Occupations Code, is amended to read as follows:

23 SUBCHAPTER D. POWERS AND DUTIES OF BOARD [~~COMMISSION~~]

24 SECTION 4.17. Section 1702.061, Occupations Code, is
25 amended to read as follows:

26 Sec. 1702.061. GENERAL POWERS AND DUTIES OF BOARD
27 [~~COMMISSION~~]. (a) The board [~~Texas Commission on Private~~

1 ~~Security~~] shall perform the functions and duties provided by this
2 chapter.

3 (b) The board [~~commission~~] shall adopt rules and general
4 policies to guide the agency in the administration of this chapter.

5 (c) The rules and policies adopted by the board [~~commission~~]
6 under Subsection (b) must be consistent with this chapter and other
7 board [~~commission~~] rules adopted under this chapter and with any
8 other applicable law, state rule, or federal regulation.

9 (d) The board [~~commission~~] has the powers and duties to:

10 (1) determine the qualifications of license holders,
11 registrants, endorsement holders, and commissioned security
12 officers;

13 (2) investigate alleged violations of this chapter and
14 of board [~~commission~~] rules;

15 (3) adopt rules necessary to implement this chapter;
16 and

17 (4) establish and enforce standards governing the
18 safety and conduct of each person licensed, registered, or
19 commissioned under this chapter.

20 (e) The board [~~commission~~] shall have a seal in the form
21 prescribed by the board [~~commission~~].

22 [~~(f) The commission may commission investigators who are~~
23 ~~employed full-time by the commission as peace officers for the~~
24 ~~limited purpose of assisting the commission in investigating~~
25 ~~alleged violations of this chapter and of commission rules.]~~

26 SECTION 4.18. Subchapter D, Chapter 1702, Occupations Code,
27 is amended by adding Section 1702.0612 to read as follows:

1 Sec. 1702.0612. NEGOTIATED RULEMAKING AND ALTERNATIVE
2 DISPUTE RESOLUTION. (a) The board shall develop and implement a
3 policy to encourage the use of:

4 (1) negotiated rulemaking procedures under Chapter
5 2008, Government Code, for the adoption of board rules; and

6 (2) appropriate alternative dispute resolution
7 procedures under Chapter 2009, Government Code, to assist in the
8 resolution of internal and external disputes under the board's
9 jurisdiction.

10 (b) The board's procedures relating to alternative dispute
11 resolution must conform, to the extent possible, to any model
12 guidelines issued by the State Office of Administrative Hearings
13 for the use of alternative dispute resolution by state agencies.

14 (c) The board shall designate a trained person to:

15 (1) coordinate the implementation of the policy
16 adopted under Subsection (a);

17 (2) serve as a resource for any training needed to
18 implement the procedures for negotiated rulemaking or alternative
19 dispute resolution; and

20 (3) collect data concerning the effectiveness of those
21 procedures, as implemented by the board.

22 SECTION 4.19. Section 1702.062, Occupations Code, is
23 amended to read as follows:

24 Sec. 1702.062. FEES. (a) The board [~~commission~~] by rule
25 shall establish reasonable and necessary fees that produce
26 sufficient revenue to administer this chapter. The fees may not
27 produce unnecessary fund balances. [~~and may not exceed the~~

1 ~~following amounts:~~

2	[Class A license	_____	\$350 (original and renewal)
3	[Class B license	_____	\$400 (original and renewal)
4	[Class C license	_____	\$540 (original and renewal)
5	[Class D license	_____	\$400 (original and renewal)
6	[Reinstate suspended license	_____	\$150
7	[Assignment of license	_____	\$150
8	[Change name of license	_____	\$ 75
9	[Delinquency fee	_____	_____
10	[Branch office certificate and renewal	_____	\$300
11	[Registration fee for private investigator, manager, branch		
12	office manager, locksmith, electronic access control device		
13	installer, and alarm systems installer	\$ 30 (original and renewal)	
14	[Registration fee for noncommissioned security officer	\$ 30	
15	(original and renewal)		
16	[Registration fee for security salesperson	_____	\$ 30
17	[Registration fee for alarm systems monitor	_____	\$ 30
18	[Registration fee for dog trainer	_____	\$ 30
19	[Registration fee for owner, officer, partner, or		
20	shareholder of a license holder	_____	\$ 50
21	[Registration fee for security consultant	_____	\$300
22	[Registration fee for employee of license holder	_____	\$ 30
23	[Security officer commission fee	_____	\$ 50
24	(original and renewal)		
25	[School instructor fee	_____	\$100
26	(original and renewal)		
27	[School approval fee	_____	\$350

1 ~~(original and renewal)~~

2 ~~[Letter of authority fee for private business and political~~
3 ~~subdivision] ----- \$400~~

4 ~~[Letter of authority renewal fee for private business and~~
5 ~~political subdivision] ----- \$225~~

6 ~~[Letter of authority fee for commissioned officer,~~
7 ~~noncommissioned officer, or personal protection officer for~~
8 ~~political subdivision] ----- \$ 10~~

9 ~~[FBI fingerprint check] ----- \$ 25~~

10 ~~[Duplicate pocket card] ----- \$ 10~~

11 ~~[Employee information update fee] ----- \$ 15~~

12 ~~[Burglar alarm sellers renewal fee] ----- \$ 30~~

13 ~~[Personal protection officer authorization] ----- \$ 50]~~

14 (b) The board ~~[In addition to other fees established under~~
15 ~~this chapter, the commission]~~ may charge a fee each time the board
16 ~~[commission]~~ requires a person regulated under this chapter to
17 resubmit a set of fingerprints for processing by the board
18 ~~[commission]~~ during the application process for a license,
19 registration, endorsement, or commission. The board ~~[commission]~~
20 shall set the fee in an amount that is reasonable and necessary to
21 cover the ~~[commission's]~~ administrative expenses related to
22 processing the fingerprints.

23 (c) A person whose pocket card has not expired is not
24 eligible to receive from the board ~~[commission]~~ another pocket card
25 in the same classification in which the pocket card is held.

26 SECTION 4.20. The heading to Section 1702.063, Occupations
27 Code, is amended to read as follows:

1 Sec. 1702.063. BOARD [~~COMMISSION~~] USE OF FINES.

2 SECTION 4.21. Section 1702.0635, Occupations Code, is
3 amended to read as follows:

4 Sec. 1702.0635. RESTRICTIONS ON CERTAIN RULES. The board
5 [~~commission~~] may not adopt rules or establish unduly restrictive
6 experience or education requirements that limit a person's ability
7 to be licensed as an electronic access control device company or be
8 registered as an electronic access control device installer.

9 SECTION 4.22. Section 1702.064, Occupations Code, is
10 amended to read as follows:

11 Sec. 1702.064. RULES RESTRICTING ADVERTISING OR
12 COMPETITIVE BIDDING. (a) The board [~~commission~~] may not adopt
13 rules restricting advertising or competitive bidding by a person
14 regulated by the board [~~commission~~] except to prohibit false,
15 misleading, or deceptive practices by the person.

16 (b) The board [~~commission~~] may not include in its rules to
17 prohibit false, misleading, or deceptive practices by a person
18 regulated by the board [~~commission~~] a rule that:

19 (1) restricts the person's use of any medium for
20 advertising;

21 (2) restricts the person's personal appearance or use
22 of the person's personal voice in an advertisement;

23 (3) relates to the size or duration of an
24 advertisement by the person; or

25 (4) restricts the person's advertisement under a trade
26 name.

27 SECTION 4.23. Section 1702.0645, Occupations Code, is

1 amended to read as follows:

2 Sec. 1702.0645. PAYMENT OF FEES AND FINES. (a) The board
3 [~~commission~~] may adopt rules regarding the method of payment of a
4 fee or a fine assessed under this chapter.

5 (b) Rules adopted under this section may:

6 (1) authorize the use of electronic funds transfer or
7 a valid credit card issued by a financial institution chartered by a
8 state or the federal government or by a nationally recognized
9 credit organization approved by the board [~~commission~~]; and

10 (2) require the payment of a discount or a reasonable
11 service charge for a credit card payment in addition to the fee or
12 the fine.

13 SECTION 4.24. Section 1702.066, Occupations Code, is
14 amended to read as follows:

15 Sec. 1702.066. SERVICE OF PROCESS; SERVICE OF DOCUMENTS ON
16 BOARD [~~COMMISSION~~]. Legal process and documents required by law to
17 be served on or filed with the board [~~commission~~] must be served on
18 or filed with the chief administrator [~~director~~] at the designated
19 office of the board [~~commission~~].

20 SECTION 4.25. Section 1702.067, Occupations Code, is
21 amended to read as follows:

22 Sec. 1702.067. BOARD [~~COMMISSION~~] RECORDS; EVIDENCE. An
23 official record of the board [~~commission~~] or an affidavit by the
24 chief administrator [~~director~~] as to the content of the record is
25 prima facie evidence of a matter required to be kept by the board
26 [~~commission~~].

27 SECTION 4.26. Section 1702.068, Occupations Code, is

1 amended to read as follows:

2 Sec. 1702.068. APPEAL BOND NOT REQUIRED. The board
3 ~~[commission]~~ is not required to give an appeal bond in any cause
4 arising under this chapter.

5 SECTION 4.27. Section 1702.081, Occupations Code, is
6 amended to read as follows:

7 Sec. 1702.081. PUBLIC INTEREST INFORMATION. (a) The board
8 ~~[commission]~~ shall prepare information of interest to consumers or
9 recipients of services regulated under this chapter describing the
10 board's ~~[commission's]~~ regulatory functions and the procedures by
11 which complaints are filed with and resolved by the board
12 ~~[commission]~~.

13 (b) The board ~~[commission]~~ shall make the information
14 available to the public and appropriate state agencies.

15 SECTION 4.28. Sections 1702.082(a), (b), (c), and (d),
16 Occupations Code, are amended to read as follows:

17 (a) The board ~~[commission by rule shall establish methods by~~
18 ~~which consumers and service recipients are notified of the name,~~
19 ~~mailing address, and telephone number of the commission for the~~
20 ~~purpose of directing complaints to the commission. The commission~~
21 ~~may provide for that notice.~~

22 ~~[(1) on each registration form, application, or~~
23 ~~written contract for services of a person regulated under this~~
24 ~~chapter,~~

25 ~~[(2) on a sign prominently displayed in the place of~~
26 ~~business of each person regulated under this chapter, or~~

27 ~~[(3) in a bill for services provided by a person~~

1 ~~regulated under this chapter.~~

2 ~~[(b) The commission]~~ shall maintain a system to promptly and
3 efficiently act on complaints ~~[file on each written complaint]~~
4 filed with the board ~~[commission]~~. The board shall maintain
5 information about parties to the complaint, ~~[file must include:~~

6 ~~[(1) the name of the person who filed the complaint,~~

7 ~~[(2) the date the complaint is received by the~~
8 ~~commission,~~

9 ~~[(3)]~~ the subject matter of the complaint, ~~[+~~

10 ~~[(4) the name of each person contacted in relation to~~
11 ~~the complaint,~~

12 ~~[(5)]~~ a summary of the results of the review or
13 investigation of the complaint, ~~[+~~ and its disposition

14 ~~[(6) an explanation of the reason the file was closed,~~
15 ~~if the agency closed the file without taking action other than to~~
16 ~~investigate the complaint].~~

17 ~~(b) [(c)]~~ The board ~~[commission]~~ shall make information
18 available describing its ~~[provide to the person filing the~~
19 ~~complaint a copy of the commission's policies and]~~ procedures for
20 ~~[relating to]~~ complaint investigation and resolution.

21 ~~(c)~~ The board shall periodically notify the complaint
22 parties of the status of the complaint until final disposition.

23 ~~[(d) Unless it would jeopardize an undercover investigation, the~~
24 ~~commission shall provide to each person who is a subject of the~~
25 ~~complaint a copy of the commission's policies and procedures~~
26 ~~relating to complaint investigation and resolution.]~~

27 SECTION 4.29. Section 1702.083, Occupations Code, is

1 amended to read as follows:

2 Sec. 1702.083. PUBLIC PARTICIPATION. The board
3 [~~commission~~] shall develop and implement policies that provide the
4 public with a reasonable opportunity to appear before the board
5 [~~commission~~] and to speak on any issue under the board's
6 [~~commission's~~] jurisdiction.

7 SECTION 4.30. Section 1702.084, Occupations Code, is
8 amended to read as follows:

9 Sec. 1702.084. PUBLIC ACCESS TO CERTAIN RECORDS OF
10 DISCIPLINARY ACTIONS. (a) The board [~~commission~~] shall make
11 available to the public through a toll-free telephone number,
12 Internet website, or other easily accessible medium determined by
13 the board [~~commission~~] the following information relating to a
14 disciplinary action taken during the preceding three years
15 regarding a person regulated by the board [~~commission~~]:

16 (1) the identity of the person;

17 (2) the nature of the complaint that was the basis of
18 the disciplinary action taken against the person; and

19 (3) the disciplinary action taken by the board
20 [~~commission~~].

21 (b) In providing the information, the board [~~commission~~]
22 shall present the information in an impartial manner, use language
23 that is commonly understood, and, if possible, avoid jargon
24 specific to the security industry.

25 (c) The board [~~commission~~] shall update the information on a
26 monthly basis.

27 (d) The board [~~commission~~] shall maintain the

1 confidentiality of information regarding the identification of a
2 complainant.

3 SECTION 4.31. Section 1702.103, Occupations Code, is
4 amended to read as follows:

5 Sec. 1702.103. CLASSIFICATION AND LIMITATION OF LICENSES.

6 (a) The license classifications are:

7 (1) Class A: investigations company license, covering
8 operations of an investigations company;

9 (2) Class B: security services contractor license,
10 covering operations of a security services contractor;

11 (3) Class C: covering the operations included within
12 Class A and Class B; ~~and~~

13 (4) Class F: level III training school license;

14 (5) Class O: alarm level I training school license;

15 (6) Class P: private business letter of authority
16 license;

17 (7) Class X: government letter of authority license;

18 and

19 (8) Class T: telematics license ~~[Class D: electronic~~
20 ~~access control device license, covering operations of an electronic~~
21 ~~access control device company].~~

22 (b) A ~~[Class A, B, C, or D]~~ license described by this chapter
23 does not authorize the license holder to perform a service for which
24 the license holder has not qualified. A person may not engage in an
25 operation outside the scope of that person's license. The board
26 ~~[commission]~~ shall indicate on the license the services the license
27 holder is authorized to perform. The license holder may not perform

1 a service unless it is indicated on the license.

2 (c) A license is not assignable unless the assignment is
3 approved in advance by the board [~~commission~~].

4 (d) The board [~~commission~~] shall prescribe by rule the
5 procedure under which a license may be terminated.

6 (e) The board by rule may establish other license
7 classifications for activities expressly regulated by this chapter
8 and may establish qualifications and practice requirements
9 consistent with this chapter for those license classifications.

10 SECTION 4.32. Section 1702.111, Occupations Code, is
11 amended to read as follows:

12 Sec. 1702.111. ISSUANCE OF BRANCH OFFICE LICENSE. (a) A
13 license holder, in accordance with Section 1702.129, shall notify
14 the board [~~commission~~] in writing of the establishment of a branch
15 office and file in writing with the board [~~commission~~] the address
16 of the branch office.

17 (b) On application by a license holder, the board
18 [~~commission~~] shall issue a branch office license.

19 SECTION 4.33. Sections 1702.113(a) and (c), Occupations
20 Code, are amended to read as follows:

21 (a) An applicant for a license, certificate of
22 registration, endorsement, or security officer commission or the
23 applicant's manager must be at least 18 years of age and must not:

24 (1) [~~have been convicted in any jurisdiction of two or~~
25 ~~more felony offenses, unless full pardons have been granted for all~~
26 ~~convictions for reasons relating to wrongful convictions;~~

27 [~~(2) have been convicted in any jurisdiction of any of~~

1 ~~the following:~~

2 ~~[(A) a single felony or equivalent offense for~~
3 ~~which the 20th anniversary of the date of conviction has not~~
4 ~~occurred before the date of application, unless a full pardon has~~
5 ~~been granted for reasons relating to a wrongful conviction, or~~

6 ~~[(B) a Class A misdemeanor or equivalent offense~~
7 ~~for which the 10th anniversary of the date of conviction has not~~
8 ~~occurred before the date of application, unless a full pardon has~~
9 ~~been granted for reasons relating to a wrongful conviction,~~

10 ~~[(3)]~~ at the time of application be charged with the
11 commission of a Class A misdemeanor or felony offense, under an
12 information or indictment;

13 ~~[(4) in the 10 years preceding the date of~~
14 ~~application, have been adjudicated as having engaged in delinquent~~
15 ~~conduct violating a penal law of the grade of felony,]~~

16 (2) ~~[(5)]~~ have been found by a court to be incompetent
17 by reason of a mental defect or disease and not have been restored
18 to competency;

19 (3) ~~[(6)]~~ have been dishonorably discharged from the
20 United States armed services, discharged from the United States
21 armed services under other conditions determined by the board to be
22 prohibitive, or dismissed from the United States armed services if
23 a commissioned officer in the United States armed services; or

24 (4) ~~[(7)]~~ be required to register in this or any other
25 state as a sex offender, unless the applicant is approved by the
26 board under Section 1702.3615.

27 (c) For purposes of this section, an offense under the laws

1 of this state, another state, or the United States is considered[+

2 [~~(1) a felony if the offense:~~

3 [~~(A) at the time of conviction was designated by~~
4 ~~a law of this state as a felony, including a state jail felony;~~

5 [~~(B) contains all the elements of an offense~~
6 ~~designated by a law of this state as a felony, including a state~~
7 ~~jail felony; or~~

8 [~~(C) is punishable by confinement for one year or~~
9 ~~more in a penitentiary;~~

10 [~~(2) a Class A misdemeanor if the offense is not a~~
11 ~~felony and the offense:~~

12 [~~(A) at the time of conviction was designated by~~
13 ~~a law of this state as a Class A misdemeanor;~~

14 [~~(B) contains all the elements of an offense~~
15 ~~designated by a law of this state as a Class A misdemeanor; or~~

16 [~~(C) provides as a possible punishment~~
17 ~~confinement in a jail other than a state jail felony facility; or~~

18 [~~(3)] a Class B misdemeanor if the offense is not a~~

19 felony or Class A misdemeanor and the offense:

20 (1) [~~(A)] at the time of conviction was designated by~~

21 a law of this state as a Class B misdemeanor;

22 (2) [~~(B)] contains all the elements of an offense~~

23 designated by a law of this state as a Class B misdemeanor; or

24 (3) [~~(C)] provides as a possible punishment~~

25 confinement in a jail other than a state jail felony facility.

26 SECTION 4.34. Section 1702.114, Occupations Code, is

27 amended to read as follows:

1 Sec. 1702.114. ADDITIONAL QUALIFICATIONS FOR
2 INVESTIGATIONS COMPANY LICENSE. (a) An applicant for a license to
3 engage in the business of an investigations company or the
4 applicant's manager must have, before the date of the application,
5 three consecutive years' experience in the investigative field as
6 an employee, manager, or owner of an investigations company or
7 satisfy other requirements set by the board [~~commission~~].

8 (b) The applicant's experience must be:

9 (1) reviewed by the board [~~commission~~] or the chief
10 administrator [~~director~~]; and

11 (2) determined to be adequate to qualify the applicant
12 to engage in the business of an investigations company.

13 SECTION 4.35. Section 1702.115, Occupations Code, is
14 amended to read as follows:

15 Sec. 1702.115. ADDITIONAL QUALIFICATIONS FOR SECURITY
16 SERVICES CONTRACTOR LICENSE. (a) An applicant for a license to
17 engage in the business of a security services contractor or the
18 applicant's manager must have, before the date of the application,
19 two consecutive years' experience in each security services field
20 for which the person applies as an employee, manager, or owner of a
21 security services contractor or satisfy other requirements set by
22 the board [~~commission~~].

23 (b) The applicant's experience must have been obtained
24 legally and must be:

25 (1) reviewed by the board [~~commission~~] or the chief
26 administrator [~~director~~]; and

27 (2) determined to be adequate to qualify the applicant

1 to engage in the business of a security services contractor.

2 SECTION 4.36. Section 1702.116, Occupations Code, is
3 amended to read as follows:

4 Sec. 1702.116. QUALIFICATIONS FOR GUARD DOG COMPANY
5 LICENSE; INSPECTIONS. (a) An applicant for a license to engage in
6 the business of a guard dog company must:

7 (1) meet the requirements of Sections 1702.113 and
8 1702.115; and

9 (2) present evidence satisfactory to the board
10 [~~commission~~] that the applicant will comply with the rules adopted
11 under this section.

12 (b) After consulting the [~~Texas~~] Department of State Health
13 Services, the board [~~commission~~] shall adopt rules to ensure that
14 the areas in which a guard dog company houses, exercises, or trains
15 its animals are securely enclosed by a six-foot chain-link fence or
16 made equally secure.

17 (c) The board [~~commission~~] shall conduct regular
18 inspections to ensure compliance with the rules adopted under this
19 section.

20 SECTION 4.37. Sections 1702.117(a), (c), and (d),
21 Occupations Code, are amended to read as follows:

22 (a) The board [~~commission~~] shall require an applicant for a
23 commission, license, registration, or endorsement under this
24 chapter or the applicant's manager to demonstrate qualifications in
25 the person's license classification, including knowledge of
26 applicable state laws and board [~~commission~~] rules, by taking an
27 examination to be determined by the board [~~commission~~].

1 (c) The board [~~commission~~] shall set the reexamination fee
2 in an amount not to exceed the amount of the renewal fee for the
3 license classification for which application was made.

4 (d) The board [~~commission~~] shall develop and provide to a
5 person who applies to take the examination under Subsection (a)
6 material containing all applicable state laws and board
7 [~~commission~~] rules.

8 SECTION 4.38. Section 1702.118, Occupations Code, is
9 amended to read as follows:

10 Sec. 1702.118. EXAMINATION RESULTS. (a) Not later than the
11 30th day after the date a person takes a licensing examination under
12 this chapter, the board [~~commission~~] shall notify the person of the
13 examination results.

14 (b) If an examination is graded or reviewed by a testing
15 service:

16 (1) the board [~~commission~~] shall notify the person of
17 the examination results not later than the 14th day after the date
18 the board [~~commission~~] receives the results from the testing
19 service; and

20 (2) if notice of the examination results will be
21 delayed for longer than 90 days after the examination date, the
22 board [~~commission~~] shall notify the person of the reason for the
23 delay before the 90th day.

24 (c) The board [~~commission~~] may require a testing service to
25 notify a person of the results of the person's examination.

26 (d) If requested in writing by a person who fails a
27 licensing examination administered under this chapter, the board

1 [~~commission~~] shall furnish the person with an analysis of the
2 person's performance on the examination.

3 SECTION 4.39. Section 1702.1183, Occupations Code, is
4 amended to read as follows:

5 Sec. 1702.1183. RECIPROCAL LICENSE FOR CERTAIN FOREIGN
6 APPLICANTS. (a) The board [~~commission~~] may waive any prerequisite
7 to obtaining a license for an applicant who holds a license issued
8 by another jurisdiction with which this state has a reciprocity
9 agreement.

10 (b) The board [~~commission~~] may make an agreement, subject to
11 the approval of the governor, with another state to allow for
12 licensing by reciprocity.

13 SECTION 4.40. Section 1702.1186, Occupations Code, is
14 amended to read as follows:

15 Sec. 1702.1186. PROVISIONAL LICENSE. (a) The board
16 [~~commission~~] may issue a provisional license to an applicant
17 currently licensed in another jurisdiction who seeks an equivalent
18 license in this state and who:

19 (1) has been licensed in good standing as an
20 investigations company or security services contractor for at least
21 two years in another jurisdiction, including a foreign country,
22 that has licensing requirements substantially equivalent to the
23 requirements of this chapter;

24 (2) has passed a national or other examination
25 recognized by the board [~~commission~~] relating to the practice of
26 private investigations or security services contracting; and

27 (3) is sponsored by a person licensed by the board

1 [~~commission~~] under this chapter with whom the provisional license
2 holder will practice during the time the person holds a provisional
3 license.

4 (b) A provisional license is valid until the date the board
5 [~~commission~~] approves or denies the provisional license holder's
6 application for a license. The board [~~commission~~] shall issue a
7 license under this chapter to the provisional license holder if:

8 (1) the provisional license holder is eligible to be
9 licensed under Section 1702.1183; or

10 (2) the provisional license holder:

11 (A) passes the part of the examination under
12 Section 1702.117(a) that relates to the applicant's knowledge and
13 understanding of the laws and rules relating to the practice of an
14 investigations company or security services contractor in this
15 state;

16 (B) is verified by the board [~~commission~~] as
17 meeting the academic and experience requirements for a license
18 under this chapter; and

19 (C) satisfies any other licensing requirements
20 under this chapter.

21 (c) The board [~~commission~~] must approve or deny a
22 provisional license holder's application for a license not later
23 than the 180th day after the date the provisional license is issued.
24 The board [~~commission~~] may extend the 180-day period if the results
25 of an examination have not been received by the board [~~commission~~]
26 before the end of that period.

27 (d) The board [~~commission~~] may establish a fee for

1 provisional licenses in an amount reasonable and necessary to cover
2 the cost of issuing the license.

3 SECTION 4.41. Section 1702.120(b), Occupations Code, is
4 amended to read as follows:

5 (b) An individual may not apply to the board [~~commission~~] to
6 serve as manager of an investigations company, guard company, alarm
7 systems company, armored car company, courier company, or guard dog
8 company without the intent to maintain that supervisory position on
9 a daily basis for that company.

10 SECTION 4.42. Section 1702.122, Occupations Code, is
11 amended to read as follows:

12 Sec. 1702.122. TEMPORARY CONTINUATION OF LICENSE HOLDER'S
13 BUSINESS. Under the terms provided by board [~~commission~~] rule, a
14 license holder's business may continue for a temporary period if
15 the individual on the basis of whose qualifications a license under
16 this chapter has been obtained ceases to be connected with the
17 license holder.

18 SECTION 4.43. Section 1702.123, Occupations Code, is
19 amended to read as follows:

20 Sec. 1702.123. INSURANCE; BOND. (a) A license holder shall
21 maintain on file with the board [~~commission~~] at all times the surety
22 bond and certificate of insurance required by this chapter.

23 (b) The board [~~commission~~] shall immediately suspend the
24 license of a license holder who violates Subsection (a).

25 (c) The board [~~commission~~] may rescind the license
26 suspension if the license holder provides proof to the board
27 [~~commission~~] that the bond or the insurance coverage is still in

1 effect. The license holder must provide the proof in a form
2 satisfactory to the board [~~commission~~] not later than the 10th day
3 after the date the license is suspended.

4 (d) After suspension of the license, the board [~~commission~~]
5 may not reinstate the license until an application, in the form
6 prescribed by the board [~~commission~~], is filed accompanied by a
7 proper bond, insurance certificate, or both. The board
8 [~~commission~~] may deny the application notwithstanding the
9 applicant's compliance with this section:

10 (1) for a reason that would justify suspending,
11 revoking, or denying a license; or

12 (2) if, during the suspension, the applicant performs
13 a practice for which a license is required.

14 SECTION 4.44. Section 1702.125, Occupations Code, is
15 amended to read as follows:

16 Sec. 1702.125. BOND REQUIREMENT. A bond executed and filed
17 with the board [~~commission~~] under this chapter remains in effect
18 until the surety terminates future liability by providing to the
19 board [~~commission~~] at least 30 days' notice of the intent to
20 terminate liability.

21 SECTION 4.45. Section 1702.129, Occupations Code, is
22 amended to read as follows:

23 Sec. 1702.129. NOTICE OF CERTAIN CHANGES; BRANCH OFFICES.

24 (a) A license holder shall notify the board [~~commission~~] not later
25 than the 14th day after the date of:

26 (1) a change of address for the license holder's
27 principal place of business;

1 (2) a change of a name under which the license holder
2 does business; or

3 (3) a change in the license holder's officers or
4 partners.

5 (b) A license holder shall notify the board [~~commission~~] in
6 writing not later than the 14th day after the date a branch office:

7 (1) is established;

8 (2) is closed; or

9 (3) changes address or location.

10 SECTION 4.46. Section 1702.131, Occupations Code, is
11 amended to read as follows:

12 Sec. 1702.131. ADVERTISING. An advertisement by a license
13 holder soliciting or advertising business must contain the license
14 holder's company name and address as stated in board [~~commission~~]
15 records.

16 SECTION 4.47. Section 1702.161(b), Occupations Code, is
17 amended to read as follows:

18 (b) An individual employed as a security officer may not
19 knowingly carry a firearm during the course of performing duties as
20 a security officer unless the board [~~commission~~] has issued a
21 security officer commission to the individual.

22 SECTION 4.48. Section 1702.162, Occupations Code, is
23 amended to read as follows:

24 Sec. 1702.162. EMPLOYER'S APPLICATION FOR SECURITY OFFICER
25 COMMISSION. The employer of a security officer who applies for a
26 security officer commission for the officer must submit an
27 application to the board [~~commission~~] on a form provided by the

1 board [~~commission~~].

2 SECTION 4.49. Section 1702.165, Occupations Code, is
3 amended to read as follows:

4 Sec. 1702.165. ISSUANCE OF SECURITY OFFICER COMMISSION;
5 POCKET CARD. (a) The board [~~commission~~], with the concurrence of
6 the department [~~Texas Department of Public Safety~~]:

7 (1) may issue a security officer commission to an
8 individual employed as a uniformed security officer; and

9 (2) shall issue a security officer commission to a
10 qualified employee of an armored car company that is a carrier
11 conducting the armored car business under a federal or state permit
12 or certificate.

13 (b) A security officer commission issued under this section
14 must be in the form of a pocket card designed by the board
15 [~~commission~~] that identifies the security officer.

16 SECTION 4.50. Section 1702.167, Occupations Code, is
17 amended to read as follows:

18 Sec. 1702.167. TERMINATION OF EMPLOYMENT AS COMMISSIONED
19 SECURITY OFFICER; TRANSFER OF COMMISSION. The holder of a security
20 officer commission who terminates employment with one employer may
21 transfer the individual's commission to a new employer if, not
22 later than the 14th day after the date the individual begins the new
23 employment, the new employer notifies the board [~~commission~~] of the
24 transfer of employment on a form prescribed by the board
25 [~~commission~~], accompanied by payment of the employee information
26 update fee.

27 SECTION 4.51. Sections 1702.1675(a), (b), (c), (d), (e),

1 (f), and (i), Occupations Code, are amended to read as follows:

2 (a) The board [~~commission~~] shall establish a basic training
3 course for commissioned security officers. The course must
4 include, at a minimum:

- 5 (1) general security officer training issues;
- 6 (2) classroom instruction on handgun proficiency; and
- 7 (3) range instruction on handgun proficiency.

8 (b) The course must be offered and taught by schools and
9 instructors approved by the board [~~commission~~]. To receive board
10 [~~commission~~] approval, a school or an instructor must submit an
11 application to the board [~~commission~~] on a form provided by the
12 board [~~commission~~].

13 (c) The basic training course approved by the board
14 [~~commission~~] must consist of a minimum of 30 hours.

15 (d) The general security officer training portion of the
16 course must include instruction on:

- 17 (1) board [~~commission~~] rules and applicable state
18 laws;
- 19 (2) field note taking and report writing; and
- 20 (3) any other topics of security officer training
21 curriculum the board [~~commission~~] considers necessary.

22 (e) The board [~~commission~~] shall develop a commissioned
23 security officer training manual that contains applicable state
24 laws and board [~~commission~~] rules to be used in the instruction and
25 training of commissioned security officers.

26 (f) The board [~~commission~~] shall adopt rules necessary to
27 administer the provisions of this section concerning the training

1 requirements of this chapter.

2 (i) The board [~~commission~~] by rule shall establish minimum
3 standards for handgun proficiency that are at least as stringent as
4 the standards for handgun proficiency developed by the public
5 safety director under Section 411.188, Government Code.

6 SECTION 4.52. Section 1702.168, Occupations Code, is
7 amended to read as follows:

8 Sec. 1702.168. FIREARM REQUIREMENTS. (a) In addition to
9 the requirements of Section 1702.163(a), the board [~~commission~~] by
10 rule shall establish other qualifications for individuals who are
11 employed in positions requiring the carrying of firearms. The
12 qualifications may include:

- 13 (1) physical and mental standards;
14 (2) standards of good moral character; and
15 (3) other requirements that relate to the competency
16 and reliability of individuals to carry firearms.

17 (b) The board [~~commission~~] shall prescribe appropriate
18 forms and adopt rules by which evidence is presented that the
19 requirements are fulfilled.

20 SECTION 4.53. Sections 1702.1685(b) and (d), Occupations
21 Code, are amended to read as follows:

22 (b) Only a board-approved [~~commission-approved~~] instructor
23 may administer the handgun proficiency examination.

24 (d) The school shall maintain the records of the required
25 proficiency and make the records available for inspection by the
26 board [~~commission~~].

27 SECTION 4.54. Section 1702.171, Occupations Code, is

1 protection officer endorsement [~~authorization~~] must be at least 21
2 years of age and must provide:

3 (1) a certificate of completion of the basic security
4 officer training course;

5 (2) proof that the applicant:

6 (A) has been issued a security officer
7 commission;

8 (B) is employed at the time of application by an
9 investigations company or guard company licensed by the board
10 [~~commission~~]; and

11 (C) has completed the required training in
12 nonlethal self-defense or defense of a third person; and

13 (3) proof of completion and the results of the
14 Minnesota Multiphasic Personality Inventory psychological testing.

15 (b) The board [~~commission~~] by rule shall require an
16 applicant for a personal protection officer endorsement
17 [~~authorization~~] to complete the Minnesota Multiphasic Personality
18 Inventory test. The board [~~commission~~] may use the results of the
19 test to evaluate the applicant's psychological fitness.

20 SECTION 4.59. Section 1702.205(a), Occupations Code, is
21 amended to read as follows:

22 (a) The board [~~commission~~] shall establish a 15-hour course
23 for a personal protection officer consisting of training in
24 nonlethal self-defense or defense of a third person.

25 SECTION 4.60. Section 1702.221, Occupations Code, is
26 amended to read as follows:

27 Sec. 1702.221. REGISTRATION AND ENDORSEMENT REQUIRED. (a)

1 To perform any activity regulated by this chapter, the individual
2 must:

3 (1) register in accordance with the requirements of
4 this chapter and related administrative rules;

5 (2) obtain the proper endorsement under Subsection
6 (b); and

7 (3) be employed by a company licensed under this
8 chapter.

9 (b) An individual must obtain the appropriate endorsement
10 [register] in accordance with the requirements of this chapter and
11 related administrative rules if the individual:

12 (1) is employed as:

13 (A) an alarm instructor;

14 (B) an alarm systems installer;

15 (C) an [] alarm systems monitor;

16 (D) an [] electronic access control device
17 installer;

18 (E) a level 3 classroom or firearm instructor;

19 (F) a [] locksmith;

20 (G) a [] dog trainer;

21 (H) a [] manager or branch office manager;

22 (I) a [] noncommissioned security officer;

23 (J) a level 4 personal protection instructor;

24 (K) a [] private investigator;

25 (L) a [] private security consultant;

26 (M) a [] security salesperson; or

27 (N) an individual whose duties include

1 performing another activity for which an endorsement is required
2 under Subsection (e); or

3 (2) is an owner who oversees the security-related
4 aspects of the business, officer, partner, or shareholder of a
5 license holder.

6 (c) [~~b~~] Registration and endorsement under this chapter
7 does not preclude an individual from performing additional duties
8 or services authorized by the individual's employer that are not
9 regulated by this chapter. An individual who performs more than one
10 of the services that require an endorsement under this section must
11 obtain an endorsement for each service.

12 (d) In addition to the services listed in Subsection (a), a
13 person holding a security officer commission must also obtain an
14 endorsement for personal protection if the individual performs the
15 services described by Section 1702.202.

16 (e) The board by rule may require a person to hold an
17 endorsement for performing other activity expressly regulated by
18 this chapter.

19 SECTION 4.61. Section 1702.2226(b), Occupations Code, is
20 amended to read as follows:

21 (b) A person registered as an electronic access control
22 device installer may not install alarm systems unless the person
23 holds an endorsement [~~is registered~~] under this chapter as an alarm
24 systems installer.

25 SECTION 4.62. The heading to Subchapter J, Chapter 1702,
26 Occupations Code, is amended to read as follows:

27 SUBCHAPTER J. REGISTRATION AND ENDORSEMENT REQUIREMENTS;

1 ~~[REGISTRANT]~~ DUTIES OF REGISTRANT AND ENDORSEMENT HOLDER

2 SECTION 4.63. Section 1702.228, Occupations Code, is
3 amended to read as follows:

4 Sec. 1702.228. EMPLOYEE OF LICENSE HOLDER; REGISTRATION
5 PERMITTED. An employee of a license holder who is employed in a
6 capacity that is not subject to mandatory registration under this
7 subchapter may register with the board ~~[commission]~~.

8 SECTION 4.64. The heading to Section 1702.230, Occupations
9 Code, is amended to read as follows:

10 Sec. 1702.230. APPLICATION FOR REGISTRATION OR
11 ENDORSEMENT.

12 SECTION 4.65. Section 1702.230(a), Occupations Code, is
13 amended to read as follows:

14 (a) An application for registration or endorsement must be
15 verified and include:

16 (1) the applicant's full name, residence address,
17 residence telephone number, date and place of birth, and social
18 security number;

19 (2) a statement that:

20 (A) lists each name used by the applicant, other
21 than the name by which the applicant is known at the time of
22 application, and an explanation stating each place where each name
23 was used, the date of each use, and a full explanation of the
24 reasons the name was used; or

25 (B) states that the applicant has never used a
26 name other than the name by which the applicant is known at the time
27 of application;

- 1 (3) the name and address of the applicant's employer
2 and, if applicable, the applicant's consulting firm;
3 (4) the date the employment commenced;
4 (5) a letter from the license holder requesting that
5 the applicant be registered or endorsed;
6 (6) the title of the position occupied by the
7 applicant and a description of the applicant's duties; and
8 (7) any other information, evidence, statement, or
9 document required by the board [~~commission~~].

10 SECTION 4.66. Section 1702.2305, Occupations Code, is
11 amended to read as follows:

12 Sec. 1702.2305. PROVISIONAL REGISTRATION. (a) The board
13 [~~commission~~] may issue a provisional registration to an applicant
14 currently registered in another jurisdiction who seeks an
15 equivalent registration in this state and who:

16 (1) has been registered in good standing in the field
17 in which the registration is sought for at least two years in
18 another jurisdiction, including a foreign country, that has
19 registration requirements substantially equivalent to the
20 requirements of this chapter;

21 (2) has passed a national or other examination
22 recognized by the board [~~commission~~] relating to practice in the
23 field in which the registration is sought; and

24 (3) is employed by a person licensed by the board
25 [~~commission~~] under this chapter with whom the provisional
26 registration holder will practice during the time the person holds
27 a provisional registration.

1 (b) A provisional registration is valid until the date the
2 board [~~commission~~] approves or denies the provisional registration
3 holder's application for a registration. The board [~~commission~~]
4 shall issue a registration under this chapter to the provisional
5 registration holder if the provisional registration holder is
6 eligible to be registered under this chapter.

7 (c) The board [~~commission~~] must approve or deny a
8 provisional registration holder's application for a registration
9 not later than the 180th day after the date the provisional
10 registration is issued. The board [~~commission~~] may extend the
11 180-day period if the results of an examination have not been
12 received by the board [~~commission~~] before the end of that period.

13 (d) The board [~~commission~~] may establish a fee for
14 provisional registration in an amount reasonable and necessary to
15 cover the cost of issuing the registration.

16 SECTION 4.67. Section 1702.232, Occupations Code, is
17 amended to read as follows:

18 Sec. 1702.232. POCKET CARDS. (a) The board [~~commission~~]
19 shall issue a pocket card for each registrant under this chapter. A
20 pocket card for an owner, officer, partner, or shareholder of a
21 license holder shall be issued to the license holder.

22 (b) The board [~~commission~~] shall determine the size,
23 design, and content of the pocket card.

24 (c) The pocket card must:

25 (1) state the name of the registrant;

26 (2) contain a color photograph, affixed to the pocket
27 card by the board at the time the card is issued, and the signature

1 of the registrant; ~~and~~

2 (3) state the date the card was issued and the card's
3 expiration date; and

4 (4) state each endorsement held by the registrant and
5 the date the endorsement expires.

6 SECTION 4.68. Section 1702.234, Occupations Code, is
7 amended to read as follows:

8 Sec. 1702.234. REGISTRATION AND ENDORSEMENT TRANSFER. A
9 registrant may transfer the registrant's registration and
10 endorsements from one employer to another employer if, not later
11 than the 14th day after the date the registrant begins the new
12 employment, the new employer notifies the board ~~[commission]~~ of the
13 transfer of employment on a form prescribed by the board
14 ~~[commission]~~ accompanied by payment of the employee information
15 update fee.

16 SECTION 4.69. Section 1702.235, Occupations Code, is
17 amended to read as follows:

18 Sec. 1702.235. PREEMPLOYMENT CHECK FOR NONCOMMISSIONED
19 SECURITY OFFICERS. A person may not hire a noncommissioned
20 security officer unless the person conducts a preemployment check
21 as required by board ~~[commission]~~ rule.

22 SECTION 4.70. Section 1702.236, Occupations Code, is
23 amended to read as follows:

24 Sec. 1702.236. EXAMINATION AND TRAINING REQUIREMENTS FOR
25 ELECTRONIC ACCESS CONTROL DEVICE INSTALLERS. (a) The board
26 ~~[commission]~~ shall require an individual who applies for an
27 endorsement ~~[registration]~~ as an electronic access control device

1 installer to pass an examination given by the board [~~commission~~] or
2 a person approved by the board [~~commission~~]. The examination must
3 cover material related to access control.

4 (b) [~~(c)~~] On and after September 1, 2005, the board
5 [~~commission~~] by rule may allow an electronic access control device
6 installer to obtain or renew an endorsement [~~a certificate of~~
7 ~~registration~~] by fulfilling the requirements of a board-approved
8 [~~commission-approved~~], industry-based educational training
9 program.

10 SECTION 4.71. Sections 1702.239(a), (b), and (d),
11 Occupations Code, are amended to read as follows:

12 (a) The board [~~commission~~] may require that an individual
13 employed as an alarm systems installer or security salesperson hold
14 a certification by a board-approved [~~commission-approved~~] training
15 program to renew an endorsement [~~an initial registration~~]. The
16 board [~~commission~~] may approve only nationally recognized training
17 programs that consist of at least 16 hours of classroom study in the
18 areas of work allowed by the endorsement [~~registration~~]. To be
19 approved, a training program must offer at least two certification
20 programs each year, sufficient to complete the requirements of this
21 subsection, within 100 miles of each county in the state that has a
22 population of more than 500,000.

23 (b) The board [~~commission~~] may require an individual who has
24 completed a training program under Subsection (a) to pass an
25 examination given by the board [~~commission~~] or by a person approved
26 by the board [~~commission~~]. The board [~~commission~~] may approve
27 examinations in conjunction with training programs approved under

1 Subsection (a). The individual's performance on the examination
2 must demonstrate the individual's qualifications to perform the
3 duties allowed by the individual's endorsement [~~registration~~].

4 (d) If the board [~~commission~~] requires certification or
5 examination under this section, the board [~~commission~~] shall
6 implement rules to require that to renew an endorsement [~~a~~
7 ~~registration~~], an individual who is employed as an alarm systems
8 installer or a security salesperson and who has already once
9 renewed the endorsement [~~registration~~] must obtain continuing
10 education credits related to the line of work for which the
11 individual is licensed. If the board [~~commission~~] requires the
12 continuing education, the chief administrator [~~director~~] must
13 approve classes offered by nationally recognized organizations,
14 and participants in the classes must qualify according to board
15 [~~commission~~] rules.

16 SECTION 4.72. Section 1702.240(b), Occupations Code, is
17 amended to read as follows:

18 (b) An employee of a license holder who is employed
19 exclusively as an undercover agent is not required to register with
20 the board [~~commission~~].

21 SECTION 4.73. Subchapter J, Chapter 1702, Occupations Code,
22 is amended by adding Section 1702.241 to read as follows:

23 Sec. 1702.241. JURISPRUDENCE EXAMINATION. (a) The board
24 may develop and administer at least twice each calendar year a
25 jurisprudence examination to determine the knowledge that an
26 applicant for an endorsement has of this chapter, board rules, and
27 any other applicable laws of this state affecting the applicant's

1 activities regulated under this chapter.

2 (b) Before the board may administer a jurisprudence
3 examination under this section, the board shall adopt rules to
4 implement this section, including rules related to the development
5 and administration of the examination, examination fees,
6 guidelines for reexamination, grading the examination, and
7 providing notice of examination results. The board may design
8 different examinations for different types of endorsements.

9 SECTION 4.74. Sections 1702.282(c) and (e), Occupations
10 Code, are amended to read as follows:

11 (c) A license, registration, security officer commission,
12 letter of approval, permit, endorsement, or certification issued by
13 the board is conditional on the board's receipt of criminal history
14 record information.

15 (e) On receipt of notice that a check of the applicant's
16 criminal record has uncovered an unresolved and potentially
17 disqualifying arrest that occurred before the 10th anniversary of
18 the date the application is filed, the applicant must provide a
19 letter of reference from the county sheriff, prosecuting attorney,
20 or judge of the county in which the applicant was arrested stating
21 that a record of a disposition related to the arrest does not exist,
22 and to the best of the county sheriff's, prosecuting attorney's, or
23 judge's knowledge the applicant is free of any disqualifying
24 convictions. If the applicant fails to provide either the letter of
25 reference or documentary proof of the final disposition of the
26 arrest, the application is considered incomplete and the applicant
27 may not be issued a license, commission, endorsement, or

1 certificate of registration under this chapter.

2 SECTION 4.75. Section 1702.283, Occupations Code, is
3 amended to read as follows:

4 Sec. 1702.283. CRUELTY TO ANIMALS. A person who has been
5 convicted of cruelty to animals under Section 42.09 or 42.092,
6 Penal Code:

7 (1) is ineligible for a license as a guard dog company
8 or for endorsement [~~registration~~] as a dog trainer; and

9 (2) may not be employed to work with dogs as a security
10 officer by a security services contractor or security department of
11 a private business that uses dogs to protect individuals or
12 property or to conduct investigations.

13 SECTION 4.76. Section 1702.285, Occupations Code, is
14 amended to read as follows:

15 Sec. 1702.285. FALSE REPRESENTATION. A person may not
16 represent falsely that the person:

17 (1) is employed by a license holder; or

18 (2) is licensed, registered, endorsed, or
19 commissioned under this chapter.

20 SECTION 4.77. Sections 1702.301(c), (d), (e), (f), (g), and
21 (h), Occupations Code, are amended to read as follows:

22 (c) A personal protection officer endorsement
23 [~~authorization~~] expires on the expiration date of the security
24 officer commission under which the individual's endorsement
25 [~~authorization~~] is issued.

26 (d) Endorsement [~~Registration~~] as a private investigator,
27 manager, branch office manager, alarm systems installer, security

1 consultant, security salesperson, alarm systems monitor, or dog
2 trainer expires on the second anniversary of the date of
3 endorsement [~~registration~~].

4 (e) Endorsement [~~Registration~~] as an owner, officer,
5 partner, or shareholder of a license holder expires on the second
6 anniversary of the date of endorsement [~~registration~~].

7 (f) Endorsement [~~Registration~~] as a noncommissioned
8 security officer expires on the second anniversary of the date of
9 endorsement [~~registration~~].

10 (g) A letter of authority, or a school approval or school
11 instructor approval letter issued by the board [~~commission~~],
12 expires on the first anniversary of the date of issuance.

13 (h) A license, ~~or~~ registration, or endorsement issued
14 under this chapter, other than one specified in this section,
15 expires on the date specified by this chapter or by board
16 [~~commission~~] rule.

17 SECTION 4.78. Section 1702.302, Occupations Code, is
18 amended to read as follows:

19 Sec. 1702.302. LICENSE RENEWAL. (a) A person who is
20 otherwise eligible to renew a license may renew an unexpired
21 license by paying the required renewal fee to the board
22 [~~commission~~] before the expiration date of the license. A person
23 whose license has expired may not engage in activities that require
24 a license until the license has been renewed.

25 (b) A person whose license has been expired for 90 days or
26 less may renew the license by paying to the board [~~commission~~] a
27 renewal fee that is equal to 1-1/2 times the normally required

1 renewal fee.

2 (c) A person whose license has been expired for longer than
3 90 days but less than one year may renew the license by paying to the
4 board [~~commission~~] a renewal fee that is equal to two times the
5 normally required renewal fee.

6 (d) A person whose license has been expired for one year or
7 more may not renew the license. The person may obtain a new license
8 by complying with the requirements and procedures, including the
9 examination requirements, for obtaining an original license.

10 (e) Not later than the 30th day before the date a person's
11 license is scheduled to expire, the board [~~commission~~] shall send
12 written notice of the impending expiration to the person at the
13 person's last known address according to the board's [~~commission's~~]
14 records.

15 SECTION 4.79. Section 1702.303, Occupations Code, is
16 amended to read as follows:

17 Sec. 1702.303. RENEWAL OF EXPIRED LICENSE BY OUT-OF-STATE
18 PRACTITIONER. A person who was licensed in this state, moved to
19 another state, and is currently licensed and has been in practice in
20 the other state for the two years preceding the date the person
21 applies for renewal may obtain a new license without reexamination.
22 The person must pay to the board [~~commission~~] a fee that is equal to
23 two times the normally required renewal fee for the license.

24 SECTION 4.80. Section 1702.304, Occupations Code, is
25 amended to read as follows:

26 Sec. 1702.304. STAGGERED RENEWAL; PRORATION OF LICENSE FEE.
27 The board [~~commission~~] by rule may adopt a system under which

1 licenses expire on various dates during the year. For the year in
2 which the expiration date of a license is changed, the board
3 [~~commission~~] shall prorate license fees on a monthly basis so that
4 each license holder pays only that portion of the license fee that
5 is allocable to the number of months during which the license is
6 valid. On renewal of the license on the new expiration date, the
7 total license renewal fee is payable.

8 SECTION 4.81. Section 1702.307, Occupations Code, is
9 amended to read as follows:

10 Sec. 1702.307. REGISTRATION RENEWAL. (a) An individual
11 who is otherwise eligible to renew a registration may renew an
12 unexpired registration by paying the required renewal fee to the
13 board [~~commission~~] before the expiration date of the registration.
14 An individual whose registration has expired may not engage in
15 activities that require a registration until the registration has
16 been renewed.

17 (b) An individual whose registration has been expired for 90
18 days or less may renew the registration by paying to the board
19 [~~commission~~] a renewal fee that is equal to 1-1/2 times the normally
20 required renewal fee.

21 (c) An individual whose registration has been expired for
22 more than 90 days but less than one year may renew the registration
23 by paying to the board [~~commission~~] a renewal fee that is equal to
24 two times the normally required renewal fee.

25 (d) An individual whose registration has been expired for
26 one year or more may not renew the registration. The individual may
27 obtain a new registration by complying with the requirements and

1 procedures, including any examination required by the board
2 [~~commission~~], for obtaining an original registration.

3 (e) An individual who was registered in this state, moved to
4 another state, and is currently registered and has been in practice
5 in the other state for the two years preceding the date of
6 application may obtain a new registration without reexamination.
7 The individual must pay to the board [~~commission~~] a fee that is
8 equal to two times the normally required renewal fee for the
9 registration.

10 (f) Not later than the 30th day before the expiration date
11 of an individual's registration, the board [~~commission~~] shall send
12 written notice of the impending expiration to the individual at the
13 individual's last known address according to board [~~commission~~]
14 records.

15 SECTION 4.82. Sections 1702.308(b) and (c), Occupations
16 Code, are amended to read as follows:

17 (b) The board [~~commission~~] shall recognize, prepare, or
18 administer continuing education programs for license holders,
19 commissioned security officers, and endorsement holders
20 [~~registrants~~]. The board [~~commission~~] shall set the minimum number
21 of hours that must be completed and the types of programs that may
22 be offered.

23 (c) A license holder, commissioned security officer, or
24 endorsement holder [~~registrant~~] must participate in the programs to
25 the extent required by the board [~~commission~~] to keep the person's
26 license, commission, or endorsement [~~registration~~]. A license
27 holder, commissioned security officer, or endorsement holder

1 [~~registrant~~] shall submit evidence of compliance with the board's
2 [~~commission's~~] continuing education requirements in a manner
3 prescribed by the board [~~commission~~].

4 SECTION 4.83. Section 1702.309(a), Occupations Code, is
5 amended to read as follows:

6 (a) The board [~~commission~~] by rule shall develop a
7 continuing education course required for renewal of a security
8 officer commission. Only a board-approved [~~commission-approved~~]
9 instructor may administer the continuing education course. The
10 course must include at least six hours of instruction determined by
11 the chief administrator [~~director~~] of the board [~~commission~~].

12 SECTION 4.84. Sections 1702.321(b), (c), and (e),
13 Occupations Code, are amended to read as follows:

14 (b) The provisions of this chapter relating to security
15 officer commissions apply to a person employed by a political
16 subdivision whose duties include serving as a security guard,
17 security watchman, or security patrolman on property owned or
18 operated by the political subdivision if the governing body of the
19 political subdivision files a written request with the board
20 [~~commission~~] for the board [~~commission~~] to issue a commission to
21 the political subdivision's employees with those duties.

22 (c) The board [~~commission~~] may not charge a fee for issuing
23 a commission to an officer under Subsection (b). The board
24 [~~commission~~] shall issue to the officer a pocket card designating
25 the political subdivision that employs the officer.

26 (e) The board [~~commission~~] may approve a security officer
27 training program conducted by the political subdivision in

1 accordance with Sections 1702.1675 and 1702.168.

2 SECTION 4.85. Section 1702.361(b), Occupations Code, is
3 amended to read as follows:

4 (b) The department shall take disciplinary action described
5 by Subsection (a) on proof:

6 (1) that the applicant, license holder, registrant,
7 endorsement holder, or commissioned security officer has:

8 (A) violated this chapter or a rule adopted under
9 this chapter;

10 (B) become ineligible for licensure, ~~[or]~~
11 registration, or endorsement under Section 1702.113, or a
12 commission under Section 1702.163, if applicable, other than an
13 action for which the department has taken summary action under
14 Section 1702.364;

15 (C) engaged in fraud, deceit, or
16 misrepresentation;

17 (D) made a material misstatement in an
18 application for or renewal of a license, registration, endorsement,
19 or commission; ~~[or]~~

20 (E) failed to pay in full an administrative
21 penalty assessed under Subchapter Q, for which the board has issued
22 a final order; or

23 (F) performed any service for which an
24 endorsement is required under this chapter and either:

25 (i) was not employed with a company
26 licensed under this chapter at the time the service was performed;
27 or

1 (ii) performed the service for a company
2 licensed under this chapter that was not listed on the individual's
3 registration without informing the board of the individual's
4 employment with the company within a reasonable period; or

5 (2) that the license holder of a registrant or
6 commissioned security officer has submitted to the department
7 sufficient evidence that the registrant or commissioned security
8 officer:

9 (A) engaged in fraud or deceit while employed by
10 the license holder; or

11 (B) committed theft while performing work as a
12 registrant or commissioned security officer.

13 SECTION 4.86. Section 1702.362, Occupations Code, is
14 amended to read as follows:

15 Sec. 1702.362. FAILURE TO FILE REQUIRED NOTICE. The board
16 [~~commission~~] may suspend or revoke a license if the license holder
17 fails to notify the board [~~commission~~] as required by Section
18 1702.121 that a manager has ceased to be the manager of the license
19 holder.

20 SECTION 4.87. Section 1702.363, Occupations Code, is
21 amended to read as follows:

22 Sec. 1702.363. APPLICATION OF ADMINISTRATIVE PROCEDURE
23 ACT. Except as provided by Sections 1702.3615(b) and 1702.364, a
24 person regulated under this chapter against whom the board
25 [~~commission~~] has taken action is entitled to a hearing before the
26 State Office of Administrative Hearings. A proceeding under this
27 section is a contested case that is governed by Chapter 2001,

1 Government Code.

2 SECTION 4.88. Sections 1702.364(a), (d), (f), and (h),
3 Occupations Code, are amended to read as follows:

4 (a) On receiving written notice from a law enforcement
5 agency that a person has been charged with or convicted of an
6 offense that would make the person ineligible for a license,
7 certificate of registration, endorsement, or security officer
8 commission under Section 1702.113 or 1702.163, the department
9 shall:

10 (1) summarily deny the person's application for a
11 license, registration, endorsement, or security officer
12 commission;

13 (2) in the event of pending charges, summarily suspend
14 the person's license, certificate of registration, endorsement, or
15 security officer commission; or

16 (3) in the event of a conviction, summarily revoke the
17 person's license, certificate of registration, endorsement, or
18 security officer commission.

19 (d) At a preliminary hearing, the person must show cause
20 why:

21 (1) the application should not have been denied;

22 (2) the registration, license, endorsement, or
23 security officer commission should not have been suspended; or

24 (3) the registration, license, endorsement, or
25 commission should not have been revoked.

26 (f) The dismissal of a complaint, information, or
27 indictment or an acquittal releases the person from automatic

1 grounds for a summary denial of an application or summary
2 suspension of a registration, endorsement, or security officer
3 commission under this section. A conviction for the offense giving
4 rise to a summary suspension is automatic grounds for immediate,
5 summary revocation.

6 (h) The administrative law judge shall make findings of fact
7 and conclusions of law regarding the person's eligibility for a
8 license, registration, or endorsement under this section and
9 promptly issue to the board a proposal for a decision.

10 SECTION 4.89. Section 1702.365, Occupations Code, is
11 amended to read as follows:

12 Sec. 1702.365. ABDUCTION OF CHILD. The board [~~commission~~]
13 shall revoke a person's license, registration, endorsement, or
14 security officer commission or deny a person's application for, or
15 renewal of, a license, registration, endorsement, or security
16 officer commission on proof that the person or an agent of the
17 person has, after the date of application for a license,
18 registration, endorsement, or security officer commission,
19 abducted or attempted to abduct by force or the threat of force or
20 by misrepresentation, stealth, or unlawful entry a child who at the
21 time of the abduction or attempt is under the care and control of a
22 person who:

23 (1) has custody or physical possession of the child
24 under a court order; or

25 (2) is exercising the care and control with the
26 consent of a person who has custody or physical possession of the
27 child under a court order.

1 SECTION 4.90. Sections 1702.367(c), (d), and (e),
2 Occupations Code, are amended to read as follows:

3 (c) A person required to testify or to produce a record or
4 document on any matter properly under inquiry by the board
5 [~~commission~~] who refuses to testify or to produce the record or
6 document on the ground that the testimony or the production of the
7 record or document would incriminate or tend to incriminate the
8 person is nonetheless required to testify or to produce the record
9 or document. A person who is required to testify or to produce a
10 record or document under this subsection is not subject to
11 indictment or prosecution for a transaction, matter, or thing
12 concerning which the person truthfully testifies or produces
13 evidence.

14 (d) If a witness refuses to obey a subpoena or to give
15 evidence relevant to proper inquiry by the board [~~commission~~], the
16 board [~~commission~~] may petition a district court of the county in
17 which the hearing is held to compel the witness to obey the subpoena
18 or to give the evidence. The court shall immediately issue process
19 to the witness and shall hold a hearing on the petition as soon as
20 possible.

21 (e) An investigator employed by the board [~~commission~~] may
22 take statements under oath in an investigation of a matter covered
23 by this chapter.

24 SECTION 4.91. Section 1702.368, Occupations Code, is
25 amended to read as follows:

26 Sec. 1702.368. NOTIFICATION OF CONVICTION FOR CERTAIN
27 OFFENSES. The department [~~Texas Department of Public Safety~~] shall

1 notify the board [~~commission~~] and the police department of the
2 municipality and the sheriff's department of the county in which a
3 person licensed, registered, or commissioned under this chapter
4 resides of the conviction of the person for a Class B misdemeanor or
5 equivalent offense or a greater offense.

6 SECTION 4.92. Subchapter O, Chapter 1702, Occupations Code,
7 is amended by adding Section 1702.372 to read as follows:

8 Sec. 1702.372. RECUSAL OF BOARD MEMBER. (a) A board member
9 who participated in the investigation of a complaint or in informal
10 settlement negotiations regarding the complaint:

11 (1) may not vote on the matter at a board meeting
12 related to the complaint; and

13 (2) shall state at the meeting the reason for which the
14 member is prohibited from voting on the matter.

15 (b) A statement under Subsection (a)(2) shall be entered
16 into the minutes of the meeting.

17 SECTION 4.93. Section 1702.381(b), Occupations Code, is
18 amended to read as follows:

19 (b) A person who contracts with or employs a person who is
20 required to hold a license, [~~certificate of~~] registration,
21 endorsement, or security officer commission under this chapter
22 knowing that the person does not hold the required license,
23 registration, endorsement [~~certificate~~], or commission or who
24 otherwise, at the time of contract or employment, is in violation of
25 this chapter may be assessed a civil penalty to be paid to the state
26 in an amount not to exceed \$10,000 for each violation.

27 SECTION 4.94. Section 1702.386(a), Occupations Code, is

1 amended to read as follows:

2 (a) A person commits an offense if the person contracts with
3 or employs a person who is required to hold a license, registration,
4 endorsement [~~certificate~~], or commission under this chapter
5 knowing that the person does not hold the required license,
6 registration, endorsement [~~certificate~~], or commission or who
7 otherwise, at the time of contract or employment, is in violation of
8 this chapter.

9 SECTION 4.95. Section 1702.3863(a), Occupations Code, is
10 amended to read as follows:

11 (a) A person commits an offense if the person contracts with
12 or is employed by a bail bond surety as defined by Chapter 1704 to
13 secure the appearance of a person who has violated Section 38.10,
14 Penal Code, unless the person is:

15 (1) a peace officer;

16 (2) an individual endorsed or licensed as a private
17 investigator or the manager of a licensed investigations company;
18 or

19 (3) a commissioned security officer employed by a
20 licensed guard company.

21 SECTION 4.96. Section 1702.387(a), Occupations Code, is
22 amended to read as follows:

23 (a) A person commits an offense if the person fails to
24 surrender or immediately return to the board [~~commission~~] the
25 person's registration, commission, pocket card, or other
26 identification issued to the person by the board [~~commission~~] on
27 notification of a summary suspension or summary denial under

1 Section 1702.364.

2 SECTION 4.97. Section 1702.388(b), Occupations Code, is
3 amended to read as follows:

4 (b) An offense under this section is a Class A misdemeanor,
5 except that the offense is a felony of the third degree if the
6 person has previously been convicted under this chapter of failing
7 to hold a license, registration, endorsement, certificate, or
8 commission that the person is required to hold under this chapter.

9 SECTION 4.98. Section 1702.402, Occupations Code, is
10 amended by amending Subsection (a) and adding Subsection (c) to
11 read as follows:

12 (a) Each day a violation continues or occurs is a separate
13 violation for purposes of imposing a penalty. The amount of each
14 separate violation may not exceed \$5,000 [~~\$500~~].

15 (c) The board by rule shall develop a standardized penalty
16 schedule based on the criteria listed in Subsection (b).

17 SECTION 4.99. Section 1702.406(b), Occupations Code, is
18 amended to read as follows:

19 (b) The notice of the board's order given to the person must
20 include a statement of the right of the person to judicial review of
21 the order. Judicial review is under the substantial evidence rule
22 as provided by Subchapter G, Chapter 2001, Government Code.

23 SECTION 4.100. The following provisions of the Occupations
24 Code are repealed:

- 25 (1) Section 1702.002(4);
26 (2) Section 1702.003;
27 (3) Section 1702.045;

- 1 (4) Section 1702.046;
- 2 (5) Section 1702.065;
- 3 (6) Section 1702.069;
- 4 (7) Section 1702.113(e);
- 5 (8) Section 1702.364(j); and
- 6 (9) Subchapter K.

7 SECTION 4.101. (a) Not later than January 1, 2010, the
8 Texas Private Security Board and the Department of Public Safety
9 shall adopt the rules required by or under Section 1702.062,
10 Occupations Code, as amended by this article. The fee schedule in
11 effect under Section 1702.062, Occupations Code, before the
12 effective date of this article is continued in effect until new fees
13 are adopted under Section 1702.062, Occupations Code, as amended by
14 this article.

15 (b) The requirement to pass a jurisprudence examination
16 under Section 1702.241, Occupations Code, as added by this article,
17 applies only to an individual who applies for a registration or
18 endorsement under Chapter 1702, Occupations Code, on or after the
19 date specified by the Texas Private Security Board in the event the
20 board begins requiring applicants to pass a jurisprudence
21 examination, but not earlier than September 1, 2010.

22 (c) The changes in law made by this article related to the
23 filing, investigation, or resolution of a complaint under Chapter
24 1702, Occupations Code, as amended by this article, apply only to a
25 complaint filed with the Texas Private Security Board on or after
26 the effective date of this article. A complaint filed before the
27 effective date of this article is governed by the law as it existed

1 immediately before that date, and the former law is continued in
2 effect for that purpose.

3 (d) The changes in law made by this article governing the
4 authority of the Texas Private Security Board and the Department of
5 Public Safety to issue, renew, or revoke a license, registration,
6 endorsement, or commission under Chapter 1702, Occupations Code,
7 apply only to an application for an original or renewal license,
8 registration, endorsement, or commission filed with the Texas
9 Private Security Board under Chapter 1702, Occupations Code, as
10 amended by this article, on or after the effective date of this
11 article. An application filed before the effective date of this
12 article is governed by the law in effect at the time the application
13 was filed, and the former law is continued in effect for that
14 purpose.

15 (e) The change in law made by this article with respect to
16 conduct that is grounds for imposition of a disciplinary sanction
17 applies only to conduct that occurs on or after the effective date
18 of this article. Conduct that occurs before the effective date of
19 this article is governed by the law in effect on the date the
20 conduct occurred, and the former law is continued in effect for that
21 purpose.

22 (f) Section 1702.372, Occupations Code, as added by this
23 article, applies only to a hearing conducted on or after the
24 effective date of this article, regardless of the date on which the
25 complaint was filed. A complaint on which a hearing is conducted
26 before the effective date of this article is governed by the law in
27 effect on the date the hearing was conducted, and the former law is

1 continued in effect for that purpose.

2 (g) The holder of a Class D license under Chapter 1702,
3 Occupations Code, as amended by this article, shall be considered
4 to hold a Class B license on the effective date of this article. On
5 the expiration of the Class D license, the license holder may renew
6 the license as a Class B license.

7 SECTION 4.102. This article takes effect September 1, 2009.

8 ARTICLE 4A [Blank]

9 ARTICLE 4B. REGULATION OF THE BUSINESS OF PRIVATE SECURITY

10 SECTION 4B.01. Section 1702.002, Occupations Code, is
11 amended by amending Subdivision (1-a) and adding Subdivisions
12 (16-a) and (20-a) to read as follows:

13 (1-a) For purposes of Subdivision (1), the term "alarm
14 system" does not include a telephone entry system, an operator for
15 opening or closing a residential or commercial gate or door, or an
16 accessory used only to activate a gate or door, if the system,
17 operator, or accessory is not connected to a computer or data
18 processor that records or archives the voice, visual image, or
19 identifying information of the user [~~an alarm system~~].

20 (16-a) "Personal protection officer" means a person
21 who performs the activities described by Section 1702.202.

22 (20-a) "Security officer" means a person who performs
23 the activities described by Section 1702.222.

24 SECTION 4B.02. Section 1702.047, Occupations Code, is
25 amended to read as follows:

26 Sec. 1702.047. ADMINISTRATIVE STAFF. The department shall
27 designate a department employee who shall report directly to the

1 board. The employee designated under this section shall provide
2 administrative assistance to [~~assist~~] the board in the performance
3 [~~administration~~] of the board's duties. [~~The salary for an~~
4 ~~employee designated under this section may not exceed the salary~~
5 ~~specified in the General Appropriations Act for an employee subject~~
6 ~~to salary group A10.~~]

7 SECTION 4B.03. Subsection (e), Section 1702.082,
8 Occupations Code, is amended to read as follows:

9 (e) On written request, the department [~~The commission, at~~
10 ~~least quarterly until final disposition of the complaint,~~] shall
11 inform [~~notify~~] the person filing the complaint and each person who
12 is a subject of the complaint of the status of the investigation
13 unless the information [~~notice~~] would jeopardize an ongoing
14 [~~undercover~~] investigation.

15 SECTION 4B.04. Subchapter A, Chapter 1702, Occupations
16 Code, is amended by adding Section 1702.006 to read as follows:

17 Sec. 1702.006. FOREIGN ENTITY REGISTRATION. Licensure
18 under this chapter does not exempt a foreign entity from the
19 registration requirements of Chapter 9, Business Organizations
20 Code.

21 SECTION 4B.05. Subsection (a), Section 1702.1056,
22 Occupations Code, is amended to read as follows:

23 (a) A person acts as a locksmith company for the purposes of
24 this chapter if the person:

25 (1) sells, installs, services, or maintains, or offers
26 to sell, install, service, or maintain, mechanical security
27 devices, including deadbolts and locks;

1 (2) advertises services offered by the company using
2 the term "locksmith"; or

3 (3) includes the term "locksmith" in the company's
4 name.

5 SECTION 4B.06. Section 1702.110, Occupations Code, is
6 amended to read as follows:

7 Sec. 1702.110. APPLICATION FOR LICENSE. (a) An
8 application for a license under this chapter must be in the form
9 prescribed by the board [~~commission~~] and include:

10 (1) the full name and business address of the
11 applicant;

12 (2) the name under which the applicant intends to do
13 business;

14 (3) a statement as to the general nature of the
15 business in which the applicant intends to engage;

16 (4) a statement as to the classification for which the
17 applicant requests qualification;

18 (5) if the applicant is an entity other than an
19 individual, the full name and residence address of each partner,
20 officer who oversees the security-related aspects of the business,
21 and director of the applicant, and of the applicant's manager;

22 (6) if the applicant is an individual, two
23 classifiable sets of fingerprints of the applicant or, if the
24 applicant is an entity other than an individual, of each officer who
25 oversees the security-related aspects of the business and of each
26 partner or shareholder who owns at least a 25 percent interest in
27 the applicant;

1 (7) a verified statement of the applicant's experience
2 qualifications in the particular classification in which the
3 applicant is applying;

4 (8) a report from the department [~~Texas Department of~~
5 ~~Public Safety~~] stating the applicant's record of any convictions
6 for a Class B misdemeanor or equivalent offense or a greater
7 offense;

8 (9) the social security number of the individual
9 making the application; and

10 (10) other information, evidence, statements, or
11 documents required by the board [~~commission~~].

12 (b) An applicant for a license as a security services
13 contractor shall maintain a physical address within this state and
14 provide that address to the board. The board shall adopt rules to
15 enable an out-of-state license holder to comply with this
16 subsection.

17 SECTION 4B.07. Section 1702.112, Occupations Code, is
18 amended to read as follows:

19 Sec. 1702.112. FORM OF LICENSE. The board [~~commission~~]
20 shall prescribe the form of a license, including a branch office
21 license. The license must include:

22 (1) the name of the license holder;

23 (2) the name under which the license holder is to
24 operate; [~~and~~]

25 (3) the license number and the date the license was
26 issued; and

27 (4) a photograph of the license holder, affixed to the

1 license at the time the license is issued by the board.

2 SECTION 4B.08. Section 1702.121, Occupations Code, is
3 amended to read as follows:

4 Sec. 1702.121. TERMINATION OF MANAGER. (a) A license
5 holder shall notify the board [~~commission~~] in writing not later
6 than the 14th day after the date a manager ceases to be manager of
7 the license holder's business. The license remains in effect for a
8 reasonable period after notice is given as provided by board
9 [~~commission~~] rule pending the board's [~~commission's~~] determination
10 of the qualification of another manager under this subchapter.

11 (b) A manager shall be immediately terminated on the
12 effective date of any summary action taken against the manager. Any
13 period of temporary operation authorized under this section or
14 Section 1702.122 starts on the date of termination.

15 SECTION 4B.09. Section 1702.127, Occupations Code, is
16 amended by amending Subsections (b) and (c) and adding Subsection
17 (d) to read as follows:

18 (b) A license holder shall maintain a record containing
19 information related to the license holder's employees as required
20 by the board [~~commission~~].

21 (c) A license holder shall maintain for [~~commission~~]
22 inspection by the department at the license holder's principal
23 place of business or branch office two recent color photographs, of
24 a type required by the board [~~commission~~], of each applicant,
25 registrant, commissioned security officer, and employee of the
26 license holder.

27 (d) A license holder shall maintain records required under

1 this chapter at a physical address within this state and provide
2 that address to the board.

3 SECTION 4B.10. Section 1702.163, Occupations Code, is
4 amended by adding Subsection (d-1) to read as follows:

5 (d-1) For the purposes of determining eligibility under
6 Subsection (b)(2), the department may require the applicant to
7 authorize the release to the department of any relevant medical
8 records.

9 SECTION 4B.11. Section 1702.201, Occupations Code, is
10 amended to read as follows:

11 Sec. 1702.201. PERSONAL PROTECTION OFFICER ENDORSEMENT
12 [AUTHORIZATION] REQUIRED. An individual [A commissioned security
13 officer] may not act as a personal protection officer unless the
14 individual [officer] holds a personal protection officer
15 endorsement [authorization].

16 SECTION 4B.12. Section 1702.202, Occupations Code, is
17 amended to read as follows:

18 Sec. 1702.202. PERSONAL PROTECTION OFFICER. An individual
19 acts as a personal protection officer if the individual, while
20 carrying a firearm, [+

21 [+1] has been issued a security officer commission to
22 carry a concealed firearm, and

23 [+2] provides to another [an] individual personal
24 protection from bodily harm.

25 SECTION 4B.13. Section 1702.206, Occupations Code, is
26 amended to read as follows:

27 Sec. 1702.206. LIMITED AUTHORITY TO CARRY [CONCEALED]

1 FIREARMS. (a) An individual acting as a personal protection
2 officer may not carry a ~~concealed~~ firearm unless the officer:

3 (1) is either:

4 (A) engaged in the exclusive performance of the
5 officer's duties as a personal protection officer for the employer
6 under whom the officer's personal protection officer endorsement
7 ~~[authorization]~~ is issued; or

8 (B) traveling to or from the officer's place of
9 assignment; and

10 (2) carries the officer's security officer commission
11 and personal protection officer endorsement ~~[authorization]~~ on the
12 officer's person while performing the officer's duties or traveling
13 as described by Subdivision (1) and presents the commission and
14 endorsement ~~[authorization]~~ on request.

15 (b) An individual who is acting as a personal protection
16 officer and is wearing the uniform of a security officer, including
17 any uniform or apparel described by Section 1702.323(d), may not
18 conceal any firearm the individual is carrying and shall carry the
19 firearm in plain view. An individual who is acting as a personal
20 protection officer and is not wearing the uniform of a security
21 officer shall conceal the firearm.

22 SECTION 4B.14. Section 1702.230, Occupations Code, is
23 amended by amending Subsection (b) and adding Subsection (c) to
24 read as follows:

25 (b) The employer of the applicant shall make a reasonable
26 attempt to verify the information required under Subsection (a)(1)
27 before the earlier of:

- 1 (1) the date the application is submitted; or
2 (2) the date the applicant begins to perform the
3 duties of employment that require registration.

4 (c) An applicant must submit an application that
5 substantially meets the requirements of this section before
6 employment in a capacity for which registration is required.

7 SECTION 4B.15. Subsection (a), Section 1702.282,
8 Occupations Code, is amended to read as follows:

9 (a) The board shall conduct a criminal history check,
10 including a check of any criminal history record information
11 maintained by the Federal Bureau of Investigation, in the manner
12 provided by Subchapter F, Chapter 411, Government Code, on each
13 applicant for a license, registration, security officer
14 commission, letter of approval, permit, endorsement, or
15 certification. As part of its criminal history check, the board may
16 request that the applicant provide certified copies of relevant
17 court documents or other records. The failure to provide the
18 requested records within a reasonable time as determined by the
19 board may result in the application being considered incomplete.
20 An applicant is not eligible for a license, registration,
21 commission, letter of approval, permit, endorsement, or
22 certification if the check reveals that the applicant has committed
23 an act that constitutes grounds for the denial of the license,
24 registration, commission, letter of approval, permit, endorsement,
25 or certification. Except as provided by Subsection (d), each
26 applicant shall include in the application two complete sets of
27 fingerprints on forms prescribed by the board accompanied by the

1 fee set by the board.

2 SECTION 4B.16. Section 1702.286, Occupations Code, as added
3 by Chapter 1102 (H.B. 2243), Acts of the 79th Legislature, Regular
4 Session, 2005, is renumbered as Section 1702.2865, Occupations
5 Code, to read as follows:

6 Sec. 1702.2865 [~~1702.286~~]. CUSTOMER AUTHORIZATION REQUIRED
7 FOR CERTAIN LOCKSMITH SERVICES. (a) A locksmith company or
8 locksmith may not perform services for a customer who seeks entry to
9 a structure, motor vehicle, or other property unless the customer,
10 in the course of the transaction:

11 (1) shows the locksmith company or locksmith a
12 government-issued identification; and

13 (2) provides a signed authorization stating that the
14 customer owns or is otherwise entitled to legal access to the
15 structure, motor vehicle, or other property.

16 (b) A locksmith company or locksmith is exempt from
17 Subsection (a) if the locksmith is requested to perform services in
18 a case of imminent threat to a person or property.

19 SECTION 4B.17. Section 1702.322, Occupations Code, is
20 amended to read as follows:

21 Sec. 1702.322. LAW ENFORCEMENT PERSONNEL. This chapter
22 does not apply to:

23 (1) a person who has full-time employment as a peace
24 officer and who receives compensation for private employment on an
25 individual or an independent contractor basis as a patrolman,
26 guard, extra job coordinator, or watchman if the officer:

27 (A) is employed in an employee-employer

1 relationship or employed on an individual contractual basis
2 directly by the recipient of the services;

3 (B) is not in the employ of another peace
4 officer;

5 (C) is not a reserve peace officer; and

6 (D) works as a peace officer on the average of at
7 least 32 hours a week, is compensated by the state or a political
8 subdivision of the state at least at the minimum wage, and is
9 entitled to all employee benefits offered to a peace officer by the
10 state or political subdivision;

11 (2) a reserve peace officer while the reserve officer
12 is performing guard, patrolman, or watchman duties for a county and
13 is being compensated solely by that county;

14 (3) a peace officer acting in an official capacity in
15 responding to a burglar alarm or detection device; or

16 (4) a person engaged in the business of electronic
17 monitoring of an individual as a condition of that individual's
18 community supervision, parole, mandatory supervision, or release
19 on bail, if the person does not perform any other service that
20 requires a license under this chapter.

21 SECTION 4B.18. Subsection (a), Section 1702.361,
22 Occupations Code, is amended to read as follows:

23 (a) The [~~Subject to the board's final order under the~~
24 ~~hearing provisions of this subchapter, the~~] department, for conduct
25 described by Subsection (b), may:

26 (1) deny an application or revoke, suspend, or refuse
27 to renew a license, registration, endorsement, or security officer

1 commission;

2 (2) reprimand a license holder, registrant, or
3 commissioned security officer; or

4 (3) place on probation a person whose license,
5 registration, endorsement, or security officer commission has been
6 suspended.

7 SECTION 4B.19. Section 1702.367, Occupations Code, is
8 amended by amending Subsection (a) and adding Subsections (f) and
9 (g) to read as follows:

10 (a) For an investigation conducted under this chapter, if
11 necessary to enforce this chapter or the board's rules, the
12 department [commission] may issue an administrative [a] subpoena to
13 any person in this state compelling:

14 (1) the production of information or documents; or

15 (2) the attendance and testimony of a witness [compel
16 ~~the attendance of a witness or the production of a pertinent record~~
17 ~~or document. The hearings officer may administer oaths and require~~
18 ~~testimony or evidence to be given under oath].~~

19 (f) A person licensed or otherwise regulated under this
20 chapter who fails without good cause to comply with a subpoena
21 issued under this section may be subject to suspension of a license
22 under Section 1702.361.

23 (g) If a subpoena issued under this section relates to an
24 ongoing criminal investigation by the department and the department
25 determines that disclosure could significantly impede the
26 investigation, the subpoena may provide that the person to whom the
27 subpoena is directed may not:

- 1 (1) disclose that the subpoena has been issued;
2 (2) identify or describe any records requested by the
3 subpoena; or
4 (3) disclose whether records have been furnished in
5 response to the subpoena.

6 SECTION 4B.20. Subchapter P, Chapter 1702, Occupations
7 Code, is amended by adding Section 1702.3835 to read as follows:

8 Sec. 1702.3835. DECEPTIVE TRADE PRACTICE. (a) A person who
9 performs or offers to perform an activity regulated under this
10 chapter, but who is not licensed or otherwise authorized under this
11 chapter to perform the activity, commits a false, misleading, or
12 deceptive act or practice within the meaning of Section 17.46,
13 Business & Commerce Code.

14 (b) A public or private right or remedy under Chapter 17,
15 Business & Commerce Code, may be used to enforce this chapter.

16 SECTION 4B.21. Subsection (d), Section 46.03, Penal Code,
17 is amended to read as follows:

18 (d) It is a defense to prosecution under Subsection (a)(5)
19 that the actor possessed a firearm or club while traveling to or
20 from the actor's place of assignment or in the actual discharge of
21 duties as:

- 22 (1) a member of the armed forces or national guard;
23 (2) a guard employed by a penal institution; or
24 (3) a security officer commissioned by the Texas
25 [~~Board of Private Investigators and~~] Private Security Board
26 [~~Agencies~~] if:

27 (A) the actor is wearing a distinctive uniform;

1 and

2 (B) the firearm or club is in plain view; or

3 (4) [(5)] a security officer who holds a personal
4 protection authorization under Chapter 1702, Occupations Code,
5 provided that the officer is either:

6 (A) wearing the uniform of a security officer,
7 including any uniform or apparel described by Section 1702.323(d),
8 Occupations Code, and carrying the officer's firearm in plain view;
9 or

10 (B) not wearing the uniform of a security officer
11 and carrying the officer's firearm in a concealed manner [the
12 ~~Private Investigators and Private Security Agencies Act (Article~~
13 ~~4413(29bb), Vernon's Texas Civil Statutes)].~~

14 SECTION 4B.22. Subsection (b), Section 46.15, Penal Code,
15 as amended by Chapters 647 (H.B. 964), 693 (H.B. 1815), and 1048
16 (H.B. 2101), Acts of the 80th Legislature, Regular Session, 2007,
17 is reenacted and amended to read as follows:

18 (b) Section 46.02 does not apply to a person who:

19 (1) is in the actual discharge of official duties as a
20 member of the armed forces or state military forces as defined by
21 Section 431.001, Government Code, or as a guard employed by a penal
22 institution;

23 (2) is traveling;

24 (3) is engaging in lawful hunting, fishing, or other
25 sporting activity on the immediate premises where the activity is
26 conducted, or is en route between the premises and the actor's
27 residence or motor vehicle, if the weapon is a type commonly used in

1 the activity;

2 (4) holds a security officer commission issued by the
3 Texas Private Security Board, if the person[+]

4 [~~(A)~~] is engaged in the performance of the
5 person's duties as an officer commissioned under Chapter 1702,
6 Occupations Code, or is traveling to or from the person's place of
7 assignment[+] and

8 [~~(B)~~] is [~~either~~+

9 [~~(i)~~] wearing the officer's uniform and
10 carrying the officer's weapon in plain view; [~~or~~]

11 (5) acts [~~(ii) acting~~] as a personal protection
12 officer and carries [~~carrying~~] the person's security officer
13 commission and personal protection officer authorization, if the
14 person:

15 (A) is engaged in the performance of the person's
16 duties as a personal protection officer under Chapter 1702,
17 Occupations Code, or is traveling to or from the person's place of
18 assignment; and

19 (B) is either:

20 (i) wearing the uniform of a security
21 officer, including any uniform or apparel described by Section
22 1702.323(d), Occupations Code, and carrying the officer's weapon in
23 plain view; or

24 (ii) not wearing the uniform of a security
25 officer and carrying the officer's weapon in a concealed manner;

26 (6) [~~(5)~~] is carrying a concealed handgun and a valid
27 license issued under Subchapter H, Chapter 411, Government Code, to

1 carry a concealed handgun of the same category as the handgun the
2 person is carrying;

3 (7) [~~46~~] holds an alcoholic beverage permit or
4 license or is an employee of a holder of an alcoholic beverage
5 permit or license if the person is supervising the operation of the
6 permitted or licensed premises; or

7 (8) [~~47~~] is a student in a law enforcement class
8 engaging in an activity required as part of the class, if the weapon
9 is a type commonly used in the activity and the person is:

10 (A) on the immediate premises where the activity
11 is conducted; or

12 (B) en route between those premises and the
13 person's residence and is carrying the weapon unloaded.

14 SECTION 4B.23. The changes in law made by this article to
15 Section 1702.110 and Subsection (a), Section 1702.282, Occupations
16 Code, and the change in law made by Article 4 of this Act to
17 Subsection (a), Section 1702.221, Occupations Code, apply to an
18 application under Chapter 1702, Occupations Code, submitted on or
19 after the effective date of this article. An application submitted
20 before the effective date of this article is governed by the law in
21 effect on the date the application was submitted, and the former law
22 is continued in effect for that purpose.

23 SECTION 4B.24. To the extent of any conflict, this article
24 prevails over another Act of the 81st Legislature, Regular Session,
25 2009, relating to nonsubstantive additions to and corrections in
26 enacted codes.

27 SECTION 4B.25. This article takes effect September 1, 2009.

1 ARTICLE 5. GENERAL PROVISIONS

2 SECTION 5.01. Section 411.002, Government Code, is amended
3 by amending Subsection (c) and adding Subsections (d) and (e) to
4 read as follows:

5 (c) The Department of Public Safety of the State of Texas is
6 subject to Chapter 325 (Texas Sunset Act). Unless continued in
7 existence as provided by that chapter, the department is abolished
8 and Subsections (a) and (b) expire September 1, 2021 [~~2009~~].

9 (d) Not later than December 1, 2010, the Sunset Advisory
10 Commission shall review and prepare a written report for submission
11 to the legislature on the department's implementation of:

12 (1) the recommendations in the 2008 audit of the
13 department's information technology system; and

14 (2) a civilian business model for the operation of the
15 driver's license division that focuses on improving customer
16 service by:

17 (A) using best practices in call center
18 technology and monitoring customer service calls;

19 (B) expanding operating hours at driver's
20 license offices; and

21 (C) decreasing the time the department takes to
22 send a replacement driver's license.

23 (e) The Sunset Advisory Commission shall submit the report
24 required by Subsection (d) not later than February 15, 2011. This
25 subsection and Subsection (d) expire August 31, 2011.

26 SECTION 5.02. Section 411.0035, Government Code, is amended
27 to read as follows:

1 Sec. 411.0035. MEMBER AND GENERAL COUNSEL RESTRICTION. (a)
2 In this section, "Texas trade association" means a cooperative and
3 voluntarily joined statewide association of business or
4 professional competitors in this state designed to assist its
5 members and its industry or profession in dealing with mutual
6 business or professional problems and in promoting their common
7 interest.

8 (b) A person may not be [~~serve as~~] a member of the commission
9 and may not be a department employee employed in a "bona fide
10 executive, administrative, or professional capacity," as that
11 phrase is used for purposes of establishing an exemption to the
12 overtime provisions of the federal Fair Labor Standards Act of 1938
13 (29 U.S.C. Section 201 et seq.), if:

14 (1) the person is an officer, employee, or paid
15 consultant of a Texas trade association in the field of law
16 enforcement or private security; or

17 (2) the person's spouse is an officer, manager, or paid
18 consultant of a Texas trade association in the field of law
19 enforcement or private security.

20 (c) A person may not be a member of the commission or act as
21 the general counsel to the commission if the person is required to
22 register as a lobbyist under Chapter 305 because of the person's
23 activities for compensation on behalf of a profession related to
24 the operation of the commission.

25 SECTION 5.03. Subchapter A, Chapter 411, Government Code,
26 is amended by adding Section 411.0042 to read as follows:

27 Sec. 411.0042. DIVISION OF RESPONSIBILITIES. The

1 commission shall develop and implement policies that clearly
2 separate the policymaking responsibilities of the commission and
3 the management responsibilities of the director and the staff of
4 the department.

5 SECTION 5.04. Subchapter A, Chapter 411, Government Code,
6 is amended by adding Section 411.0043 to read as follows:

7 Sec. 411.0043. TECHNOLOGY POLICY. The commission shall
8 implement a policy requiring the department to use appropriate
9 technological solutions to improve the department's ability to
10 perform its functions. The policy must ensure that the public is
11 able to interact with the department on the Internet.

12 SECTION 5.05. Subchapter A, Chapter 411, Government Code,
13 is amended by adding Section 411.0044 to read as follows:

14 Sec. 411.0044. NEGOTIATED RULEMAKING AND ALTERNATIVE
15 DISPUTE RESOLUTION. (a) The commission shall develop and implement
16 a policy to encourage the use of:

17 (1) negotiated rulemaking procedures under Chapter
18 2008 for the adoption of department rules; and

19 (2) appropriate alternative dispute resolution
20 procedures under Chapter 2009 to assist in the resolution of
21 internal and external disputes under the department's
22 jurisdiction.

23 (b) The department's procedures relating to alternative
24 dispute resolution must conform, to the extent possible, to any
25 model guidelines issued by the State Office of Administrative
26 Hearings for the use of alternative dispute resolution by state
27 agencies.

1 (c) The commission shall designate a trained person to:

2 (1) coordinate the implementation of the policy
3 adopted under Subsection (a);

4 (2) serve as a resource for any training needed to
5 implement the procedures for negotiated rulemaking or alternative
6 dispute resolution; and

7 (3) collect data concerning the effectiveness of those
8 procedures, as implemented by the department.

9 SECTION 5.06. Section 411.015(b), Government Code, is
10 amended to read as follows:

11 (b) ~~[The number of divisions may not exceed the number of~~
12 ~~divisions existing on August 22, 1957.]~~ The division relating to
13 the Texas Rangers may not be abolished.

14 SECTION 5.07. Sections 411.0195(a), (b), and (c),
15 Government Code, are amended to read as follows:

16 (a) The department shall maintain a system to promptly and
17 efficiently act on ~~[prepare information of public interest~~
18 ~~describing the functions of the department and the department's~~
19 ~~procedures by which]~~ complaints ~~[are]~~ filed with ~~[and resolved by]~~
20 the department. The department shall maintain ~~[make the]~~
21 information about parties to the complaint, the subject matter of
22 the complaint, a summary of the results of the review or
23 investigation of the complaint, and its disposition ~~[available to~~
24 ~~the public and appropriate state agencies].~~

25 (b) The department shall make information available
26 describing its procedures for complaint investigation and
27 resolution ~~[director by rule shall establish methods by which~~

1 ~~consumers and service recipients are notified of the name, mailing~~
2 ~~address, and telephone number of the department for the purpose of~~
3 ~~directing complaints to the department].~~

4 (c) The department shall periodically notify the complaint
5 parties of the status of the complaint until final disposition
6 ~~[maintain a file on each written complaint filed with the~~
7 ~~department. The file must include:~~

8 ~~[(1) the name of the person who filed the complaint,~~

9 ~~[(2) the date the complaint is received by the~~
10 ~~department,~~

11 ~~[(3) the subject matter of the complaint,~~

12 ~~[(4) the name of each person contacted in relation to~~
13 ~~the complaint,~~

14 ~~[(5) a summary of the results of the review or~~
15 ~~investigation of the complaint, and~~

16 ~~[(6) an explanation of the reason the file was closed,~~
17 ~~if the agency closed the file without taking action other than to~~
18 ~~investigate the complaint].~~

19 SECTION 5.08. Section 411.188, Government Code, is amended
20 by adding Subsection (j) to read as follows:

21 (j) The department may offer online, or allow a qualified
22 handgun instructor to offer online, the continuing education
23 instruction course and written section of the proficiency
24 examination required to renew a license.

25 SECTION 5.09. The heading to Section 411.244, Government
26 Code, is amended to read as follows:

27 Sec. 411.244. OFFICE OF INSPECTOR GENERAL [INTERNAL

1 ~~AFFAIRS~~].

2 SECTION 5.10. Section 411.244, Government Code, is amended
3 by amending Subsections (a), (b), (d), (e), and (f) and adding
4 Subsection (g) to read as follows:

5 (a) The commission [~~director~~] shall establish the office of
6 inspector general, which is responsible for:

7 (1) acting to prevent and detect criminal conduct
8 within the department; and

9 (2) independently and objectively investigating:

10 (A) criminal activity occurring in all divisions
11 of the department;

12 (B) allegations of wrongdoing by department
13 employees;

14 (C) crimes committed on department property; and

15 (D) serious breaches of department policy
16 [~~internal affairs~~].

17 (b) The office of inspector general [~~internal affairs~~] has
18 original departmental jurisdiction over all investigations
19 occurring on department property or involving department
20 employees. The office shall coordinate, but need not conduct, all
21 investigations under this section.

22 (d) The commission has direct oversight over the office of
23 inspector general, including decisions regarding budget and
24 staffing. The commission [~~director~~] shall appoint the inspector
25 general [~~head of the office of internal affairs~~]. The inspector
26 general [~~head of the office of internal affairs~~] serves until
27 removed by the commission [~~director~~]. The commission shall

1 establish policies to ensure that the commission continues to
2 oversee the office of inspector general as required by this
3 subsection and to ensure that the office of inspector general
4 retains and exercises its original jurisdiction under Subsection
5 (b).

6 (e) The inspector general [~~head of the office of internal~~
7 ~~affaires~~] shall report directly to the commission [~~director~~]
8 regarding performance of and activities related to investigations,
9 report to the director for administrative purposes, and provide the
10 director with information regarding investigations as appropriate.

11 (f) The inspector general [~~head of the office of internal~~
12 ~~affaires~~] shall present at each regularly scheduled commission
13 meeting and at other appropriate times:

14 (1) reports of investigations; and

15 (2) a summary of information relating to
16 investigations conducted under this section that includes analysis
17 of the number, type, and outcome of investigations, trends in the
18 investigations, and recommendations to avoid future complaints.

19 (g) This chapter or other law related to the operation of
20 the department's office of inspector general does not preempt the
21 authority of the state auditor to conduct an audit or investigation
22 under Chapter 321 or other law.

23 SECTION 5.11. Sections 411.0195(d) and (e), Government
24 Code, are repealed.

25 SECTION 5.12. The changes in law made by this article by the
26 amendment of Section 411.0035, Government Code, apply only to a
27 person first appointed to the Public Safety Commission or employed

1 by the Department of Public Safety of the State of Texas on or after
2 the effective date of this Act. A person first appointed or
3 employed before the effective date of this Act is governed by the
4 law in effect immediately before that date, and the former law is
5 continued in effect for that purpose.

6 SECTION 5.13. The changes in law made by this article by the
7 amendment of Section 411.0195, Government Code, apply only to a
8 complaint filed on or after the effective date of this Act. A
9 complaint filed before the effective date of this Act is governed by
10 the law in effect when the complaint was filed, and the former law
11 is continued in effect for that purpose.

12 ARTICLE 6. PERSONNEL RECORDS

13 SECTION 6.01. Section 411.00755(b), Government Code, is
14 amended to read as follows:

15 (b) The [~~Notwithstanding Chapter 552, the~~] personnel
16 records of a commissioned officer of the department may not be
17 disclosed or otherwise made available to the public, except the
18 department shall release in accordance with Chapter 552:

19 (1) any letter, memorandum, or document relating to:

20 (A) a commendation, congratulation, or honor
21 bestowed on the officer for an action, duty, or activity that
22 relates to the officer's official duties; and

23 (B) misconduct by the officer, if the letter,
24 memorandum, or document resulted in disciplinary action;

25 (2) the state application for employment submitted by
26 the officer, but not including any attachments to the application;

27 (3) any reference letter submitted by the officer;

- 1 (4) any letter of recommendation for the officer;
2 (5) any employment contract with the officer;
3 (6) any periodic evaluation of the officer by a
4 supervisor;
5 (7) any document recording a promotion or demotion of
6 the officer;
7 (8) any request for leave by the officer;
8 (9) any request by the officer for transfers of shift
9 or duty assignments;
10 (10) any documents presented to the commission in
11 connection with a public hearing under Section 411.007(f);
12 (11) the officer's:
13 (A) name;
14 (B) age;
15 (C) dates of employment;
16 (D) positions held; and
17 (E) gross salary; and
18 (12) information about the location of the officer's
19 department duty assignments.

20 ARTICLE 7. TEXAS RANGERS' UNSOLVED CRIMES INVESTIGATION TEAM

21 SECTION 7.01. The heading to Subchapter J, Chapter 411,
22 Government Code, is amended to read as follows:

23 SUBCHAPTER J. UNSOLVED CRIMES INVESTIGATION PROGRAM [~~TEAM~~]

24 SECTION 7.02. Section 411.262, Government Code, is amended
25 to read as follows:

26 Sec. 411.262. UNSOLVED CRIMES INVESTIGATION PROGRAM
27 [~~TEAM~~]. (a) The unsolved crimes investigation program [~~team~~] is

1 an investigative program [~~investigatory unit~~] within the
2 department.

3 (b) The program is a function [~~team will be located at the~~
4 ~~headquarters~~] of the Texas Rangers [~~in Austin, Texas,~~] and will be
5 commanded by the chief of the Texas Rangers.

6 (c) The director may employ commissioned peace officers and
7 noncommissioned employees to perform duties required of the program
8 [~~team~~].

9 (d) To be eligible for employment under this section, a
10 peace officer must be a sergeant or higher-ranked officer of the
11 Texas Rangers and must have [~~not less than four years of experience~~
12 ~~as a peace officer and~~

13 [~~(1) a degree from an accredited institution of higher~~
14 ~~education in law, accounting, or computer science, or~~

15 [~~(2)~~] two or more years of experience in the
16 investigation of homicides or other major felonies.

17 (e) To be eligible for employment under this section, a
18 noncommissioned employee must meet the experience, training, and
19 educational qualifications set by the director as requirements for
20 investigating or assisting in the investigation of an unsolved
21 crime.

22 SECTION 7.03. Section 411.263, Government Code, is amended
23 to read as follows:

24 Sec. 411.263. ASSISTANCE ON REQUEST. On the request of an
25 attorney representing the state and with the approval of the
26 director, employees of the unsolved crimes investigation program
27 [~~team~~] of the department may assist local law enforcement in the

1 investigation of crime.

2 SECTION 7.04. This article takes effect immediately if this
3 Act receives a vote of two-thirds of all the members elected to each
4 house, as provided by Section 39, Article III, Texas Constitution.
5 If this Act does not receive the vote necessary for immediate
6 effect, this article takes effect September 1, 2009.

7 ARTICLE 8. DISSEMINATION OF EMERGENCY PUBLIC SERVICE MESSAGES

8 SECTION 8.01. Section 418.047, Government Code, is amended
9 by adding Subsection (a-1) to read as follows:

10 (a-1) The division shall coordinate with the Texas
11 Department of Transportation to establish additional methods for
12 disseminating emergency public service messages to motorists,
13 including:

- 14 (1) severe weather advisories;
15 (2) AMBER alerts under Subchapter L, Chapter 411;
16 (3) silver alerts under Subchapter M, Chapter 411; and
17 (4) information regarding the availability of fuel,
18 food, lodging, and pharmacy services during an evacuation order
19 under this chapter or a disaster declared under this chapter.

20 ARTICLE 9. AUTHORITY OF DEPARTMENT TO OBTAIN AND USE CRIMINAL
21 HISTORY RECORD INFORMATION FOR CERTAIN DEPARTMENTAL AUTHORIZATIONS

22 SECTION 9.01. Subchapter F, Chapter 411, Government Code,
23 is amended by adding Section 411.0891 to read as follows:

24 Sec. 411.0891. DEPARTMENT ACCESS TO CRIMINAL HISTORY RECORD
25 INFORMATION: CERTAIN DEPARTMENTAL AUTHORIZATIONS. (a) Subject to
26 Section 411.087, the department is authorized to obtain and use
27 criminal history record information maintained by the Federal

1 Bureau of Investigation or the department that relates to a person
2 who:

3 (1) is an applicant for or holds a registration issued
4 by the director under Subchapter C, Chapter 481, Health and Safety
5 Code, that authorizes the person to manufacture, distribute,
6 analyze, or conduct research with a controlled substance;

7 (2) is an applicant for or holds a chemical precursor
8 transfer permit issued by the director under Section 481.078,
9 Health and Safety Code;

10 (3) is an applicant for or holds a chemical laboratory
11 apparatus transfer permit issued by the director under Section
12 481.081, Health and Safety Code;

13 (4) is an applicant for certification by the
14 department as an inspection station or an inspector under
15 Subchapter G, Chapter 548, Transportation Code, holds an inspection
16 station or inspector certificate issued under that subchapter, or
17 is the owner of an inspection station operating under that chapter;
18 or

19 (5) is an applicant for approval or has been approved
20 as a program sponsor by the department under Chapter 662,
21 Transportation Code, is an applicant for certification by the
22 department as an instructor under that chapter, or holds an
23 instructor certificate issued under that chapter.

24 (b) The department may release or disclose criminal history
25 record information obtained or used by the department for a purpose
26 described by Subsection (a) to another person or agency only:

27 (1) in a criminal proceeding;

1 (2) in a hearing conducted by the department;
2 (3) under an order from a court; or
3 (4) with the consent of the person who is the subject
4 of the criminal history record information.

5 (c) This section may not be construed to limit the authority
6 of the department to disseminate criminal history record
7 information as provided by Section 411.083.

8 SECTION 9.02. This article takes effect immediately if this
9 Act receives a vote of two-thirds of all the members elected to each
10 house, as provided by Section 39, Article III, Texas Constitution.
11 If this Act does not receive the vote necessary for immediate
12 effect, this article takes effect September 1, 2009.

13 ARTICLE 10. COLLECTION, MAINTENANCE, AND TRANSFER AND OTHER
14 DISSEMINATION OF CRIMINAL HISTORY RECORD INFORMATION AND JUVENILE
15 JUSTICE INFORMATION

16 SECTION 10.01. Section 411.042(b), Government Code, as
17 amended by Chapters 70 (H.B. 76), 1306 (S.B. 839), and 1372 (S.B.
18 9), Acts of the 80th Legislature, Regular Session, 2007, is
19 reenacted and amended to read as follows:

20 (b) The bureau of identification and records shall:

21 (1) procure and file for record photographs, pictures,
22 descriptions, fingerprints, measurements, and other pertinent
23 information of all persons arrested for or charged with a criminal
24 offense or convicted of a criminal offense, regardless of whether
25 the conviction is probated;

26 (2) collect information concerning the number and
27 nature of offenses reported or known to have been committed in the

1 state and the legal steps taken in connection with the offenses, and
2 other information useful in the study of crime and the
3 administration of justice, including information that enables the
4 bureau to create a statistical breakdown of offenses in which
5 family violence was involved and a statistical breakdown of
6 offenses under Sections 22.011 and 22.021, Penal Code;

7 (3) make ballistic tests of bullets and firearms and
8 chemical analyses of bloodstains, cloth, materials, and other
9 substances for law enforcement officers of the state;

10 (4) cooperate with identification and crime records
11 bureaus in other states and the United States Department of
12 Justice;

13 (5) maintain a list of all previous background checks
14 for applicants for any position regulated under Chapter 1702,
15 Occupations Code, who have undergone a criminal history background
16 check under Section 411.119, if the check indicates a Class B
17 misdemeanor or equivalent offense or a greater offense;

18 (6) collect information concerning the number and
19 nature of protective orders and all other pertinent information
20 about all persons on active protective orders. Information in the
21 law enforcement information system relating to an active protective
22 order shall include:

23 (A) the name, sex, race, date of birth, personal
24 descriptors, address, and county of residence of the person to whom
25 the order is directed;

26 (B) any known identifying number of the person to
27 whom the order is directed, including the person's social security

1 number or driver's license number;

2 (C) the name and county of residence of the
3 person protected by the order;

4 (D) the residence address and place of employment
5 or business of the person protected by the order, unless that
6 information is excluded from the order under Section 85.007, Family
7 Code;

8 (E) the child-care facility or school where a
9 child protected by the order normally resides or which the child
10 normally attends, unless that information is excluded from the
11 order under Section 85.007, Family Code;

12 (F) the relationship or former relationship
13 between the person who is protected by the order and the person to
14 whom the order is directed; and

15 (G) the date the order expires; ~~and~~

16 (7) grant access to criminal history record
17 information in the manner authorized under Subchapter F;

18 (8) [~~7~~] collect and disseminate information
19 regarding offenders with mental impairments in compliance with
20 Chapter 614, Health and Safety Code; and

21 (9) record data and maintain a state database for a
22 computerized criminal history record system and computerized
23 juvenile justice information system that serves:

24 (A) as the record creation point for criminal
25 history record information and juvenile justice information
26 maintained by the state; and

27 (B) as the control terminal for the entry of

1 records, in accordance with federal law and regulations, federal
2 executive orders, and federal policy, into the federal database
3 maintained by the Federal Bureau of Investigation.

4 SECTION 10.02. Section 411.083(b), Government Code, is
5 amended to read as follows:

6 (b) The department shall grant access to criminal history
7 record information to:

8 (1) criminal justice agencies;

9 (2) noncriminal justice agencies authorized by
10 federal statute or executive order or by state statute to receive
11 criminal history record information;

12 (3) the person who is the subject of the criminal
13 history record information;

14 (4) a person working on a research or statistical
15 project that:

16 (A) is funded in whole or in part by state funds;

17 or

18 (B) meets the requirements of Part 22, Title 28,
19 Code of Federal Regulations, and is approved by the department;

20 (5) an individual or an agency that has a specific
21 agreement with a criminal justice agency to provide services
22 required for the administration of criminal justice under that
23 agreement, if the agreement:

24 (A) specifically authorizes access to
25 information;

26 (B) limits the use of information to the purposes
27 for which it is given;

1 (C) ensures the security and confidentiality of
2 the information; ~~and~~

3 (D) provides for sanctions if a requirement
4 imposed under Paragraph (A), (B), or (C) is violated; and

5 (E) requires the individual or agency to perform
6 the applicable services in a manner prescribed by the department;

7 (6) an individual or an agency that has a specific
8 agreement with a noncriminal justice agency to provide services
9 related to the use of criminal history record information
10 disseminated under this subchapter, if the agreement:

11 (A) specifically authorizes access to
12 information;

13 (B) limits the use of information to the purposes
14 for which it is given;

15 (C) ensures the security and confidentiality of
16 the information; ~~and~~

17 (D) provides for sanctions if a requirement
18 imposed under Paragraph (A), (B), or (C) is violated; and

19 (E) requires the individual or agency to perform
20 the applicable services in a manner prescribed by the department;

21 (7) a county or district clerk's office; and

22 (8) the Office of Court Administration of the Texas
23 Judicial System.

24 SECTION 10.03. Section 411.084(b), Government Code, is
25 amended to read as follows:

26 (b) Notwithstanding Subsection (a) or any other provision
27 in this subchapter, criminal history record information obtained

1 from the Federal Bureau of Investigation may be released or
2 disclosed only to a governmental entity or as authorized by federal
3 law and regulations [~~statute, federal rule~~], [~~or~~] federal executive
4 orders, and federal policy [~~order~~].

5 SECTION 10.04. Sections 411.0845(e), (i), and (k),
6 Government Code, are amended to read as follows:

7 (e) A person entitled to receive criminal history record
8 information under this section must provide the department with the
9 following information regarding the person who is the subject of
10 the criminal history record information requested:

11 (1) the person's full name, date of birth, sex, [~~Texas~~
12 ~~driver's license number or personal identification certificate~~
13 ~~number,~~] and social security number, and the number assigned to any
14 form of unexpired identification card issued by this state or
15 another state, the District of Columbia, or a territory of the
16 United States that includes the person's photograph;

17 (2) a recent electronic digital image photograph of
18 the person and a complete set of the person's fingerprints as
19 required by the department; and

20 (3) any other information required by the department.

21 (i) The release under this section of any criminal history
22 record information maintained by the Federal Bureau of
23 Investigation, including the computerized information submitted to
24 the federal database maintained by the Federal Bureau of
25 Investigation as described by Section 411.042(b)(9)(B), is subject
26 to federal law and regulations, federal executive orders, and
27 federal policy.

1 (k) A governmental agency may coordinate with the
2 department regarding the use of the fingerprinting fee collection
3 process to collect [~~collection of~~] a fee for the criminal history
4 record information and any other fees associated with obtaining a
5 person's fingerprints as required by the department [~~through the~~
6 ~~fingerprinting fee collection process~~].

7 SECTION 10.05. Section 411.085(a), Government Code, is
8 amended to read as follows:

9 (a) A person commits an offense if the person knowingly or
10 intentionally:

11 (1) obtains criminal history record information in an
12 unauthorized manner, uses the information for an unauthorized
13 purpose, or discloses the information to a person who is not
14 entitled to the information;

15 [~~(2) provides a person with a copy of the person's~~
16 ~~criminal history record information obtained from the department,~~]
17 or

18 (2) [~~(3)~~] violates a rule of the department adopted
19 under this subchapter.

20 SECTION 10.06. Section 411.094(d), Government Code, is
21 amended to read as follows:

22 (d) Criminal history record information received by an
23 institution of higher education under Subsection (b) may not be
24 released or disclosed to any person except on court order or with
25 the consent of the person who is the subject of the criminal history
26 record information.

27 SECTION 10.07. Section 411.0985(c), Government Code, is

1 amended to read as follows:

2 (c) The Texas Commission for the Blind may not release or
3 disclose information obtained under Subsection (a) except on court
4 order or with the consent of the person who is the subject of the
5 criminal history record information.

6 SECTION 10.08. Section 411.1005(b), Government Code, is
7 amended to read as follows:

8 (b) Information received by the state bar is confidential
9 and may be disseminated only:

10 (1) in a disciplinary action or proceeding conducted
11 by the state bar, the Board of Disciplinary Appeals, or any court;
12 or

13 (2) with the consent of the person who is the subject
14 of the criminal history record information.

15 SECTION 10.09. Section 411.1131(c), Government Code, is
16 amended to read as follows:

17 (c) The Texas Commission for the Deaf and Hard of Hearing
18 may not release or disclose information obtained under Subsection
19 (a), except on court order or with the consent of the person who is
20 the subject of the criminal history record information, and shall
21 destroy all criminal history record information obtained under
22 Subsection (a) after the information is used for its authorized
23 purpose.

24 SECTION 10.10. Section 411.1182(c), Government Code, is
25 amended to read as follows:

26 (c) Criminal history information obtained from the
27 department may not be released or disclosed except:

1 (1) as needed in protecting the security of a
2 commercial nuclear power plant;

3 (2) [~~or~~] as authorized by the United States Nuclear
4 Regulatory Commission, a court order, or a federal or state law or
5 order; or

6 (3) with the consent of the person who is the subject
7 of the criminal history record information.

8 SECTION 10.11. Section 411.120(b), Government Code, is
9 amended to read as follows:

10 (b) Criminal history record information obtained by a
11 county judge under Subsection (a) may not be released or disclosed
12 to any person except in a hearing held under Chapter 25 or 69,
13 Alcoholic Beverage Code, or with the consent of the person who is
14 the subject of the criminal history record information.

15 SECTION 10.12. Section 411.1236(b), Government Code, is
16 amended to read as follows:

17 (b) Criminal history record information obtained by the
18 Texas Commission on Fire Protection under Subsection (a) may not be
19 released to any person or agency except on court order or with the
20 consent of the person who is the subject of the criminal history
21 record information, or if [~~unless~~] the information is entered into
22 evidence by the board in an administrative, civil, or criminal
23 hearing under Chapter 419.

24 SECTION 10.13. Section 411.136(e), Government Code, is
25 amended to read as follows:

26 (e) All criminal history record information received by a
27 public or nonprofit hospital or hospital district under this

1 section is privileged, confidential, and intended for the exclusive
2 use of the entity that obtained the information. The hospital or
3 district may not release or disclose criminal history record
4 information to any person or agency except in a criminal
5 proceeding, in a hearing conducted by the hospital or district, to
6 another governmental entity as required by law, ~~[or]~~ as required by
7 court order, or with the consent of the person who is the subject of
8 the criminal history record information.

9 SECTION 10.14. Section 411.139(b), Government Code, is
10 amended to read as follows:

11 (b) Criminal history record information obtained by the
12 securities commissioner under this section may not be released by
13 any person or agency except on court order or with the consent of
14 the person who is the subject of the criminal history record
15 information, unless the information is entered into evidence by the
16 State Securities Board or a court at an administrative proceeding
17 or a civil or criminal action under The Securities Act (Article
18 581-1 et seq., Vernon's Texas Civil Statutes).

19 SECTION 10.15. Section 411.140(b), Government Code, is
20 amended to read as follows:

21 (b) Information received by the State Commission on
22 Judicial Conduct is confidential and may be disseminated only in an
23 investigation or proceeding conducted by the commission or with the
24 consent of the person who is the subject of the criminal history
25 record information.

26 SECTION 10.16. Section 411.1402(c), Government Code, is
27 amended to read as follows:

1 (c) The Employees Retirement System of Texas may not release
2 or disclose information obtained under Subsection (a) except on
3 court order or with the consent of the person who is the subject of
4 the criminal history record information.

5 SECTION 10.17. Section 411.1406(d), Government Code, as
6 added by Chapter 406 (S.B. 885), Acts of the 80th Legislature,
7 Regular Session, 2007, is amended to read as follows:

8 (d) The court may not release or disclose information
9 obtained under Subsection (b) except on order of a district court or
10 with the consent of the person who is the subject of the criminal
11 history record information.

12 SECTION 10.18. To the extent of any conflict, this article
13 prevails over another Act of the 81st Legislature, Regular Session,
14 2009, relating to nonsubstantive additions to and corrections in
15 enacted codes.

16 SECTION 10.19. This article takes effect immediately if
17 this Act receives a vote of two-thirds of all the members elected to
18 each house, as provided by Section 39, Article III, Texas
19 Constitution. If this Act does not receive the vote necessary for
20 immediate effect, this article takes effect September 1, 2009.

21 ARTICLE 11. ADMINISTRATION OF CERTAIN PROVISIONS AFFECTING THE
22 LICENSING OF PERSONS TO CARRY A CONCEALED HANDGUN

23 SECTION 11.01. Section 411.1711, Government Code, is
24 amended to read as follows:

25 Sec. 411.1711. CERTAIN EXEMPTIONS FROM CONVICTIONS. A
26 person is not convicted, as that term is defined by Section 411.171,
27 if an order of deferred adjudication was entered against the person

1 on a date not less than 10 years preceding the date of the person's
2 application for a license under this subchapter unless the order of
3 deferred adjudication was entered against the person for:

4 (1) an offense under:

5 (A) Title 5, Penal Code;

6 (B) [~~7-01~~] Chapter 25 or 29, Penal Code; or

7 (C) Section 30.02, 38.112, 38.17, 42.072,
8 42.091, 42.10, 43.04, 43.05, 43.24(b)(3), 43.25, 43.26, 49.07, or
9 49.08, Penal Code; or

10 (2) an offense under the laws of another state if the
11 offense contains elements that are substantially similar to the
12 elements of an offense listed in Subdivision (1).

13 SECTION 11.02. Sections 411.172(a), (d), and (e),
14 Government Code, are amended to read as follows:

15 (a) A person is eligible for a license to carry a concealed
16 handgun if the person:

17 (1) is a legal resident of this state for the six-month
18 period preceding the date of application under this subchapter or
19 is otherwise eligible for a license under Section 411.173(a);

20 (2) is at least 21 years of age;

21 (3) has not been convicted of a felony;

22 (4) is not charged with the commission of a Class A or
23 Class B misdemeanor or equivalent offense, or of an offense under
24 Section 42.01, Penal Code, or equivalent offense, or of a felony
25 under an information or indictment;

26 (5) is not a fugitive from justice for a felony or a
27 Class A or Class B misdemeanor or equivalent offense;

- 1 (6) is not a chemically dependent person;
- 2 (7) is not incapable of exercising sound judgment with
3 respect to the proper use and storage of a handgun;
- 4 (8) has not, in the five years preceding the date of
5 application, been convicted of a Class A or Class B misdemeanor or
6 equivalent offense or of an offense under Section 42.01, Penal
7 Code, or equivalent offense;
- 8 (9) is fully qualified under applicable federal and
9 state law to purchase a handgun;
- 10 (10) has not been finally determined to be delinquent
11 in making a child support payment administered or collected by the
12 attorney general;
- 13 (11) has not been finally determined to be delinquent
14 in the payment of a tax or other money collected by the comptroller,
15 the tax collector of a political subdivision of the state, or any
16 agency or subdivision of the state;
- 17 (12) has not been finally determined to be in default
18 on a loan made under Chapter 57, Education Code;
- 19 (13) is not currently restricted under a court
20 protective order or subject to a restraining order affecting the
21 spousal relationship, other than a restraining order solely
22 affecting property interests;
- 23 (14) has not, in the 10 years preceding the date of
24 application, been adjudicated as having engaged in delinquent
25 conduct violating a penal law of the grade of felony; and
- 26 (15) has not made any material misrepresentation, or
27 failed to disclose any material fact, in an application submitted

1 pursuant to Section 411.174 [~~or in a request for application~~
2 ~~submitted pursuant to Section 411.175~~].

3 (d) For purposes of Subsection (a)(7), a person is incapable
4 of exercising sound judgment with respect to the proper use and
5 storage of a handgun if the person:

6 (1) has been diagnosed by a licensed physician as
7 suffering from a psychiatric disorder or condition that causes or
8 is likely to cause substantial impairment in judgment, mood,
9 perception, impulse control, or intellectual ability;

10 (2) suffers from a psychiatric disorder or condition
11 described by Subdivision (1) that:

12 (A) is in remission but is reasonably likely to
13 redevelop at a future time; or

14 (B) requires continuous medical treatment to
15 avoid redevelopment;

16 (3) has been diagnosed by a licensed physician,
17 determined by a review board or similar authority, or declared by a
18 court to be incompetent to manage the person's own affairs; or

19 (4) has entered in a criminal proceeding a plea of not
20 guilty by reason of insanity.

21 (e) The following constitutes evidence that a person has a
22 psychiatric disorder or condition described by Subsection (d)(1):

23 (1) involuntary psychiatric hospitalization [~~in the~~
24 ~~preceding five-year period~~];

25 (2) psychiatric hospitalization [~~in the preceding~~
26 ~~two-year period~~];

27 (3) inpatient or residential substance abuse

1 treatment in the preceding five-year period;

2 (4) diagnosis in the preceding five-year period by a
3 licensed physician that the person is dependent on alcohol, a
4 controlled substance, or a similar substance; or

5 (5) diagnosis at any time by a licensed physician that
6 the person suffers or has suffered from a psychiatric disorder or
7 condition consisting of or relating to:

8 (A) schizophrenia or delusional disorder;

9 (B) bipolar disorder;

10 (C) chronic dementia, whether caused by illness,
11 brain defect, or brain injury;

12 (D) dissociative identity disorder;

13 (E) intermittent explosive disorder; or

14 (F) antisocial personality disorder.

15 SECTION 11.03. Sections 411.174(a) and (b), Government
16 Code, are amended to read as follows:

17 (a) An applicant for a license to carry a concealed handgun
18 must submit to the director's designee described by Section
19 411.176:

20 (1) a completed application on a form provided by the
21 department that requires only the information listed in Subsection
22 (b);

23 (2) one or more [~~two recent color passport~~]
24 photographs of the applicant that meet the requirements of the
25 department [~~, except that an applicant who is younger than 21 years~~
26 ~~of age must submit two recent color passport photographs in profile~~
27 ~~of the applicant]~~;

1 (3) a certified copy of the applicant's birth
2 certificate or certified proof of age;
3 (4) proof of residency in this state;
4 (5) two complete sets of legible and classifiable
5 fingerprints of the applicant taken by a person appropriately
6 trained in recording fingerprints who is employed by a law
7 enforcement agency or by a private entity designated by a law
8 enforcement agency as an entity qualified to take fingerprints of
9 an applicant for a license under this subchapter;
10 (6) a nonrefundable application and license fee of
11 \$140 paid to the department;
12 (7) evidence of [a] handgun proficiency, in the form
13 and manner required by the department [~~certificate described by~~
14 ~~Section 411.189~~];
15 (8) an affidavit signed by the applicant stating that
16 the applicant:
17 (A) has read and understands each provision of
18 this subchapter that creates an offense under the laws of this state
19 and each provision of the laws of this state related to use of
20 deadly force; and
21 (B) fulfills all the eligibility requirements
22 listed under Section 411.172; and
23 (9) a form executed by the applicant that authorizes
24 the director to make an inquiry into any noncriminal history
25 records that are necessary to determine the applicant's eligibility
26 for a license under Section 411.172(a).
27 (b) An applicant must provide on the application a statement

1 of the applicant's:

2 (1) full name and place and date of birth;

3 (2) race and sex;

4 (3) residence and business addresses for the preceding
5 five years;

6 (4) hair and eye color;

7 (5) height and weight;

8 (6) driver's license number or identification
9 certificate number issued by the department;

10 (7) criminal history record information of the type
11 maintained by the department under this chapter, including a list
12 of offenses for which the applicant was arrested, charged, or under
13 an information or indictment and the disposition of the offenses;
14 and

15 (8) history [~~during the preceding five years~~], if any,
16 of treatment received by, commitment to, or residence in:

17 (A) a drug or alcohol treatment center licensed
18 to provide drug or alcohol treatment under the laws of this state or
19 another state, but only if the treatment, commitment, or residence
20 occurred during the preceding five years; or

21 (B) a psychiatric hospital.

22 SECTION 11.04. Section 411.176, Government Code, is amended
23 to read as follows:

24 Sec. 411.176. REVIEW OF APPLICATION MATERIALS. (a) On
25 receipt of [~~the~~] application materials by the department at its
26 Austin headquarters, the department shall conduct the appropriate
27 criminal history record check of the applicant through its

1 computerized criminal history system. Not later than the 30th day
2 after the date the department receives the application materials,
3 the department shall forward the materials to the director's
4 designee in the geographical area of the applicant's residence so
5 that the designee may conduct the investigation described by
6 Subsection (b). For purposes of this section, the director's
7 designee may be a noncommissioned employee of the department.

8 (b) The director's designee as needed shall conduct an
9 additional criminal history record check of the applicant and an
10 investigation of the applicant's local official records to verify
11 the accuracy of the application materials. The director's designee
12 may access any records necessary for purposes of this subsection.
13 The scope of the record check and the investigation are at the sole
14 discretion of the department, except that the director's designee
15 shall complete the record check and investigation not later than
16 the 60th day after the date the department receives the application
17 materials. The department shall send a fingerprint card to the
18 Federal Bureau of Investigation for a national criminal history
19 check of the applicant. On completion of the investigation, the
20 director's designee shall return all materials and the result of
21 the investigation to the appropriate division of the department at
22 its Austin headquarters.

23 (c) The director's designee may submit to the appropriate
24 division of the department, at the department's Austin
25 headquarters, along with the application materials a written
26 recommendation for disapproval of the application, accompanied by
27 an affidavit stating personal knowledge or naming persons with

1 personal knowledge of a ground for denial under Section 411.172.
2 The director's designee [~~in the appropriate geographical area~~] may
3 also submit the application and the recommendation that the license
4 be issued.

5 (d) On receipt at the department's Austin headquarters of
6 the application materials and the result of the investigation by
7 the director's designee, the department shall conduct any further
8 record check or investigation the department determines is
9 necessary if a question exists with respect to the accuracy of the
10 application materials or the eligibility of the applicant, except
11 that the department shall complete the record check and
12 investigation not later than the 180th day after the date the
13 department receives the application materials from the applicant.

14 SECTION 11.05. Sections 411.177(a) and (b), Government
15 Code, are amended to read as follows:

16 (a) The department shall issue a license to carry a
17 concealed handgun to an applicant if the applicant meets all the
18 eligibility requirements and submits all the application
19 materials. The department may issue a license to carry handguns
20 only of the categories for which the applicant has demonstrated
21 proficiency in the form and manner required by the department
22 [~~indicated on the applicant's certificate of proficiency issued~~
23 ~~under Section 411.189~~]. The department shall administer the
24 licensing procedures in good faith so that any applicant who meets
25 all the eligibility requirements and submits all the application
26 materials shall receive a license. The department may not deny an
27 application on the basis of a capricious or arbitrary decision by

1 the department.

2 (b) The department shall, not later than the 60th day after
3 the date of the receipt by the director's designee of the completed
4 application materials:

5 (1) issue the license;

6 (2) notify the applicant in writing that the
7 application was denied:

8 (A) on the grounds that the applicant failed to
9 qualify under the criteria listed in Section 411.172;

10 (B) based on the affidavit of the director's
11 designee submitted to the department under Section 411.176(c)
12 [~~411.176(b)~~]; or

13 (C) based on the affidavit of the qualified
14 handgun instructor submitted to the department under Section
15 411.188(j) [~~411.189(e)~~]; or

16 (3) notify the applicant in writing that the
17 department is unable to make a determination regarding the issuance
18 or denial of a license to the applicant within the 60-day period
19 prescribed by this subsection and include in that notification an
20 explanation of the reason for the inability and an estimation of the
21 amount of time the department will need to make the determination.

22 SECTION 11.06. Section 411.184(a), Government Code, is
23 amended to read as follows:

24 (a) To modify a license to allow a license holder to carry a
25 handgun of a different category than the license indicates, the
26 license holder must:

27 (1) complete a proficiency examination as provided by

1 Section 411.188(e);

2 ~~[(2) obtain a handgun proficiency certificate under~~
3 ~~Section 411.189 not more than six months before the date of~~
4 ~~application for a modified license,] and~~

5 (2) ~~[(3)]~~ submit to the department:

6 (A) an application for a modified license on a
7 form provided by the department;

8 (B) evidence of ~~[a copy of the]~~ handgun
9 proficiency, in the form and manner required by the department
10 ~~[certificate];~~

11 (C) payment of a modified license fee of \$25; and

12 (D) one or more ~~[two recent color passport]~~
13 photographs of the license holder that meet the requirements of the
14 department ~~[, except that an applicant who is younger than 21 years~~
15 ~~of age must submit two recent color passport photographs in profile~~
16 ~~of the applicant].~~

17 SECTION 11.07. Section 411.185(a), Government Code, is
18 amended to read as follows:

19 (a) To renew a license, a license holder must:

20 (1) complete a continuing education course in handgun
21 proficiency under Section 411.188(c) within the six-month period
22 preceding:

23 (A) the date of application for renewal, for a
24 first or second renewal; and

25 (B) the date of application for renewal or the
26 date of application for the preceding renewal, for a third or
27 subsequent renewal, to ensure that the license holder is not

1 required to complete the course more than once in any 10-year
2 period;

3 ~~[(2) obtain a handgun proficiency certificate under~~
4 ~~Section 411.189 within the six-month period preceding;~~

5 ~~[(A) the date of application for renewal, for a~~
6 ~~first or second renewal, and~~

7 ~~[(B) the date of application for renewal or the~~
8 ~~date of application for the preceding renewal, for a third or~~
9 ~~subsequent renewal, to ensure that the license holder is not~~
10 ~~required to obtain the certificate more than once in any 10-year~~
11 ~~period,] and~~

12 (2) ~~[(3)]~~ submit to the department:

13 (A) an application for renewal on a form provided
14 by the department;

15 (B) evidence of ~~[a copy of the]~~ handgun
16 proficiency, in the form and manner required by the department
17 ~~[certificate];~~

18 (C) payment of a nonrefundable renewal fee as set
19 by the department; and

20 (D) one or more ~~[two recent color passport]~~
21 photographs of the applicant that meet the requirements of the
22 department.

23 SECTION 11.08. Section 411.186(a), Government Code, is
24 amended to read as follows:

25 (a) The department shall revoke a [A] license ~~[may be~~
26 ~~revoked]~~ under this section if the license holder:

27 (1) was not entitled to the license at the time it was

1 issued;

2 (2) gave false information on the application;

3 (3) subsequently becomes ineligible for a license
4 under Section 411.172, unless the sole basis for the ineligibility
5 is that the license holder is charged with the commission of a Class
6 A or Class B misdemeanor or equivalent offense, or of an offense
7 under Section 42.01, Penal Code, or equivalent offense, or of a
8 felony under an information or indictment;

9 (4) is convicted of an offense under Section 46.035,
10 Penal Code;

11 (5) is determined by the department to have engaged in
12 conduct constituting a reason to suspend a license listed in
13 Section 411.187(a) after the person's license has been previously
14 suspended twice for the same reason; or

15 (6) submits an application fee that is dishonored or
16 reversed.

17 SECTION 11.09. Sections 411.187(a) and (c), Government
18 Code, are amended to read as follows:

19 (a) The department shall suspend a [A] license [~~may be~~
20 ~~suspended~~] under this section if the license holder:

21 (1) is charged with the commission of a Class A or
22 Class B misdemeanor or equivalent offense, or of an offense under
23 Section 42.01, Penal Code, or equivalent offense, or of a felony
24 under an information or indictment;

25 (2) fails to display a license as required by Section
26 411.205;

27 (3) fails to notify the department of a change of

1 address or name as required by Section 411.181;

2 (4) carries a concealed handgun under the authority of
3 this subchapter of a different category than the license holder is
4 licensed to carry;

5 (5) fails to return a previously issued license after
6 a license is modified as required by Section 411.184(d);

7 (6) commits an act of family violence and is the
8 subject of an active protective order rendered under Title 4,
9 Family Code; or

10 (7) is arrested for an offense involving family
11 violence or an offense under Section 42.072, Penal Code, and is the
12 subject of an order for emergency protection issued under Article
13 17.292, Code of Criminal Procedure.

14 (c) The department shall suspend a [A] license [~~may be~~
15 ~~suspended~~] under this section:

16 (1) for 30 days, if the person's license is subject to
17 suspension for a reason listed in Subsection (a)(3), (4), or (5),
18 except as provided by Subdivision (3);

19 (2) for 90 days, if the person's license is subject to
20 suspension for a reason listed in Subsection (a)(2), except as
21 provided by Subdivision (3);

22 (3) for not less than one year and not more than three
23 years, if the person's license:

24 (A) is subject to suspension for a reason listed
25 in Subsection (a), other than the reason listed in Subsection
26 (a)(1); ~~[7]~~ and

27 (B) [~~the person's license~~] has been previously

1 suspended for the same reason;

2 (4) until dismissal of the charges, if the person's
3 license is subject to suspension for the reason listed in
4 Subsection (a)(1); or

5 (5) for the duration of or the period specified by:

6 (A) the protective order issued under Title 4,
7 Family Code, if the person's license is subject to suspension for
8 the reason listed in Subsection (a)(6); or

9 (B) the order for emergency protection issued
10 under Article 17.292, Code of Criminal Procedure, if the person's
11 license is subject to suspension for the reason listed in
12 Subsection (a)(7).

13 SECTION 11.10. Section 411.188, Government Code, is amended
14 by amending Subsections (a), (g), (h), and (i) and adding
15 Subsection (k) to read as follows:

16 (a) The director by rule shall establish minimum standards
17 for handgun proficiency and shall develop a course to teach handgun
18 proficiency and examinations to measure handgun proficiency. The
19 course to teach handgun proficiency must contain training sessions
20 divided into two parts. One part of the course must be classroom
21 instruction and the other part must be range instruction and an
22 actual demonstration by the applicant of the applicant's ability to
23 safely and proficiently use the applicable category of handgun [~~for~~
24 ~~which the applicant seeks certification~~]. An applicant must be
25 able to demonstrate [~~may not be certified unless the applicant~~
26 ~~demonstrates~~], at a minimum, the degree of proficiency that is
27 required to effectively operate a handgun of .32 caliber or above.

1 The department shall distribute the standards, course
2 requirements, and examinations on request to any qualified handgun
3 instructor.

4 (g) A person who wishes to obtain or renew a license to carry
5 a concealed handgun must apply in person to a qualified handgun
6 instructor to take the appropriate course in handgun proficiency
7 and [7] demonstrate handgun proficiency as required by the
8 department[, and obtain a handgun proficiency certificate as
9 described by Section 411.189].

10 (h) A license holder who wishes to modify a license to allow
11 the license holder to carry a handgun of a different category than
12 the license indicates must apply in person to a qualified handgun
13 instructor to demonstrate the required knowledge and proficiency
14 [~~to obtain a handgun proficiency certificate~~] in that category [~~as~~
15 ~~described by Section 411.189~~].

16 (i) A certified firearms instructor of the department may
17 monitor any class or training presented by a qualified handgun
18 instructor. A qualified handgun instructor shall cooperate with
19 the department in the department's efforts to monitor the
20 presentation of training by the qualified handgun instructor. A
21 qualified handgun instructor shall make available for inspection to
22 the department any and all records maintained by a qualified
23 handgun instructor under this subchapter. The qualified handgun
24 instructor shall keep a record of all [~~certificates of handgun~~
25 ~~proficiency issued by the qualified handgun instructor and other~~]
26 information required by department rule.

27 (k) A qualified handgun instructor may submit to the

1 department a written recommendation for disapproval of the
2 application for a license, renewal, or modification of a license,
3 accompanied by an affidavit stating personal knowledge or naming
4 persons with personal knowledge of facts that lead the instructor
5 to believe that an applicant does not possess the required handgun
6 proficiency. The department may use a written recommendation
7 submitted under this subsection as the basis for denial of a license
8 only if the department determines that the recommendation is made
9 in good faith and is supported by a preponderance of the evidence.
10 The department shall make a determination under this subsection not
11 later than the 45th day after the date the department receives the
12 written recommendation. The 60-day period in which the department
13 must take action under Section 411.177(b) is extended one day for
14 each day a determination is pending under this subsection.

15 SECTION 11.11. Sections 411.199(a) and (e), Government
16 Code, are amended to read as follows:

17 (a) A person who is licensed as a peace officer under
18 Chapter 1701, Occupations Code, [415] and who has been employed
19 full-time as a peace officer by a law enforcement agency may apply
20 for a license under this subchapter at any time after retirement.

21 (e) A retired peace officer who obtains a license under this
22 subchapter must maintain, for the category of weapon licensed, the
23 proficiency required for a peace officer under Section 1701.355,
24 Occupations Code [415.035]. The department or a local law
25 enforcement agency shall allow a retired peace officer of the
26 department or agency an opportunity to annually demonstrate the
27 required proficiency. The proficiency shall be reported to the

1 department on application and renewal.

2 SECTION 11.12. Section 411.1991(a), Government Code, is
3 amended to read as follows:

4 (a) A person who is licensed as a peace officer under
5 Chapter 1701, Occupations Code, [415] and is employed full-time as
6 a peace officer by a law enforcement agency may apply for a license
7 under this subchapter. The person shall submit to the department
8 two complete sets of legible and classifiable fingerprints and a
9 sworn statement of the head of the law enforcement agency employing
10 the applicant. A head of a law enforcement agency may not refuse to
11 issue a statement under this subsection. If the applicant alleges
12 that the statement is untrue, the department shall investigate the
13 validity of the statement. The statement must include:

14 (1) the name and rank of the applicant;

15 (2) whether the applicant has been accused of
16 misconduct at any time during the applicant's period of employment
17 with the agency and the disposition of that accusation;

18 (3) a description of the physical and mental condition
19 of the applicant;

20 (4) a list of the types of weapons the applicant has
21 demonstrated proficiency with during the preceding year; and

22 (5) a recommendation from the agency head that a
23 license be issued to the person under this subchapter.

24 SECTION 11.13. Sections 411.201(c) and (d), Government
25 Code, are amended to read as follows:

26 (c) An active judicial officer is eligible for a license to
27 carry a concealed handgun under the authority of this subchapter. A

25

1 retired judicial officer is eligible for a license to carry a
2 concealed handgun under the authority of this subchapter if the
3 officer:

4 (1) has not been convicted of a felony;

5 (2) has not, in the five years preceding the date of
6 application, been convicted of a Class A or Class B misdemeanor or
7 equivalent offense;

8 (3) is not charged with the commission of a Class A or
9 Class B misdemeanor or equivalent offense or of a felony under an
10 information or indictment;

11 (4) is not a chemically dependent person; and

12 (5) is not a person of unsound mind.

13 (d) An applicant for a license who is an active or retired
14 judicial officer must submit to the department:

15 (1) a completed application, including all required
16 affidavits, on a form prescribed by the department;

17 (2) one or more [~~two recent color passport~~]
18 photographs of the applicant that meet the requirements of the
19 department;

20 (3) two complete sets of legible and classifiable
21 fingerprints of the applicant, including one set taken by a person
22 employed by a law enforcement agency who is appropriately trained
23 in recording fingerprints;

24 (4) evidence of [a] handgun proficiency, in the form
25 and manner required by the department for an applicant under this
26 section [~~certificate issued to the applicant as evidence that the~~
27 ~~applicant successfully completed the proficiency requirements of~~

1 ~~this subchapter~~];

2 (5) ~~(4)~~ a nonrefundable application and license fee
3 set by the department in an amount reasonably designed to cover the
4 administrative costs associated with issuance of a license to carry
5 a concealed handgun under this subchapter; and

6 (6) ~~(5)~~ if the applicant is a retired judicial
7 officer, ~~+~~

8 ~~[(A) two complete sets of legible and~~
9 ~~classifiable fingerprints of the applicant taken by a person~~
10 ~~employed by a law enforcement agency who is appropriately trained~~
11 ~~in recording fingerprints; and~~

12 ~~(B)~~ a form executed by the applicant that
13 authorizes the department to make an inquiry into any noncriminal
14 history records that are necessary to determine the applicant's
15 eligibility for a license under this subchapter.

16 SECTION 11.14. Section 411.208, Government Code, is amended
17 by adding Subsection (e) to read as follows:

18 (e) The immunities granted under Subsection (a) to a
19 qualified handgun instructor do not apply to a cause of action for
20 fraud or a deceptive trade practice.

21 SECTION 11.15. Article 17.292(1), Code of Criminal
22 Procedure, is amended to read as follows:

23 (1) In the order for emergency protection, the magistrate
24 shall ~~may~~ suspend a license to carry a concealed handgun issued
25 under Subchapter H, Chapter 411 ~~[Section 411.177]~~, Government Code,
26 that is held by the defendant.

27 SECTION 11.16. Section 57.481(c), Education Code, is

1 amended to read as follows:

2 (c) The corporation shall maintain a system of
3 communication among the appropriate state agencies and entities to
4 reduce loan default claims. To assist the department's
5 determination of eligibility for a handgun license under Subchapter
6 H, Chapter 411, Government Code, the corporation shall provide to
7 the Department of Public Safety updated information regarding
8 persons who are determined to be in default on a student loan
9 guaranteed by the corporation.

10 SECTION 11.17. Section 57.491, Education Code, is amended
11 by adding Subsection (f) to read as follows:

12 (f) Notwithstanding Subsections (e) and (g), the Department
13 of Public Safety may not issue or renew the handgun license of an
14 applicant who is determined to be in default on a student loan
15 guaranteed by the corporation unless the applicant presents to the
16 department a certificate issued by the corporation certifying that
17 the applicant has repaid the student loan in full.

18 SECTION 11.18. Section 85.022(d), Family Code, is amended
19 to read as follows:

20 (d) In a protective order, the court shall ~~may~~ suspend a
21 license to carry a concealed handgun issued under Subchapter H,
22 Chapter 411 ~~[Section 411.177]~~, Government Code, that is held by a
23 person found to have committed family violence.

24 SECTION 11.19. Section 12.095(e), Health and Safety Code,
25 is amended to read as follows:

26 (e) The panel may require the applicant or license holder to
27 undergo a medical or other examination at the applicant's or

1 holder's expense. A person who conducts an examination under this
2 subsection may be compelled to testify before the panel and in any
3 subsequent proceedings under Subchapter H, Chapter 411, Government
4 Code, or Subchapter N, Chapter 521, Transportation Code, as
5 applicable, concerning the person's observations and findings.

6 SECTION 11.20. Section 12.097(b), Health and Safety Code,
7 is amended to read as follows:

8 (b) In a subsequent proceeding under Subchapter H, Chapter
9 411, Government Code, or Subchapter N, Chapter 521, Transportation
10 Code, the medical standards division may provide a copy of the
11 report of the medical advisory board or panel and a medical record
12 or report relating to an applicant or license holder to:

- 13 (1) the Department of Public Safety of the State of
14 Texas;
- 15 (2) the applicant or license holder; and
- 16 (3) the officer who presides at the hearing.

17 SECTION 11.21. Sections 411.175, 411.1882, and 411.189,
18 Government Code, are repealed.

19 SECTION 11.22. The changes in law made by Sections
20 411.1711, 411.172, and 411.201(c), Government Code, as amended by
21 this article, and by Section 57.491, Education Code, as amended by
22 this article, apply only to the eligibility of a person for the
23 issuance, modification, or renewal of a license, the application
24 for which is made on or after the effective date of this article. A
25 holder of a license that was issued, modified, or renewed before the
26 effective date of this article is not disqualified from holding
27 that license solely by reason of this article.

1 SECTION 11.23. The changes in law made by Sections 411.174,
2 411.176, 411.177, 411.184, 411.185, 411.188, and 411.201(d),
3 Government Code, as amended by this article, and by the repeal of
4 Sections 411.175, 411.1882, and 411.189, Government Code, apply
5 only to an application for the issuance, modification, or renewal
6 of a license that is submitted to the Department of Public Safety on
7 or after the effective date of this article. An application
8 submitted before the effective date of this article is governed by
9 the law in effect when the application was submitted, and the former
10 law is continued in effect for that purpose.

11 SECTION 11.24. The changes in law made by this article to
12 Sections 411.186 and 411.187, Government Code, Article 17.292, Code
13 of Criminal Procedure, and Section 85.022, Family Code, apply only
14 to an administrative or judicial determination concerning the
15 revocation or suspension of a license to carry a concealed handgun
16 that is made on or after the effective date of this article. An
17 administrative or judicial determination made before the effective
18 date of this article is covered by the law in effect when the
19 determination was made, and the former law is continued in effect
20 for that purpose.

21 SECTION 11.25. The change in law made by Section 411.208,
22 Government Code, as amended by this article, applies only to a cause
23 of action that accrues on or after the effective date of this
24 article. A cause of action that accrued before the effective date
25 of this article is governed by the law in effect immediately before
26 the effective date of this article, and the former law is continued
27 in effect for that purpose.

1 SECTION 11.26. This article takes effect September 1, 2009.

2 ARTICLE 12. DRIVER EDUCATION AND DRIVER'S LICENSING REQUIREMENTS
3 FOR MINORS

4 SECTION 12.01. This article shall be known as the Less Tears
5 More Years Act.

6 SECTION 12.02. Section 29.902, Education Code, is amended
7 by adding Subsection (c) to read as follows:

8 (c) A school district shall consider offering a driver
9 education and traffic safety course during each school year. If the
10 district offers the course, the district may:

11 (1) conduct the course and charge a fee for the course
12 in the amount determined by the agency to be comparable to the fee
13 charged by a driver education school that holds a license under
14 Chapter 1001; or

15 (2) contract with a driver education school that holds
16 a license under Chapter 1001 to conduct the course.

17 SECTION 12.03. Section 1001.101, Education Code, is amended
18 to read as follows:

19 Sec. 1001.101. DRIVER EDUCATION COURSE CURRICULUM AND
20 TEXTBOOKS. (a) The commissioner by rule shall establish or approve
21 the curriculum and designate the textbooks to be used in a driver
22 education course, including a driver education course conducted by
23 a school district, driver education school, or parent or other
24 individual under Section 521.205, Transportation Code.

25 (b) A driver education course must require the student to
26 complete:

27 (1) 7 hours of behind-the-wheel instruction in the

1 presence of a person who holds a driver education instructor
2 license or who meets the requirements imposed under Section
3 521.205, Transportation Code;

4 (2) 7 hours of observation instruction in the presence
5 of a person who holds a driver education instructor license or who
6 meets the requirements imposed under Section 521.205,
7 Transportation Code; and

8 (3) 20 hours of behind-the-wheel instruction,
9 including at least 10 hours of instruction that takes place at
10 night, in the presence of an adult who meets the requirements of
11 Section 521.222(d)(2), Transportation Code.

12 SECTION 12.04. Subchapter F, Chapter 1001, Education Code,
13 is amended by adding Section 1001.257 to read as follows:

14 Sec. 1001.257. DENIAL OF LICENSE. The commissioner may not
15 issue or renew a driver education instructor license, including a
16 temporary license, to a person who has six or more points assigned
17 to the person's driver's license under Subchapter B, Chapter 708,
18 Transportation Code.

19 SECTION 12.05. Section 521.165, Transportation Code, is
20 amended by amending Subsection (c) and adding Subsection (d) to
21 read as follows:

22 (c) Except as provided by Subsection (d), in [~~in~~] issuing a
23 driver's license for certain types of vehicles, the director may
24 waive a driving test for an applicant who has successfully
25 completed and passed the training and testing conducted by a person
26 certified under Subsection (a).

27 (d) The director may not waive the driving test required by

1 Section 521.161 for an applicant who is under 18 years of age.

2 SECTION 12.06. Section 521.204(a), Transportation Code, is
3 amended to read as follows:

4 (a) The department may issue a Class C driver's license to
5 an applicant under 18 years of age only if the applicant:

6 (1) is 16 years of age or older;

7 (2) has submitted to the department a driver education
8 certificate issued under Section 9A, Texas Driver and Traffic
9 Safety Education Act (Article 4413(29c), Vernon's Texas Civil
10 Statutes), that states that the person has completed and passed a
11 driver education course approved by the department under Section
12 521.205 or by the Texas Education Agency;

13 (3) has obtained a high school diploma or its
14 equivalent or is a student:

15 (A) enrolled in a public school, home school, or
16 private school who attended school for at least 80 days in the fall
17 or spring semester preceding the date of the driver's license
18 application; or

19 (B) who has been enrolled for at least 45 days,
20 and is enrolled as of the date of the application, in a program to
21 prepare persons to pass the high school equivalency exam; ~~and~~

22 (4) has submitted to the department written parental
23 or guardian permission for the department to access the applicant's
24 school enrollment records maintained by the Texas Education Agency;
25 and

26 (5) has passed the examination required by Section
27 521.161.

1 SECTION 12.07. Section 521.205(a), Transportation Code, is
2 amended to read as follows:

3 (a) The department by rule shall provide for approval of a
4 driver education course conducted by the parent, stepparent, foster
5 parent, legal guardian, step-grandparent, or grandparent of a
6 person who is required to complete a driver education course to
7 obtain a Class C license. The rules must provide that:

8 (1) the person conducting the course possess a valid
9 license for the preceding three years that [~~and the license~~] has not
10 been suspended, revoked, or forfeited in the past three years for an
11 offense that involves the operation of a motor vehicle [~~traffic~~
12 ~~related violations~~];

13 (2) the student driver spend a minimum number of hours
14 in:

15 (A) classroom instruction; and

16 (B) behind-the-wheel instruction;

17 (3) the person conducting the course not be convicted
18 of:

19 (A) criminally negligent homicide; or

20 (B) driving while intoxicated; [~~and~~]

21 (4) the person conducting the course not be disabled
22 because of mental illness; and

23 (5) the person conducting the course not have six or
24 more points assigned to the person's driver's license under
25 Subchapter B, Chapter 708, at the time the person begins conducting
26 the course.

27 SECTION 12.08. Subchapter J, Chapter 521, Transportation

1 Code, is amended by adding Section 521.206 to read as follows:

2 Sec. 521.206. COLLISION RATE STATISTICS PUBLICATION. (a)

3 The department shall collect data regarding collisions of students
4 taught by public schools, driver education schools licensed under
5 Chapter 1001, Education Code, and other entities that offer driver
6 education courses to students for which a uniform certificate of
7 course completion is issued. The collision rate is computed by
8 determining the number of an entity's students who complete a
9 driver education course during a state fiscal year, dividing that
10 number by the number of collisions that involved students who
11 completed such a course and that occurred in the 12-month period
12 following their licensure, and expressing the quotient as a
13 percentage.

14 (b) The department shall collect data regarding the
15 collision rate of students taught by course instructors approved
16 under Section 521.205. The collision rate is computed by
17 determining the number of students who completed a course approved
18 under Section 521.205 during a state fiscal year, dividing that
19 number by the number of collisions that involved students who
20 completed such a course and that occurred in the 12-month period
21 following their licensure, and expressing the quotient as a
22 percentage.

23 (c) Not later than October 1 of each year, the department
24 shall issue a publication listing the collision rate for students
25 taught by each driver education entity and the collision rate for
26 students taught by a course instructor approved under Section
27 521.205, noting the severity of collisions involving students of

1 each entity and each type of course.

2 SECTION 12.09. Section 521.271, Transportation Code, is
3 amended by amending Subsection (a) and adding Subsection (a-1) to
4 read as follows:

5 (a) Each original driver's license and provisional license
6 expires as follows:

7 (1) except as provided by Section 521.2711, a driver's
8 license expires on the first birthday of the license holder
9 occurring after the sixth anniversary of the date of the
10 application;

11 (2) a provisional license expires on ~~[the earlier of,~~
12 ~~[(A)]~~ the 18th birthday of the license holder~~+~~
13 ~~or~~
14 ~~[(B) the first birthday of the license holder~~
15 ~~occurring after the date of the application];~~

16 (3) an instruction permit expires on the 18th birthday
17 of the license holder ~~[second birthday of the license holder~~
18 ~~occurring after the date of the application]; and~~

19 (4) an occupational license expires on the first
20 anniversary of the court order granting the license.

21 (a-1) The department and the Texas Education Agency shall
22 enter into a memorandum of understanding under which the department
23 may access the agency's electronic enrollment records to verify a
24 student's enrollment in a public school. The memorandum of
25 understanding must specify that the department may only access
26 information necessary to verify the identity and enrollment status
27 of a license renewal applicant and only if a parent or guardian of

1 the applicant has provided written permission for the department to
2 access that information. Nothing in this subsection may be
3 construed to allow the release of information in violation of the
4 Family Educational Rights and Privacy Act of 1974 (20 U.S.C.
5 Section 1232g).

6 SECTION 12.10. Section 521.421(c), Transportation Code, is
7 amended to read as follows:

8 (c) The fee for issuance [~~or renewal~~] of a provisional
9 license or instruction permit is \$15 [~~\$5~~].

10 SECTION 12.11. Section 545.424, Transportation Code, is
11 amended by amending Subsections (a), (b), and (c) and adding
12 Subsection (f) to read as follows:

13 (a) A person under 18 years of age [~~during the six-month~~
14 ~~period following issuance of an original Class A, B, or C driver's~~
15 ~~license to the person,~~] may not operate a motor vehicle:

16 (1) during the 12-month period following issuance of
17 an original Class A, B, or C driver's license to the person:

18 (A) after midnight and before 5 a.m. unless the
19 operation of the vehicle is necessary for the operator to attend or
20 participate in employment or a school-related activity or because
21 of a medical emergency; or

22 (B) [~~(2)~~] with more than one passenger in the
23 vehicle under 21 years of age who is not a family member; or

24 (2) [~~(3)~~] while using a wireless communications
25 device, except in case of emergency.

26 (b) A person under 17 years of age who holds a restricted
27 motorcycle license or moped license, during the 12-month

1 ~~[six-month]~~ period following the issuance of an original motorcycle
2 license or moped license to the person, may not operate a motorcycle
3 or moped:

4 (1) after midnight and before 5 a.m. unless:

5 (A) the person is in sight of the person's parent
6 or guardian; or

7 (B) the operation of the vehicle is necessary for
8 the operator to attend or participate in employment or a
9 school-related activity or because of a medical emergency; or

10 (2) while using a wireless communications device,
11 except in case of emergency.

12 (c) This section does not apply to:

13 (1) the holder of a hardship license; ~~[or]~~

14 (2) a person operating a motor vehicle while
15 accompanied in the manner required by Section 521.222(d)(2) for the
16 holder of an instruction permit; or

17 (3) a person licensed by the Federal Communications
18 Commission to operate a wireless communication device or a radio
19 frequency device.

20 (f) In this section, "wireless communication device" means
21 a handheld or hands-free device that uses commercial mobile
22 service, as defined by 47 U.S.C. Section 332.

23 SECTION 12.12. (a) For the purpose of compiling data for
24 the publication required by Section 521.206, Transportation Code,
25 as added by this article, the Texas Department of Public Safety
26 shall determine the number of minor students taught by each driver
27 education entity and the total number of minor students taught by

1 courses approved under Section 521.205, Transportation Code, who
2 become licensed during the state fiscal year beginning September 1,
3 2009, and ending August 31, 2010.

4 (b) The first publication of collision rate data compiled
5 under Section 521.206, Transportation Code, as added by this
6 article, shall be issued not later than October 1, 2011.

7 SECTION 12.13. Not later than November 30, 2009, the Texas
8 Department of Public Safety shall appoint a task force to review and
9 make recommendations regarding the effectiveness of the materials
10 provided by the Texas Education Agency for use in courses licensed
11 under Chapter 1001, Education Code, or authorized by Section
12 521.205. The task force shall consist of the following members:

13 (1) a representative of the Texas Department of Public
14 Safety;

15 (2) a representative of the Texas Education Agency;

16 (3) a commercial provider of driver education courses;

17 (4) a member of an interested group or association, as
18 determined by the department; and

19 (5) other appropriate members, as determined by the
20 department.

21 SECTION 12.14. (a) Section 29.902(c), Education Code, as
22 added by this article, applies beginning with the 2010-2011 school
23 year.

24 (b) Not later than January 1, 2010, the commissioner of
25 education shall adopt rules as required by Section 1001.101,
26 Education Code, as amended by this article.

27 (c) Each driver education and training program approved by

1 the Texas Education Agency under Chapter 1001, Education Code, must
2 comply with the curriculum requirements of Section 1001.101,
3 Education Code, as amended by this article, not later than May 1,
4 2010.

5 (d) Section 521.165, Transportation Code, as amended by
6 this article, applies only to an application for a driver's license
7 submitted on or after the effective date of this article. An
8 application for a driver's license submitted before the effective
9 date of this article is subject to the law in effect on the date the
10 application was submitted, and that law is continued in effect for
11 that purpose.

12 (e) The changes in law made by this article to Section
13 521.205, Transportation Code, apply to a course approved under that
14 section that begins on or after the effective date of this article.
15 A course beginning before the effective date of this article is
16 governed by the law in effect on the date the course was commenced,
17 and that law is continued in effect for that purpose.

18 (f) The changes in law made by this article to Sections
19 521.271, 521.421, and 545.424, Transportation Code, apply only to a
20 person issued a driver's license on or after the effective date of
21 this article. A person issued a driver's license before the
22 effective date of this article is governed by the law in effect on
23 the date the license was issued, and that law is continued in effect
24 for that purpose.

25 SECTION 12.15. This article takes effect September 1, 2009.

1 ARTICLE 13. REGULATION OF DRIVER'S LICENSES AND PERSONAL
2 IDENTIFICATION CERTIFICATES BY DEPARTMENT

3 SECTION 13.01. Section 521.029, Transportation Code, is
4 amended to read as follows:

5 Sec. 521.029. OPERATION OF MOTOR VEHICLE BY NEW STATE
6 RESIDENTS. (a) A person who enters this state as a new resident
7 may operate a motor vehicle in this state for no more than 90 [~~30~~]
8 days after the date on which the person enters this state if the
9 person:

10 (1) is 16 years of age or older; and

11 (2) has in the person's possession a driver's license
12 issued to the person by the person's state or country of previous
13 residence.

14 (b) If a person subject to this section is prosecuted for
15 operating a motor vehicle without a driver's license, the
16 prosecution alleges that the person has resided in this state for
17 more than 90 [~~30~~] days, and the person claims to have been covered
18 by Subsection (a), the person must prove by the preponderance of the
19 evidence that the person has not resided in this state for more than
20 90 [~~30~~] days.

21 SECTION 13.02. Subchapter C, Chapter 521, Transportation
22 Code, is amended by adding Section 521.060 to read as follows:

23 Sec. 521.060. INTERNAL VERIFICATION SYSTEM. (a) The
24 department by rule shall establish a system for identifying unique
25 addresses that are submitted in license or certificate applications
26 under this chapter or Chapter 522 in a frequency or number that, in
27 the department's determination, casts doubt on whether the

1 addresses are the actual addresses where the applicants reside.

2 (b) The department may contract with a third-party personal
3 data verification service to assist the department in implementing
4 this section.

5 (c) The department shall investigate the validity of
6 addresses identified under Subsection (a).

7 (d) The department may disclose the results of an
8 investigation under Subsection (c) to a criminal justice agency for
9 the purposes of enforcing Section 521.4565 or other provisions of
10 this chapter or Chapter 522.

11 (e) In this section, "criminal justice agency" has the
12 meaning assigned by Article 60.01, Code of Criminal Procedure.

13 SECTION 13.03. Section 521.101, Transportation Code, is
14 amended by adding Subsection (j) to read as follows:

15 (j) The department may not issue a personal identification
16 certificate to a person who has not established a domicile in this
17 state.

18 SECTION 13.04. Subchapter G, Chapter 521, Transportation
19 Code, is amended by adding Sections 521.1426 and 521.1427 to read as
20 follows:

21 Sec. 521.1426. DOMICILE REQUIREMENT; VERIFICATION.

22 (a) The department may not issue a driver's license or a personal
23 identification certificate to a person who has not established a
24 domicile in this state.

25 (b) The department shall adopt rules for determining
26 whether a domicile has been established, including rules
27 prescribing the types of documentation the department may require

1 from the applicant to verify the validity of the claimed domicile.

2 (c) The department may contract with a third-party personal
3 data verification service to assist the department in verifying a
4 claim of domicile, including whether the physical address provided
5 by the applicant is the applicant's actual residence.

6 Sec. 521.1427. POST OFFICE BOX NOT VALID AS ADDRESS.

7 (a) In this section, "post office box address" means a United
8 States Postal Service post office box address or a private mailbox
9 address.

10 (b) Unless an exception exists under state or federal law,
11 an applicant may receive delivery of a license or a personal
12 identification certificate at a post office box address only if the
13 applicant has provided the department the physical address where
14 the applicant resides.

15 (c) The department may require the applicant to provide
16 documentation that the department determines necessary to verify
17 the validity of the physical address provided under Subsection (b).

18 (d) The department may contract with a third-party personal
19 data verification service to assist the department in verifying
20 whether the physical address provided by the applicant is the
21 applicant's actual residence.

22 SECTION 13.05. Subchapter C, Chapter 522, Transportation
23 Code, is amended by adding Sections 522.0225 and 522.0226 to read as
24 follows:

25 Sec. 522.0225. VERIFICATION OF DOMICILE. (a) The
26 department shall adopt rules for determining whether a domicile has
27 been established under Section 522.022, including rules

1 prescribing the types of documentation the department may require
2 from the applicant to determine the validity of the claimed
3 domicile.

4 (b) The department may contract with a third-party personal
5 data verification service to assist the department in verifying a
6 claim of domicile, including whether the physical address provided
7 by the applicant is the applicant's actual residence.

8 Sec. 522.0226. POST OFFICE BOX NOT VALID AS ADDRESS.

9 (a) In this section, "post office box address" means a United
10 States Postal Service post office box address or a private mailbox
11 address.

12 (b) Unless an exception exists under state or federal law,
13 an applicant may receive delivery of a commercial driver's license
14 at a post office box address only if the applicant has provided the
15 department the physical address where the applicant resides.

16 (c) The department may require the applicant to provide
17 documentation that the department determines necessary to verify
18 the validity of the physical address provided under Subsection (b).

19 (d) The department may contract with a third-party personal
20 data verification service to assist the department in verifying
21 whether the physical address provided by the applicant is the
22 applicant's actual residence.

23 SECTION 13.06. Subchapter S, Chapter 521, Transportation
24 Code, is amended by adding Section 521.4565 to read as follows:

25 Sec. 521.4565. CONSPIRING TO MANUFACTURE COUNTERFEIT
26 LICENSE OR CERTIFICATE. (a) In this section:

27 (1) "Combination," "conspires to commit," "profits,"

1 and "criminal street gang" have the meanings assigned by Section
2 71.01, Penal Code.

3 (2) "Conspires to manufacture or produce" means that:

4 (A) a person agrees with one or more other
5 persons to engage in the manufacture or production of a forged or
6 counterfeit instrument; and

7 (B) the person and one or more of the other
8 persons perform an overt act in pursuance of the agreement.

9 (3) "Instrument" means a driver's license, commercial
10 driver's license, or personal identification certificate.

11 (4) "Public servant" has the meaning assigned by
12 Section 1.07, Penal Code.

13 (b) A person commits an offense if the person establishes,
14 maintains, or participates in or conspires to establish, maintain,
15 or participate in a combination or criminal street gang, or
16 participates in the profits of a combination or criminal street
17 gang, with the intent to manufacture or produce a forged or
18 counterfeit instrument for the purpose of selling, distributing, or
19 delivering such instrument. An agreement constituting conspiring
20 to manufacture or produce may be inferred from the acts of the
21 parties.

22 (c) An offense under this section is a state jail felony,
23 except that an offense committed by a public servant is a felony of
24 the third degree.

25 SECTION 13.07. The Department of Public Safety of the State
26 of Texas shall adopt rules required by the amendments of this
27 article to Chapters 521 and 522, Transportation Code, as soon as

1 practicable after the effective date of this article.

2 SECTION 13.08. This article takes effect immediately if
3 this Act receives a vote of two-thirds of all the members elected to
4 each house, as provided by Section 39, Article III, Texas
5 Constitution. If this Act does not receive the vote necessary for
6 immediate effect, this article takes effect September 1, 2009.

7 ARTICLE 14. USE OF AN OFFENDER IDENTIFICATION CARD OR SIMILAR FORM
8 OF IDENTIFICATION AS PROOF OF IDENTITY FOR AN APPLICANT FOR A
9 DRIVER'S LICENSE OR COMMERCIAL DRIVER'S LICENSE

10 SECTION 14.01. Subsection (a), Section 521.142,
11 Transportation Code, is amended to read as follows:

12 (a) An application for an original license must state the
13 applicant's full name and place and date of birth. This information
14 must be verified by presentation of proof of identity satisfactory
15 to the department. The department must accept as satisfactory
16 proof of identity under this subsection an offender identification
17 card or similar form of identification issued to an inmate by the
18 Texas Department of Criminal Justice if the applicant also provides
19 supplemental verifiable records or documents that aid in
20 establishing identity.

21 SECTION 14.02. Subchapter G, Chapter 521, Transportation
22 Code, is amended by adding Section 521.1421 to read as follows:

23 Sec. 521.1421. INMATE IDENTIFICATION VERIFICATION PILOT
24 PROGRAM. (a) The department shall participate in an inmate
25 identification verification pilot program for the purpose of
26 issuing driver's licenses and personal identification certificates
27 to inmates of the Texas Department of Criminal Justice.

1 (b) Under the pilot program, the department may:

2 (1) enter into a contract with the Texas Department of
3 Criminal Justice and the Department of State Health Services to
4 establish an identification verification process for inmates of the
5 Texas Department of Criminal Justice; and

6 (2) issue a driver's license or a personal
7 identification certificate to an inmate whose identity has been
8 confirmed through the verification process and who otherwise meets
9 the requirements for the issuance of the driver's license or
10 personal identification certificate.

11 (c) At the conclusion of the pilot program the governing
12 bodies of the participating agencies may agree to continue the
13 pilot program on a permanent basis.

14 (d) Not later than December 1, 2010, the department and the
15 Texas Department of Criminal Justice shall jointly issue a report
16 to the standing committees of the legislature with jurisdiction
17 over issues related to criminal justice and homeland security
18 addressing:

19 (1) the status of the pilot program;

20 (2) the effectiveness of the pilot program; and

21 (3) an analysis of the feasibility of implementing a
22 statewide program based on the pilot program.

23 SECTION 14.03. Subsection (c-1), Section 522.021,
24 Transportation Code, is amended to read as follows:

25 (c-1) If the department requires proof of an applicant's
26 identity as part of an application under this section, the
27 department must accept as satisfactory proof of identity an

1 offender identification card or similar form of identification
2 issued to an inmate by the Texas Department of Criminal Justice if
3 the applicant also provides supplemental verifiable records or
4 documents that aid in establishing identity.

5 SECTION 14.04. The changes in law made by this article apply
6 only to an application for a driver's license, commercial driver's
7 license, or personal identification certificate submitted on or
8 after the effective date of this article. An application for a
9 driver's license, commercial driver's license, or personal
10 identification certificate submitted before the effective date of
11 this article is subject to the law in effect on the date the
12 application was submitted, and that law is continued in effect for
13 that purpose.

14 SECTION 14.05. This article takes effect September 1, 2009.

15 ARTICLE 15. DRIVER RESPONSIBILITY PROGRAM

16 SECTION 15.01. Section 708.151, Transportation Code, is
17 amended to read as follows:

18 Sec. 708.151. NOTICE OF SURCHARGE. (a) The department
19 shall send notices as required by Subsection (b) to [~~notify~~] the
20 holder of a driver's license when [~~of the assessment of~~] a surcharge
21 is assessed on that license. Each notice must:

22 (1) be sent by first class mail [~~sent~~] to the person's
23 most recent address as shown on the records of the department;

24 (2) [~~The notice must~~] specify the date by which the
25 surcharge must be paid; and

26 (3) state the consequences of a failure to pay the
27 surcharge.

1 (b) The department shall send a first notice not later than
2 the fifth day after the date the surcharge is assessed. If before
3 the 30th day after the date the first notice was sent the person
4 fails to pay the amount of the surcharge or fails to enter into an
5 installment payment agreement with the department, the department
6 shall send a second notice. If before the 30th day after the date
7 the second notice was sent the person fails to pay the amount of the
8 surcharge or fails to enter into an installment payment agreement
9 with the department, the department shall send a third notice.

10 SECTION 15.02. Subsection (a), Section 708.152,
11 Transportation Code, is amended to read as follows:

12 (a) If before the 30th day after the date the department
13 sends a third notice under Section 708.151 the person fails to pay
14 the amount of a surcharge on the person's license or fails to enter
15 into an installment payment agreement with the department, the
16 license of the person is automatically suspended.

17 SECTION 15.03. Subsection (b), Section 708.153,
18 Transportation Code, is amended to read as follows:

19 (b) A rule under this section:

20 (1) may not require [~~permit~~] a person to pay a
21 surcharge over a period of less [~~more~~] than 36 consecutive months;
22 and

23 (2) may provide that if the person fails to make a
24 required installment payment, the department may reestablish the
25 installment plan or declare the amount of the unpaid surcharge
26 immediately due and payable.

27 SECTION 15.04. Subchapter D, Chapter 708, Transportation

1 Code, is amended by adding Section 708.158 to read as follows:

2 Sec. 708.158. JURISDICTION. (a) For the time a surcharge
3 under this chapter is outstanding, the court in which a person is
4 convicted of the offense that is the basis for the surcharge has
5 jurisdiction over the person, the department, and all agents of the
6 department regarding all matters relating to the surcharge.

7 (b) The court may reduce or waive a surcharge under this
8 chapter. A person who is assessed a surcharge may file a pleading,
9 request a hearing, or otherwise invoke the jurisdiction of the
10 court described by Subsection (a) at any time the person is required
11 to pay a surcharge or is subject to any other enforcement procedure
12 described by this chapter.

13 (c) The department may not assess a surcharge against a
14 person who is indigent. For the purposes of this subsection, a
15 person is indigent if:

16 (1) the person provides evidence described by
17 Subsection (d) to the court in which the person is convicted of the
18 offense that is the basis for the surcharge; or

19 (2) the person is a full-time student who:

20 (A) is enrolled in a public, private, or
21 independent institution of higher education; and

22 (B) provides evidence described by Subsection
23 (d) to the court in which the person is convicted of the offense
24 that is the basis for the surcharge.

25 (d) A person must provide the following information to the
26 court in which the person is convicted of the offense that is the
27 basis for the surcharge as evidence that the person's income or the

1 person's household income does not exceed 200 percent of the
2 applicable income level established by the federal poverty
3 guidelines:

4 (1) a copy of the person's most recent federal income
5 tax return;

6 (2) a copy of the person's most recent statement of
7 wages; or

8 (3) documentation from a federal agency, state agency,
9 or school district that indicates that the person or a member of the
10 person's family with whom the person resides receives assistance
11 from:

12 (A) the food stamp program or the financial
13 assistance program established under Chapter 31, Human Resources
14 Code;

15 (B) the federal special supplemental nutrition
16 program for women, infants, and children authorized by 42 U.S.C.
17 Section 1786;

18 (C) the medical assistance program under Chapter
19 32, Human Resources Code;

20 (D) the child health plan program under Chapter
21 62, Health and Safety Code; or

22 (E) the national free or reduced-price lunch
23 program established under 42 U.S.C. Section 1751 et seq.

24 (e) If a court holds a hearing and finds that a person is
25 indigent based on the information provided to the court by the
26 person under Subsection (d), the court shall notify the department
27 that the person is indigent.

1 SECTION 15.05. Subchapter B, Chapter 708, Transportation
2 Code, is amended by adding Section 708.056 to read as follows:

3 Sec. 708.056. DEDUCTION OF POINTS. The department by rule
4 shall establish a procedure to provide for the deduction of one
5 point accumulated by a person under this subchapter to account for
6 each year that the person has not accumulated points under this
7 subchapter.

8 SECTION 15.06. The changes in law made by this article apply
9 only to a surcharge that is assessed on or after the effective date
10 of this article. A surcharge that was assessed before the effective
11 date of this article is subject to the law in effect on the date the
12 surcharge was assessed, and that law is continued in effect for that
13 purpose.

14 SECTION 15.07. This article takes effect September 1, 2009.

15 ARTICLE 16. SUSPENSION OF A DRIVER'S LICENSE BY DEPARTMENT

16 SECTION 16.01. Section 521.341, Transportation Code, is
17 amended to read as follows:

18 Sec. 521.341. REQUIREMENTS FOR AUTOMATIC LICENSE
19 SUSPENSION. Except as provided by Sections 521.344(d)-(i), a
20 license is automatically suspended on final conviction of the
21 license holder of:

22 (1) an offense under Section 19.05, Penal Code,
23 committed as a result of the holder's criminally negligent
24 operation of a motor vehicle;

25 (2) an offense under Section 38.04, Penal Code, if the
26 holder used a motor vehicle in the commission of the offense;

27 (3) an offense under Section 49.04, 49.045, or 49.08,

1 Penal Code;

2 (4) an offense under Section 49.07, Penal Code, if the
3 holder used a motor vehicle in the commission of the offense;

4 (5) an offense punishable as a felony under the motor
5 vehicle laws of this state;

6 (6) an offense under Section 550.021;

7 (7) an offense under Section 521.451 or 521.453; or

8 (8) an offense under Section 19.04, Penal Code, if the
9 holder used a motor vehicle in the commission of the offense.

10 SECTION 16.02. Sections 521.342(a) and (b), Transportation
11 Code, are amended to read as follows:

12 (a) Except as provided by Section 521.344, the license of a
13 person who was under 21 years of age at the time of the offense,
14 other than an offense classified as a misdemeanor punishable by
15 fine only, is automatically suspended on conviction of:

16 (1) an offense under Section 49.04, 49.045, or 49.07,
17 Penal Code, committed as a result of the introduction of alcohol
18 into the body;

19 (2) an offense under the Alcoholic Beverage Code,
20 other than an offense to which Section 106.071 of that code applies,
21 involving the manufacture, delivery, possession, transportation,
22 or use of an alcoholic beverage;

23 (3) a misdemeanor offense under Chapter 481, Health
24 and Safety Code, for which Subchapter P does not require the
25 automatic suspension of the license;

26 (4) an offense under Chapter 483, Health and Safety
27 Code, involving the manufacture, delivery, possession,

1 transportation, or use of a dangerous drug; or

2 (5) an offense under Chapter 485, Health and Safety
3 Code, involving the manufacture, delivery, possession,
4 transportation, or use of an abusable volatile chemical.

5 (b) The department shall suspend for one year the license of
6 a person who is under 21 years of age and is convicted of an offense
7 under Section 49.04, 49.045, 49.07, or 49.08, Penal Code,
8 regardless of whether the person is required to attend an
9 educational program under Section 13(h), Article 42.12, Code of
10 Criminal Procedure, that is designed to rehabilitate persons who
11 have operated motor vehicles while intoxicated, unless the person
12 is placed under community supervision under that article and is
13 required as a condition of the community supervision to not operate
14 a motor vehicle unless the vehicle is equipped with the device
15 described by Section 13(i) of that article. If the person is
16 required to attend such a program and does not complete the program
17 before the end of the person's suspension, the department shall
18 suspend the person's license or continue the suspension, as
19 appropriate, until the department receives proof that the person
20 has successfully completed the program. On the person's successful
21 completion of the program, the person's instructor shall give
22 notice to the department and to the community supervision and
23 corrections department in the manner provided by Section 13(h),
24 Article 42.12, Code of Criminal Procedure.

25 SECTION 16.03. Sections 521.344(a), (c), and (i),
26 Transportation Code, are amended to read as follows:

27 (a) Except as provided by Sections 521.342(b) and 521.345,

1 and by Subsections (d)-(i), if a person is convicted of an offense
2 under Section 49.04, 49.045, or 49.07, Penal Code, the license
3 suspension:

4 (1) begins on a date set by the court that is not
5 earlier than the date of the conviction or later than the 30th day
6 after the date of the conviction, as determined by the court; and

7 (2) continues for a period set by the court according
8 to the following schedule:

9 (A) not less than 90 days or more than one year,
10 if the person is punished under Section 49.04, 49.045, or 49.07,
11 Penal Code, except that if the person's license is suspended for a
12 second or subsequent offense under Section 49.07 committed within
13 five years of the date on which the most recent preceding offense
14 was committed, the suspension continues for a period of one year;

15 (B) not less than 180 days or more than two years,
16 if the person is punished under Section 49.09(a) or (b), Penal Code;
17 or

18 (C) not less than one year or more than two years,
19 if the person is punished under Section 49.09(a) or (b), Penal Code,
20 and is subject to Section 49.09(h) of that code.

21 (c) The court shall credit toward the period of suspension a
22 suspension imposed on the person for refusal to give a specimen
23 under Chapter 724 if the refusal followed an arrest for the same
24 offense for which the court is suspending the person's license
25 under this chapter. The court may not extend the credit to a
26 person:

27 (1) who has been previously convicted of an offense

1 under Section 49.04, 49.045, 49.07, or 49.08, Penal Code; or

2 (2) whose period of suspension is governed by Section
3 521.342(b).

4 (i) On the date that a suspension order under Section
5 521.343(c) is to expire, the period of suspension or the
6 corresponding period in which the department is prohibited from
7 issuing a license is automatically increased to two years unless
8 the department receives notice of successful completion of the
9 educational program as required by Section 13, Article 42.12, Code
10 of Criminal Procedure. At the time a person is convicted of an
11 offense under Section 49.04 or 49.045, Penal Code, the court shall
12 warn the person of the effect of this subsection. On the person's
13 successful completion of the program, the person's instructor shall
14 give notice to the department and to the community supervision and
15 corrections department in the manner required by Section 13,
16 Article 42.12, Code of Criminal Procedure. If the department
17 receives proof of completion after a period has been extended under
18 this subsection, the department shall immediately end the
19 suspension or prohibition.

20 SECTION 16.04. Sections 13(h) and (n), Article 42.12, Code
21 of Criminal Procedure, are amended to read as follows:

22 (h) If a person convicted of an offense under Sections
23 49.04-49.08, Penal Code, is placed on community supervision, the
24 judge shall require, as a condition of the community supervision,
25 that the defendant attend and successfully complete before the
26 181st day after the day community supervision is granted an
27 educational program jointly approved by the Texas Commission on

1 Alcohol and Drug Abuse, the Department of Public Safety, the
2 Traffic Safety Section of the Texas Department of Transportation,
3 and the community justice assistance division of the Texas
4 Department of Criminal Justice designed to rehabilitate persons who
5 have driven while intoxicated. The Texas Commission on Alcohol and
6 Drug Abuse shall publish the jointly approved rules and shall
7 monitor, coordinate, and provide training to persons providing the
8 educational programs. The Texas Commission on Alcohol and Drug
9 Abuse is responsible for the administration of the certification of
10 approved educational programs and may charge a nonrefundable
11 application fee for the initial certification of approval and for
12 renewal of a certificate. The judge may waive the educational
13 program requirement or may grant an extension of time to
14 successfully complete the program that expires not later than one
15 year after the beginning date of the person's community
16 supervision, however, if the defendant by a motion in writing shows
17 good cause. In determining good cause, the judge may consider but
18 is not limited to: the defendant's school and work schedule, the
19 defendant's health, the distance that the defendant must travel to
20 attend an educational program, and the fact that the defendant
21 resides out of state, has no valid driver's license, or does not
22 have access to transportation. The judge shall set out the finding
23 of good cause for waiver in the judgment. If a defendant is
24 required, as a condition of community supervision, to attend an
25 educational program or if the court waives the educational program
26 requirement, the court clerk shall immediately report that fact to
27 the Department of Public Safety, on a form prescribed by the

1 department, for inclusion in the person's driving record. If the
2 court grants an extension of time in which the person may complete
3 the program, the court clerk shall immediately report that fact to
4 the Department of Public Safety on a form prescribed by the
5 department. The report must include the beginning date of the
6 person's community supervision. Upon the person's successful
7 completion of the educational program, the person's instructor
8 shall give notice to the Department of Public Safety for inclusion
9 in the person's driving record and to the community supervision and
10 corrections department. The community supervision and corrections
11 department shall then forward the notice to the court clerk for
12 filing. If the Department of Public Safety does not receive notice
13 that a defendant required to complete an educational program has
14 successfully completed the program within the period required by
15 this section, as shown on department records, the department shall
16 revoke the defendant's driver's license, permit, or privilege or
17 prohibit the person from obtaining a license or permit, as provided
18 by Sections 521.344(e) and (f), Transportation Code. The
19 Department of Public Safety may not reinstate a license suspended
20 under this subsection unless the person whose license was suspended
21 makes application to the department for reinstatement of the
22 person's license and pays to the department a reinstatement fee of
23 \$100 [~~\$50~~]. The Department of Public Safety shall remit all fees
24 collected under this subsection to the comptroller for deposit in
25 the general revenue fund. This subsection does not apply to a
26 defendant if a jury recommends community supervision for the
27 defendant and also recommends that the defendant's driver's license

1 not be suspended.

2 (n) Notwithstanding any other provision of this section or
3 other law, the judge who places on community supervision a
4 defendant who was [~~is~~] younger than 21 years of age at the time of
5 the offense and was convicted for an offense under Sections
6 49.04-49.08, Penal Code, shall:

7 (1) order that the defendant's driver's license be
8 suspended for 90 days beginning on the date that the person is
9 placed on community supervision; and

10 (2) require as a condition of community supervision
11 that the defendant not operate a motor vehicle unless the vehicle is
12 equipped with the device described by Subsection (i) of this
13 section.

14 SECTION 16.05. The changes in law made by this article to
15 Sections 521.341, 521.342, and 521.344, Transportation Code, and
16 Section 13, Article 42.12, Code of Criminal Procedure, apply only
17 to an offense committed on or after the effective date of this
18 article. For purposes of this section, an offense was committed
19 before the effective date of this article if any element of the
20 offense occurred before the effective date of this article.

21 SECTION 16.06. This article takes effect September 1, 2009.

22 ARTICLE 17. SUBMISSION OF REPORTS ON CERTAIN CONVICTIONS OR
23 ADJUDICATIONS RELATING TO THE OPERATION OF MOTOR VEHICLES TO THE
24 DEPARTMENT

25 SECTION 17.01. Subsections (a) and (b), Section 522.061,
26 Transportation Code, are amended to read as follows:

27 (a) A person who holds or is required to hold a commercial

1 driver's license under this chapter and who is convicted in another
2 state of violating a state law or local ordinance relating to motor
3 vehicle traffic control shall notify the department in the manner
4 specified by the department not later than the seventh [~~30th~~] day
5 after the date of conviction.

6 (b) A person who holds or is required to hold a commercial
7 driver's license under this chapter and who is convicted in this
8 state or another state of violating a state law or local ordinance
9 relating to motor vehicle traffic control, including a law
10 regulating the operation of vehicles on highways, shall notify the
11 person's employer in writing of the conviction not later than the
12 seventh [~~30th~~] day after the date of conviction.

13 SECTION 17.02. Section 543.203, Transportation Code, is
14 amended to read as follows:

15 Sec. 543.203. SUBMITTING RECORD TO DEPARTMENT. Not later
16 than the seventh [~~30th~~] day after the date of conviction or
17 forfeiture of bail of a person on a charge of violating a law
18 regulating the operation of a vehicle on a highway or conviction of
19 a person of negligent homicide or a felony in the commission of
20 which a vehicle was used, the magistrate, judge, or clerk of the
21 court in which the conviction was had or bail was forfeited shall
22 immediately submit to the department a written record of the case
23 containing the information required by Section 543.202.

24 SECTION 17.03. Subsection (a), Section 543.204,
25 Transportation Code, is amended to read as follows:

26 (a) A justice of the peace or municipal judge who defers
27 further proceedings, suspends all or part of the imposition of the

1 fine, and places a defendant on probation under Article 45.051,
2 Code of Criminal Procedure, or a county court judge who follows that
3 procedure under Article 42.111, Code of Criminal Procedure, may not
4 submit a written record to the department, except that if the
5 justice or judge subsequently adjudicates the defendant's guilt,
6 the justice or judge shall submit the record not later than the
7 seventh [~~30th~~] day after the date on which the justice or judge
8 adjudicates guilt.

9 SECTION 17.04. The change in law made by this article
10 applies only to a conviction, forfeiture of bail, or adjudication
11 of guilt that occurs on or after the effective date of this article.

12 SECTION 17.05. This article takes effect September 1, 2009.

13 ARTICLE 18. CIVIL CONSEQUENCES OF CERTAIN CONVICTIONS ON A PERSON
14 WHO HOLDS A COMMERCIAL DRIVER'S LICENSE AND OF CERTAIN
15 ADJUDICATIONS ON THE DRIVER'S LICENSE OR PERMIT OF A CHILD

16 SECTION 18.01. Section 522.081(d), Transportation Code, is
17 amended to read as follows:

18 (d) A person is disqualified from driving a commercial motor
19 vehicle for life:

20 (1) if the person is convicted two or more times of an
21 offense specified by Subsection (b)(2), or a combination of those
22 offenses, arising from two or more separate incidents;

23 (2) if the person uses a motor vehicle in the
24 commission of a felony involving:

25 (A) the manufacture, distribution, or dispensing
26 of a controlled substance; or

27 (B) possession with intent to manufacture,

1 distribute, or dispense a controlled substance; [~~or~~]

2 (3) for any combination of two or more of the
3 following, arising from two or more separate incidents:

4 (A) a conviction of the person for an offense
5 described by Subsection (b)(2);

6 (B) a refusal by the person described by
7 Subsection (b)(3); and

8 (C) an analysis of the person's blood, breath, or
9 urine described by Subsection (b)(4); or

10 (4) if the person uses a motor vehicle in the
11 commission of an offense under 8 U.S.C. Section 1324 that involves
12 the transportation, concealment, or harboring of an alien.

13 SECTION 18.02. Section 54.042(a), Family Code, is amended
14 to read as follows:

15 (a) A juvenile court, in a disposition hearing under Section
16 54.04, shall:

17 (1) order the Department of Public Safety to suspend a
18 child's driver's license or permit, or if the child does not have a
19 license or permit, to deny the issuance of a license or permit to
20 the child if the court finds that the child has engaged in conduct
21 that:

22 (A) violates a law of this state enumerated in
23 Section 521.342(a), Transportation Code; or

24 (B) violates a penal law of this state or the
25 United States, an element or elements of which involve a severe form
26 of trafficking in persons, as defined by 22 U.S.C. Section 7102; or

27 (2) notify the Department of Public Safety of the

1 adjudication, if the court finds that the child has engaged in
2 conduct that violates a law of this state enumerated in Section
3 521.372(a), Transportation Code.

4 SECTION 18.03. (a) The change in law made by this article
5 to Section 522.081, Transportation Code, applies only in connection
6 with a conviction that becomes final on or after the effective date
7 of this article. A conviction that became final before the
8 effective date of this article is covered by Section 522.081,
9 Transportation Code, as that section existed on the date the
10 conviction became final, and the former law is continued in effect
11 for that purpose.

12 (b) The change in law made by this article in amending
13 Section 54.042, Family Code, applies only to conduct that occurs on
14 or after the effective date of this article. Conduct that occurred
15 before the effective date of this article is covered by the law in
16 effect at the time the conduct occurred, and the former law is
17 continued in effect for that purpose.

18 SECTION 18.04. This article takes effect September 1, 2009.

19 ARTICLE 19. CIVIL AND CRIMINAL CONSEQUENCES OF OPERATING A MOTOR
20 VEHICLE OR A WATERCRAFT WHILE INTOXICATED OR UNDER THE INFLUENCE OF
21 ALCOHOL

22 SECTION 19.01. The heading to Section 106.041, Alcoholic
23 Beverage Code, is amended to read as follows:

24 Sec. 106.041. DRIVING OR OPERATING WATERCRAFT UNDER THE
25 INFLUENCE OF ALCOHOL BY MINOR.

26 SECTION 19.02. Subsections (a) and (g), Section 106.041,
27 Alcoholic Beverage Code, are amended to read as follows:

1 (a) A minor commits an offense if the minor operates a motor
2 vehicle in a public place, or a watercraft, while having any
3 detectable amount of alcohol in the minor's system.

4 (g) An offense under this section is not a lesser included
5 offense under Section 49.04, 49.045, or 49.06, Penal Code.

6 SECTION 19.03. Subsection (j), Section 106.041, Alcoholic
7 Beverage Code, is amended by adding Subdivision (4) to read as
8 follows:

9 (4) "Watercraft" has the meaning assigned by Section
10 49.01, Penal Code.

11 SECTION 19.04. Subdivision (3), Section 524.001,
12 Transportation Code, is amended to read as follows:

13 (3) "Alcohol-related or drug-related enforcement
14 contact" means a driver's license suspension, disqualification, or
15 prohibition order under the laws of this state or another state
16 resulting from:

17 (A) a conviction of an offense prohibiting the
18 operation of a motor vehicle or watercraft while:

19 (i) intoxicated;
20 (ii) under the influence of alcohol; or
21 (iii) under the influence of a controlled
22 substance;

23 (B) a refusal to submit to the taking of a breath
24 or blood specimen following an arrest for an offense prohibiting
25 the operation of a motor vehicle or an offense prohibiting the
26 operation of a watercraft, if the watercraft was powered with an
27 engine having a manufacturer's rating of 50 horsepower or more,

1 while:

2 (i) intoxicated;
3 (ii) under the influence of alcohol; or
4 (iii) under the influence of a controlled
5 substance; or

6 (C) an analysis of a breath or blood specimen
7 showing an alcohol concentration of a level specified by Section
8 49.01, Penal Code, following an arrest for an offense prohibiting
9 the operation of a motor vehicle or watercraft while intoxicated.

10 SECTION 19.05. Subsection (a), Section 524.011,
11 Transportation Code, is amended to read as follows:

12 (a) An officer arresting a person shall comply with
13 Subsection (b) if:

14 (1) the person is arrested for an offense under
15 Section 49.04, 49.045, or 49.06, Penal Code, or an offense under
16 Section 49.07 or 49.08 of that code involving the operation of a
17 motor vehicle or watercraft, submits to the taking of a specimen of
18 breath or blood and an analysis of the specimen shows the person had
19 an alcohol concentration of a level specified by Section
20 49.01(2)(B), Penal Code; or

21 (2) the person is a minor arrested for an offense under
22 Section 106.041, Alcoholic Beverage Code, or Section 49.04, 49.045,
23 or 49.06, Penal Code, or an offense under Section 49.07 or 49.08,
24 Penal Code, involving the operation of a motor vehicle or
25 watercraft and:

26 (A) the minor is not requested to submit to the
27 taking of a specimen; or

1 (B) the minor submits to the taking of a specimen
2 and an analysis of the specimen shows that the minor had an alcohol
3 concentration of greater than .00 but less than the level specified
4 by Section 49.01(2)(B), Penal Code.

5 SECTION 19.06. Subsection (b), Section 524.012,
6 Transportation Code, is amended to read as follows:

7 (b) The department shall suspend the person's driver's
8 license if the department determines that:

9 (1) the person had an alcohol concentration of a level
10 specified by Section 49.01(2)(B), Penal Code, while operating a
11 motor vehicle in a public place or while operating a watercraft; or

12 (2) the person was ~~is~~ a minor on the date that the
13 breath or blood specimen was obtained and had any detectable amount
14 of alcohol in the minor's system while operating a motor vehicle in
15 a public place or while operating a watercraft.

16 SECTION 19.07. Subsection (b), Section 524.015,
17 Transportation Code, is amended to read as follows:

18 (b) A suspension may not be imposed under this chapter on a
19 person who is acquitted of a criminal charge under Section 49.04,
20 49.045, 49.06, 49.07, or 49.08, Penal Code, or Section 106.041,
21 Alcoholic Beverage Code, arising from the occurrence that was the
22 basis for the suspension. If a suspension was imposed before the
23 acquittal, the department shall rescind the suspension and shall
24 remove any reference to the suspension from the person's
25 computerized driving record.

26 SECTION 19.08. Subsection (b), Section 524.022,
27 Transportation Code, is amended to read as follows:

1 (b) A period of suspension under this chapter for a minor
2 is:

3 (1) 60 days if the minor has not been previously
4 convicted of an offense under Section 106.041, Alcoholic Beverage
5 Code, or Section 49.04, 49.045, or 49.06, Penal Code, or an offense
6 under Section 49.07 or 49.08, Penal Code, involving the operation
7 of a motor vehicle or a watercraft;

8 (2) 120 days if the minor has been previously
9 convicted once of an offense listed by Subdivision (1); or

10 (3) 180 days if the minor has been previously
11 convicted twice or more of an offense listed by Subdivision (1).

12 SECTION 19.09. Section 524.023, Transportation Code, is
13 amended to read as follows:

14 Sec. 524.023. APPLICATION OF SUSPENSION UNDER OTHER LAWS.

15 (a) If a person is convicted of an offense under Section 106.041,
16 Alcoholic Beverage Code, or Section 49.04, 49.045, 49.06, 49.07, or
17 49.08, Penal Code, and if any conduct on which that conviction is
18 based is a ground for a driver's license suspension under this
19 chapter and Section 106.041, Alcoholic Beverage Code, Subchapter O,
20 Chapter 521, or Subchapter H, Chapter 522, each of the suspensions
21 shall be imposed.

22 (b) The court imposing a driver's license suspension under
23 Section 106.041, Alcoholic Beverage Code, or Chapter 521 or 522 as
24 required by Subsection (a) shall credit a period of suspension
25 imposed under this chapter toward the period of suspension required
26 under Section 106.041, Alcoholic Beverage Code, or Subchapter O,
27 Chapter 521, or Subchapter H, Chapter 522, unless the person was

1 convicted of an offense under Article 67011-1, Revised Statutes, as
2 that law existed before September 1, 1994, Section 19.05(a)(2),
3 Penal Code, as that law existed before September 1, 1994, Section
4 49.04, 49.045, 49.06, 49.07, or 49.08, Penal Code, or Section
5 106.041, Alcoholic Beverage Code, before the date of the conviction
6 on which the suspension is based, in which event credit may not be
7 given.

8 SECTION 19.10. Subsections (a) and (d), Section 524.035,
9 Transportation Code, are amended to read as follows:

10 (a) The issues that must be proved at a hearing by a
11 preponderance of the evidence are:

12 (1) whether:

13 (A) the person had an alcohol concentration of a
14 level specified by Section 49.01(2)(B), Penal Code, while operating
15 a motor vehicle in a public place or while operating a watercraft;
16 or

17 (B) the person was ~~is~~ a minor on the date that
18 the breath or blood specimen was obtained and had any detectable
19 amount of alcohol in the minor's system while operating a motor
20 vehicle in a public place or while operating a watercraft; and

21 (2) whether reasonable suspicion to stop or probable
22 cause to arrest the person existed.

23 (d) An administrative law judge may not find in the
24 affirmative on the issue in Subsection (a)(1) if:

25 (1) the person is an adult and the analysis of the
26 person's breath or blood determined that the person had an alcohol
27 concentration of a level below that specified by Section 49.01,

1 Penal Code, at the time the specimen was taken; or

2 (2) the person was ~~is~~ a minor on the date that the
3 breath or blood specimen was obtained and the administrative law
4 judge does not find that the minor had any detectable amount of
5 alcohol in the minor's system when the minor was arrested.

6 SECTION 19.11. Subsection (a), Section 524.042,
7 Transportation Code, is amended to read as follows:

8 (a) A suspension of a driver's license under this chapter is
9 stayed on the filing of an appeal petition only if:

10 (1) the person's driver's license has not been
11 suspended as a result of an alcohol-related or drug-related
12 enforcement contact during the five years preceding the date of the
13 person's arrest; and

14 (2) the person has not been convicted during the 10
15 years preceding the date of the person's arrest of an offense under:

16 (A) Article 67011-1, Revised Statutes, as that
17 law existed before September 1, 1994;

18 (B) Section 19.05(a)(2), Penal Code, as that law
19 existed before September 1, 1994;

20 (C) Section 49.04, 49.045, or 49.06, Penal Code;

21 (D) Section 49.07 or 49.08, Penal Code, if the
22 offense involved the operation of a motor vehicle or a watercraft;

23 or

24 (E) Section 106.041, Alcoholic Beverage Code.

25 SECTION 19.12. The changes in law made by this article to
26 Chapter 524, Transportation Code, apply only to an offense
27 committed on or after the effective date of this article. An

1 offense committed before the effective date of this article is
2 covered by the law in effect when the offense was committed, and the
3 former law is continued in effect for that purpose. For purposes of
4 this section, an offense was committed before the effective date of
5 this article if any element of the offense was committed before that
6 date.

7 SECTION 19.13. This article takes effect September 1, 2009.

8 ARTICLE 20. ADMINISTRATIVE FINE AND LATE PAYMENT FEE FOR A
9 VIOLATION OF A PARKING RULE APPLICABLE TO THE CAPITOL COMPLEX

10 SECTION 20.01. Subsections (a), (b), and (d), Section
11 411.067, Government Code, are amended to read as follows:

12 (a) The department may [~~shall have authority to~~] adopt rules
13 for the assessment of an administrative fine of \$25 [~~\$10~~] for
14 violations of the parking rules adopted under Section 411.063.
15 Notwithstanding the provisions of Sections 411.065 and 411.066, the
16 department may [~~in its discretion~~] issue an administrative citation
17 for a parking violation.

18 (b) Rules adopted under this section shall:

19 (1) establish a system for enforcement of
20 administrative citations, including [~~but not limited to~~]
21 assessment of a late fee not to exceed \$5 [~~\$2~~] and towing,
22 impoundment, or immobilization of vehicles; and

23 (2) provide [~~for~~] a procedure of administrative review
24 within the highway patrol district that includes the Capitol
25 Complex [~~capitol police district~~] and, on request of the person
26 assessed an administrative fine, further judicial review by the
27 department filing the appropriate citation or complaint in a court

1 ~~[of competent jurisdiction]~~, as provided in Section 411.066.

2 (d) The department shall remit to the comptroller for
3 deposit in the general revenue fund each ~~[any]~~ administrative fine
4 and late fee collected ~~[received]~~ under this section. The money
5 deposited ~~[Such revenues]~~ may be appropriated only to the
6 department for ~~[capitol police]~~ security and parking in the highway
7 patrol district that includes the Capitol Complex.

8 SECTION 20.02. This article takes effect September 1, 2009.

9 ARTICLE 21. EFFECTIVE DATE

10 SECTION 21.01. Except as otherwise provided by this Act,
11 this Act takes effect September 1, 2009.

ADOPTED

MAY 27 2009

FLOOR AMENDMENT NO. 1

Lotay Spaul
Secretary of the Senate

BY: *J. J. Henry*

1 Amend C.S.H.B. No. 2730 (senate committee printing) as
2 follows:

3 (1) In SECTION 4.60 of the bill, in proposed Section
4 1702.221(d), Occupations Code (page 19, line 24), strike
5 "Subsection (a)" and substitute "Subsection (b)".

6 (2) In SECTION 11.05 of the bill, in amended Section
7 411.177(b)(2)(C), Government Code (page 46, line 54), strike
8 "411.188(j)" and substitute "411.188(k)".

9 (3) In SECTION 12.13 of the bill (page 55, line 24), between
10 "Section 521.205" and the period, insert ", Transportation Code".

ADOPTED

MAY 27 2009

1 FLOOR AMENDMENT NO. 2

Atty Gen
Secretary of the Senate

BY:

J. J. Amey

2 Amend C.S.H.B. No. 2730 (Senate committee printing) as
3 follows:

4 (1) In SECTION 11.01 of the bill, in amended Section
5 411.1711(1), Government Code (page 43, line 34), strike "an" and
6 substitute "a felony [~~an~~]".

7 (2) In SECTION 11.01 of the bill, in amended Section
8 411.1711(1), Government Code (page 43, lines 36-39), strike
9 proposed Paragraphs (B) and (C) and substitute:

10 (B) [~~or~~] Chapter 29, Penal Code;

11 (C) Section 25.07, Penal Code; or

12 (D) Section 30.02, Penal Code, if the offense is
13 punishable under Subsection (c)(2) or (d) of that section; or

14 (3) In SECTION 11.02 of the bill (page 43, lines 43-44),
15 strike the recital and substitute the following:

16 SECTION 11.02. Section 411.172, Government Code, is amended
17 by amending Subsections (a), (b), (d), and (e) and adding
18 Subsection (b-1) to read as follows:

19 (4) In SECTION 11.02 of the bill, in amended Section
20 411.172(a), Government Code (page 44, lines 1-6), strike
21 Subdivision (12) and substitute:

22 [~~(12) has not been finally determined to be in default~~
23 ~~on a loan made under Chapter 57, Education Code;~~]

24 (5) In SECTION 11.02 of the bill, in amended Section
25 411.172(a)(13), Government Code (page 44, line 7), strike "(13)"
26 and substitute "(12) [~~(13)~~]".

27 (6) In SECTION 11.02 of the bill, in amended Section
28 411.172(a)(14), Government Code (page 44, line 11), strike "(14)"
29 and substitute "(13) [~~(14)~~]".

1 (7) In SECTION 11.02 of the bill, in amended Section
2 411.172(a)(15), Government Code (page 44, line 14), strike "(15)"
3 and substitute "(14) [~~(15)~~]".

4 (8) In SECTION 11.02 of the bill, in amended Section 411.172,
5 Government Code (page 44, between lines 17 and 18), insert the
6 following new subsections between Subsections (a) and (d):

7 (b) For the purposes of this section, an offense under the
8 laws of this state, another state, or the United States is:

9 (1) except as provided by Subsection (b-1), a felony if
10 the offense, at the time the offense is committed [~~of a person's~~
11 ~~application for a license to carry a concealed handgun~~]:

12 (A) is designated by a law of this state as a
13 felony;

14 (B) contains all the elements of an offense
15 designated by a law of this state as a felony; or

16 (C) is punishable by confinement for one year or
17 more in a penitentiary; and

18 (2) a Class A misdemeanor if the offense is not a felony
19 and confinement in a jail other than a state jail felony facility
20 is affixed as a possible punishment.

21 (b-1) An offense is not considered a felony for purposes of
22 Subsection (b) if, at the time of a person's application for a
23 license to carry a concealed handgun, the offense:

24 (1) is not designated by a law of this state as a
25 felony; and

26 (2) does not contain all the elements of any offense
27 designated by a law of this state as a felony.

28 (9) In SECTION 11.08 of the bill, in amended Section
29 411.186(a), Government Code (page 47, line 53), strike Subdivision

1 (2) and substitute the following:

2 "(2) made a material misrepresentation or failed to disclose a
3 material fact in an application submitted under this subchapter
4 [~~gave false information on the application~~];"

5 (10) In SECTION 11.08 of the bill, in amended Section
6 411.186(a)(6), Government Code (page 47, line 67), between
7 "reversed" and the period, insert "if the applicant fails to submit
8 a cashier's check or money order made payable to the "Department of
9 Public Safety of the State of Texas" in the amount of the
10 dishonored or reversed fee, plus \$25, within 30 days of being
11 notified by the department that the fee was dishonored or reversed"

12 (11) In SECTION 11.09 of the bill, in amended Section
13 411.187(a)(3), Government Code (page 48, line 10), strike "address
14 or name" and substitute "address, ~~[or]~~ name, or status".

15 (12) In ARTICLE 11 of the bill (page 50, line 60, through
16 page 51, line 8), strike SECTIONS 11.16 and 11.17 and renumber
17 subsequent SECTIONS accordingly.

18 (13) In SECTION 11.21 of the bill (page 51, line 35), strike
19 ", 411.1882,".

20 (14) In SECTION 11.22 of the bill (page 51, line 38), before
21 "411.1711," insert "411.171,".

22 (15) In SECTION 11.22 of the bill (page 51, lines 39-40),
23 strike "and by Section 57.491, Education Code, as amended by this
24 article,".

25 (16) In SECTION 11.23 of the bill (page 51, line 47), between
26 "411.177," and "411.184," insert "411.1882,".

27 (17) In SECTION 11.23 of the bill (page 51, line 49), strike
28 ", 411.1882,".

29 (18) Add the following appropriately numbered SECTIONS to

1 ARTICLE 11 of the bill and renumber subsequent SECTIONS of that
2 ARTICLE accordingly:

3 SECTION 11.____. Section 411.171(4), Government Code, is
4 amended to read as follows:

5 (4) "Convicted" means an adjudication of guilt or,
6 except as provided in Section 411.1711, an order of deferred
7 adjudication entered against a person by a court of competent
8 jurisdiction whether or not the imposition of the sentence is
9 subsequently probated and the person is discharged from community
10 supervision. The term does not include an adjudication of guilt or
11 an order of deferred adjudication that has been subsequently:

12 (A) expunged; [~~or~~]

13 (B) pardoned under the authority of a state or
14 federal official; or

15 (C) otherwise vacated, set aside, annulled,
16 invalidated, voided, or sealed under any state or federal law.

17 SECTION 11.____. Section 411.179(c), Government Code, as added
18 by Chapter 1222 (H.B. 2300), Acts of the 80th Legislature, Regular
19 Session, 2007, is amended to read as follows:

20 (c) In adopting the form of the license under Subsection (a),
21 the department shall establish a procedure for the license of a
22 qualified handgun instructor or of a judge, justice, prosecuting
23 attorney, or assistant prosecuting attorney, as described by
24 Section 46.15(a)(4) or (6), Penal Code, to indicate on the license
25 the license holder's status as a qualified handgun instructor or as
26 a judge, justice, district attorney, criminal district attorney, or
27 county attorney. In establishing the procedure, the department
28 shall require sufficient documentary evidence to establish the
29 license holder's status under this subsection.

1 SECTION 11.____. Sections 411.181(a) and (b), Government Code,
2 as amended by Chapters 594 (H.B. 41) and 1222 (H.B. 2300), Acts of
3 the 80th Legislature, Regular Session, 2007, are reenacted and
4 amended to read as follows:

5 (a) If a person who is a current license holder moves from
6 any residence [~~the~~] address stated on the license [~~to a new~~
7 ~~residence address~~], if the name of the person is changed by
8 marriage or otherwise, or if the person's status [~~as a judge,~~
9 ~~justice, district attorney, prosecuting attorney, or assistant~~
10 ~~prosecuting attorney, as a federal judge, a state judge, or the~~
11 ~~spouse of a federal judge or state judge,~~] becomes inapplicable for
12 purposes of the information required to be displayed on the license
13 under Section 411.179 [~~411.179(e)~~], the person shall, not later
14 than the 30th day after the date of the address, name, or status
15 change, notify the department and provide the department with the
16 number of the person's license and, as applicable, the person's:

- 17 (1) former and new addresses; [~~or~~]
18 (2) former and new names; or
19 (3) former and new status.

20 (b) If the name of the license holder is changed by marriage
21 or otherwise, or if the person's status [~~as a federal judge or~~
22 ~~state judge, or the spouse of a federal judge or state judge~~]
23 becomes inapplicable as described by Subsection (a), the person
24 shall apply for a duplicate license. The duplicate license must
25 reflect [~~include~~] the person's current name, residence address, and
26 status.

27 SECTION 11.____. Section 411.1882, Government Code, is amended
28 to read as follows:

29 Sec. 411.1882. EVIDENCE OF [~~EXEMPTION FROM~~] HANDGUN

1 PROFICIENCY [~~CERTIFICATE REQUIREMENT~~] FOR CERTAIN PERSONS. (a) A
2 person who is serving in this state as a judge or justice of a
3 federal court, as an active judicial officer, as defined by Section
4 411.201, or as a district attorney, assistant district attorney,
5 criminal district attorney, assistant criminal district attorney,
6 county attorney, or assistant county attorney may establish handgun
7 proficiency for the purposes of this subchapter by obtaining from a
8 handgun proficiency instructor approved by the Commission on Law
9 Enforcement Officer Standards and Education for purposes of Section
10 1702.1675, Occupations Code, a sworn statement that:

11 (1) indicates that the person, during the 12-month
12 period preceding the date of the person's application to the
13 department, demonstrated to the instructor proficiency in the use
14 of handguns; and

15 (2) designates the categories of handguns with respect
16 to which the person demonstrated proficiency [~~Notwithstanding any~~
17 ~~other provision of this subchapter, a person may not be required to~~
18 ~~submit to the department a handgun proficiency certificate to~~
19 ~~obtain or renew a concealed handgun license issued under this~~
20 ~~subchapter if:~~

21 [~~(1) the person is currently serving in this state as:~~

22 [~~(A) a judge or justice of a federal court;~~

23 [~~(B) an active judicial officer, as defined by~~

24 ~~Section 411.201, Government Code; or~~

25 [~~(C) a district attorney, assistant district~~

26 ~~attorney, criminal district attorney, assistant criminal district~~

27 ~~attorney, county attorney, or assistant county attorney; and~~

28 [~~(2) a handgun proficiency instructor approved by the~~

29 ~~Commission on Law Enforcement Officer Standards and Education for~~

1 ~~purposes of Section 1702.1675, Occupations Code, makes a sworn~~
2 ~~statement indicating that the person demonstrated proficiency to~~
3 ~~the instructor in the use of handguns during the 12 month period~~
4 ~~preceding the date of the person's application to the department~~
5 ~~and designating the types of handguns with which the person~~
6 ~~demonstrated proficiency].~~

7 (b) The director by rule shall adopt a procedure by which a
8 person described [~~who is exempt~~] under Subsection (a) [~~from the~~
9 ~~handgun proficiency certificate requirement~~] may submit a form
10 demonstrating the person's qualification for an exemption under
11 that subsection. The form must provide sufficient information to
12 allow the department to verify whether the person qualifies for the
13 exemption.

14 (c) A license issued under this section automatically expires
15 on the six-month anniversary of the date the person's status under
16 Subsection (a) becomes inapplicable. A license that expires under
17 this subsection may be renewed under Section 411.185.

18 SECTION 11.____. Section 411.190, Government Code, is amended
19 by adding Subsection (d-1) to read as follows:

20 (d-1) The department shall ensure that an applicant may renew
21 certification under Subsection (d) from any county in this state by
22 using an online format to complete the required retraining courses
23 if:

24 (1) the applicant is renewing certification for the
25 first time; or

26 (2) the applicant completed the required retraining
27 courses in person the previous time the applicant renewed
28 certification.

29 SECTION 11.____. Section 46.04, Penal Code, is amended by

1 adding Subsections (f) and (g) to read as follows:

2 (f) For the purposes of this section, an offense under the
3 laws of this state, another state, or the United States is, except
4 as provided by Subsection (g), a felony if, at the time it is
5 committed, the offense:

6 (1) is designated by a law of this state as a felony;

7 (2) contains all the elements of an offense designated
8 by a law of this state as a felony; or

9 (3) is punishable by confinement for one year or more in
10 a penitentiary.

11 (g) An offense is not considered a felony for purposes of
12 Subsection (f) if, at the time the person possesses a firearm, the
13 offense:

14 (1) is not designated by a law of this state as a
15 felony; and

16 (2) does not contain all the elements of any offense
17 designated by a law of this state as a felony.

18 SECTION 11.____. Section 521.001(a), Transportation Code, is
19 amended by adding Subdivisions (3-a) and (8-a) to read as follows:

20 (3-a) "Federal judge" means:

21 (A) a judge of a United States court of appeals;

22 (B) a judge of a United States district court;

23 (C) a judge of a United States bankruptcy court; or

24 (D) a magistrate judge of a United States district
25 court.

26 (8-a) "State judge" means:

27 (A) the judge of an appellate court, a district
28 court, or a county court at law of this state; or

29 (B) an associate judge appointed under Chapter 201,

1 Family Code.

2 SECTION 11.__. Sections 521.054(a) and (b), Transportation
3 Code, are amended to read as follows:

4 (a) This section applies to a person who:

5 (1) after applying for or being issued a ~~[the]~~ license
6 or certificate moves to a new residence ~~[from the]~~ address ~~[stated~~
7 ~~in the person's application for a license or certificate];~~

8 (2) has used the procedure under Section 521.121(c) and
9 whose status as a federal judge, a state judge, or the spouse of a
10 federal or state judge becomes inapplicable ~~[moves from the address~~
11 ~~shown on the license or certificate held by the person]; or~~

12 (3) changes the person's name by marriage or otherwise.

13 (b) A person subject to this section shall notify the
14 department of the change not later than the 30th day after the date
15 on which the change takes effect and apply for a duplicate license
16 or certificate as provided by Section 521.146. The duplicate
17 license must include the person's current residence address.

18 SECTION 11.__. Section 521.121, Transportation Code, is
19 amended by amending Subsection (a) and adding Subsection (c) to
20 read as follows:

21 (a) The driver's license must include:

22 (1) a distinguishing number assigned by the department
23 to the license holder;

24 (2) a color photograph of the entire face of the holder;

25 (3) the full name and~~[,]~~ date of birth~~[, and residence~~
26 ~~address]~~ of the holder; ~~[and]~~

27 (4) a brief description of the holder; and

28 (5) the license holder's residence address or, for a
29 license holder using the procedure under Subsection (c), the street

1 address of the courthouse in which the license holder or license
2 holder's spouse serves as a federal judge or state judge.

3 (c) The department shall establish a procedure for a federal
4 judge, a state judge, or the spouse of a federal or state judge to
5 omit the license holder's residence address on the license and to
6 include, in lieu of that address, the street address of the
7 courthouse in which the license holder or license holder's spouse
8 serves as a federal judge or state judge. In establishing the
9 procedure, the department shall require sufficient documentary
10 evidence to establish the license holder's status as a federal
11 judge, a state judge, or the spouse of a federal or state judge.

12 SECTION 11.__. Section 521.142(c), Transportation Code, is
13 amended to read as follows:

14 (c) The application must state:

15 (1) the sex of the applicant;

16 (2) the residence address of the applicant, or if the
17 applicant is a federal judge, a state judge, or the spouse of a
18 federal or state judge using the procedure developed under Section
19 521.121(c), the street address of the courthouse in which the
20 applicant or the applicant's spouse serves as a federal judge or a
21 state judge;

22 (3) whether the applicant has been licensed to drive a
23 motor vehicle before;

24 (4) if previously licensed, when and by what state or
25 country;

26 (5) whether that license has been suspended or revoked
27 or a license application denied;

28 (6) the date and reason for the suspension, revocation,
29 or denial;

1 (7) whether the applicant is a citizen of the United
2 States; and

3 (8) the county of residence of the applicant.

4 SECTION 11.____. The change in law made by this Act in amending
5 Section 46.04, Penal Code, applies only to an offense committed on
6 or after the effective date of this Act. An offense committed
7 before the effective date of this Act is covered by the law in
8 effect when the offense was committed, and the former law is
9 continued in effect for that purpose. For purposes of this section,
10 an offense was committed before the effective date of this Act if
11 any element of the offense occurred before that date.

ADOPTED

FLOOR AMENDMENT NO. 3

MAY 27 2009

Atty. Gen.
Secretary of the Senate

J. J. Ariz

1 Amend C.S.H.B No. 2730 (senate committee printing) by
2 adding the following appropriately numbered article to the bill
3 and renumbering subsequent articles of the bill accordingly:

4 ARTICLE __. USE OR DISPLAY UNDER CERTAIN CIRCUMSTANCES OF

5 AN EXPIRED LICENSE TO CARRY A CONCEALED HANDGUN

6 SECTION __.01. Section 46.15, Penal Code, is amended by
7 adding Subsection (g) to read as follows:

8 (g) For purposes of Subsection (b) (6), a valid license
9 includes an expired license if, before the expiration date of
10 the license, the license holder submitted a timely and
11 sufficient application for renewal of the license to the
12 Department of Public Safety in accordance with Section 411.185,
13 Government Code, and has not received notice that the
14 application for renewal has been finally determined as provided
15 by Government Code Section 2001.054.

16 SECTION __.02. Section 411.205(a), Government Code is
17 amended to read as follows:

18 (a) If a license holder is carrying a handgun on or about
19 the license holder's person when a magistrate or a peace officer
20 demands that the license holder display identification, the
21 license holder shall display both the license holder's driver's
22 license or identification certificate issued by the department
23 and the license holder's handgun license. A person who fails or
24 refuses to display the person's [license and] identification
25 and handgun license as required by this subsection is subject to
26 suspension of the person's license as provided by Section
27 411.187 or, if the license is expired, a refusal to renew the
28 person's license for the applicable period of suspension
29 provided by that section.

31

ADOPTED

MAY 27 2009

Letay Spaul
Secretary of the Senate

FLOOR AMENDMENT NO. 4

BY: *J. J. Amij*

1 Amend C.S.H.B. No. 2730 (senate committee printing) by adding
2 the following appropriately numbered SECTION to the bill and
3 renumbering subsequent SECTIONS accordingly:

4 SECTION _____. Section 22.0834, Education Code, is amended
5 by adding Subsections (k), (l), (m), (n), (o), and (p) to read as
6 follows:

7 (k) The requirements of this section apply to an entity that
8 contracts directly with a school district, open-enrollment charter
9 school, or shared services arrangement and any subcontractor of the
10 entity.

11 (l) A contracting entity shall require that a
12 subcontracting entity obtain all criminal history record
13 information that relates to an employee to whom Subsection (a)
14 applies. If a contracting or subcontracting entity determines that
15 Subsection (a) does not apply to an employee, the contracting or
16 subcontracting entity shall make a reasonable effort to ensure that
17 the conditions or precautions that resulted in the determination
18 that Subsection (a) did not apply to the employee continue to exist
19 throughout the time that the contracted services are provided.

20 (m) A contracting entity complies with the requirements of
21 this section if the contracting entity obtains a written statement
22 from each subcontracting entity certifying that the subcontracting
23 entity has obtained the required criminal history record
24 information for employees of the subcontracting entity and the
25 subcontracting entity has obtained certification from each of the
26 subcontracting entity's subcontractors.

27 (n) A subcontracting entity must certify to the school
28 district, open-enrollment charter school, or shared services
29 arrangement and the contracting entity that the subcontracting

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1 entity has obtained all criminal history record information that
2 relates to an employee to whom Subsection (a) applies and has
3 obtained similar written certifications from the subcontracting
4 entity's subcontractors.

5 (o) A contracting or subcontracting entity may not permit an
6 employee to whom Subsection (a) applies to provide services at a
7 school if the employee has been convicted of a felony or misdemeanor
8 offense that would prevent a person from obtaining certification as
9 an educator under Section 21.060.

10 (p) In this section:

11 (1) "Contracting entity" means an entity that
12 contracts directly with a school district, open-enrollment charter
13 school, or shared services arrangement to provide services to the
14 school district, open-enrollment charter school, or shared
15 services arrangement.

16 (2) "Subcontracting entity" means an entity that
17 contracts with another entity that is not a school district,
18 open-enrollment charter school, or shared services arrangement to
19 provide services to a school district, open-enrollment charter
20 school, or shared services arrangement.

ADOPTED

MAY 27 2009

FLOOR AMENDMENT NO. 5

Letty Spaw
Secretary of the Senate

BY: *J. J. Armitage*

1 Amend CSHB 2730 (Senate Committee Printing) in Article 5 of the bill
2 by adding the following SECTION to that article, appropriately
3 numbered, and renumbering subsequent SECTIONS accordingly:

4 SECTION _____. Subchapter A, Chapter 411, Government Code, is
5 amended by amending Section 411.005 to read as follows:

6 Sec. 411.005. [~~DIRECTOR AND ASSISTANT DIRECTOR~~] DIRECTOR, DEPUTY
7 DIRECTORS, AND ASSISTANT DIRECTORS.

8 (b) The director may appoint, with advice and consent of the
9 commission, deputy directors and assistant directors who shall perform
10 the duties the director designates. [~~An~~] Deputy directors and
11 assistant directors serve until removed by the director.

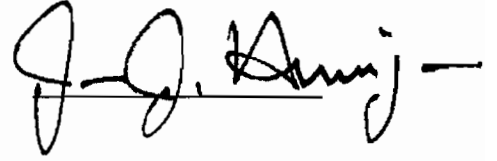
12 (c) The commission shall select the director, and the
13 director shall select [~~an assistant director~~] deputy directors and
14 assistant directors, on the basis of the person's training,
15 experience, and qualifications for the position. [~~The director and an~~
16 ~~assistant director must have five years' experience, preferably in~~
17 ~~police or public administration.~~] The director, [an assistant
18 director] deputy directors, and assistant directors are entitled to
19 annual salaries as provided by the legislature.


ADOPTED

FLOOR AMENDMENT NO. 6

MAY 27 2009

BY:




Secretary of the Senate

1 Amend C.S.H.B. 2730 (senate committee printing) by adding
2 the following appropriately numbered SECTION to the bill and
3 renumbering subsequent SECTIONS accordingly:

4 SECTION _____. Section 662.005(b), Government Code, is
5 amended to read as follows:

6 (b) Except as provided by Section 662.010, and
7 notwithstanding Section 659.015 or another law, a state employee
8 who is a peace officer commissioned by a state officer or state
9 agency listed under Article 2.12, Code of Criminal Procedure, or
10 who is employed by the Department of Public Safety either to
11 perform communications or dispatch services related to traffic
12 law enforcement or as a public security officer, as that term is
13 defined by Section 1701.001, Occupations Code, and who is
14 required to work on a national or state holiday that falls on a
15 Saturday or Sunday is entitled to compensatory time off at the
16 rate of one hour for each hour worked on the holiday.

ADOPTED

FLOOR AMENDMENT NO. 7

MAY 27 2009

BY:

Atty. Gen.
Secretary of the Senate

J. J. Kinnick

1 Amend CSHB 2730 (Senate Committee Printing) by inserting
2 the following appropriately numbered SECTIONS and renumbering
3 subsequent SECTIONS of the bill appropriately:

4 SECTION 1. Section 601.053, Transportation Code, is
5 amended by amending Subsection (b) and adding Subsection (c) to
6 read as follows:

7 (b) Except as provided by Subsection (c), an [Aa] operator
8 who does not exhibit evidence of financial responsibility under
9 Subsection (a) is presumed to have operated the vehicle in
10 violation of Section 601.051.

11 (c) Subsection (b) does not apply if the peace officer
12 determines through use of the verification program established
13 under Subchapter N that financial responsibility has been
14 established for the vehicle.

15 SECTION 2. Subchapter N, Chapter 601, Transportation Code,
16 as added by Chapter 1325 (H.B. 3588), Acts of the 78th
17 Legislature, Regular Session, 2003, is repealed.

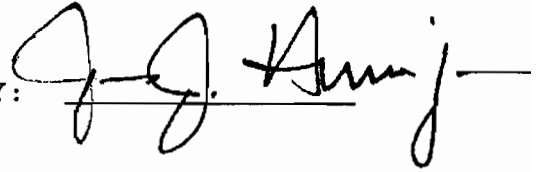
18

ADOPTED

FLOOR AMENDMENT NO. 8

MAY 27 2009

BY:



Atty. Gen.
Secretary of the Senate

1 Amend C.S.H.B. 2730 (senate committee printing) by amending
2 SECTIONS 5.09 and 5.10 as follows:

3 SECTION 5.09. The heading to Section 411.244, Government
4 Code, is amended to read as follows:

5 Sec. 411.244. OFFICE OF INSPECTOR GENERAL [~~INTERNAL~~
6 ~~AFFAIRS~~].

7 SECTION 5.10. Section 411.244, Government Code is amended
8 by amending Subsections (a), (b), (d), (e), and (f), and by
9 adding Subsection (g) to read as follows:

10 (a) The commission [~~director~~] shall establish the office
11 of inspector general, which is responsible for:

12 (1) acting to prevent and detect serious breaches of
13 departmental policy, fraud, and abuse of office, including any
14 acts of criminal conduct within the department; and

15 (2) independently and objectively reviewing,
16 investigating, delegating an investigation, and overseeing the
17 investigation of administrative and all other allegations of
18 conduct referred to in (a)(1) above and the following:

19 (A) criminal activity occurring in all divisions
20 of the department;

21 (B) allegations of wrongdoing by department
22 employees;

23 (C) crimes committed on department property; and

24 (D) serious breaches of department policy
25 [~~internal affairs~~].

26 (b) The office of inspector general [~~internal affairs~~] has
27 [~~original~~] departmental jurisdiction for oversight and
28 coordination over all investigations occurring on department
29 property or involving department employees. The office shall

1 coordinate and provide oversight, but need not conduct, all
2 investigations under this section. The inspector general shall
3 delegate criminal allegations arising under this section to the
4 Texas Ranger division or the Criminal Law Enforcement division
5 of the department for investigation or referral back to the
6 inspector general for further action. However the inspector
7 general shall continually monitor referred matters and report to
8 the commission along with any other division investigating a
9 matter on its status while pending.

10 (d) The commission has direct oversight over the office of
11 inspector general, including decisions regarding budget and
12 staffing. The commission [~~director~~] shall appoint the inspector
13 general [~~head of the office of internal affairs~~]. The inspector
14 general [~~head of the office of internal affairs~~] serves until
15 removed by the commission [~~director~~]. The commission shall
16 establish policies to ensure that the commission continues to
17 oversee the office of inspector general as required by this
18 subsection and to ensure that the office of inspector general
19 retains and exercises its original jurisdiction under Subsection
20 (b).

21 (e) The inspector general [~~head of the office of internal~~
22 ~~affairs~~] shall report directly to the commission [~~director~~]
23 regarding performance of and activities related to
24 investigations, report to the director for administrative
25 purposes, and provide the director with information regarding
26 investigations as appropriate.

27 (f) The inspector general [~~head of the office of internal~~
28 ~~affairs~~] shall present at each regularly scheduled commission
29 meeting and at other appropriate times:

30 (1) reports of investigations; and

31 (2) a summary of information relating to

1 investigations conducted under this section that includes
2 analysis of the number, type, and outcome of investigations,
3 trends in the investigations, and recommendations to avoid
4 future complaints.

5 (g) This chapter or other law related to the operation of
6 the department's office of inspector general does not preempt
7 the authority of the state auditor to conduct an audit or
8 investigation under Chapter 321 or other law.

ADOPTED

MAY 27 2009

Lataj Spivey
Secretary of the Senate

Shane
J. King

FLOOR AMENDMENT NO. 9

BY: _____

Amend C.S.H.B. No. 2730 (Senate committee printing) as follows:

(1) In ARTICLE 15 of the bill, strike SECTIONS 15.01, 15.02, 15.03, and 15.04 (page 58, line 64, through page 60, line 18) and substitute the following:

SECTION 15.01. Section 708.151, Transportation Code, is amended to read as follows:

Sec. 708.151. NOTICE OF SURCHARGE. (a) The department shall send notices as required by Subsection (b) to [notify] the holder of a driver's license when [of the assessment of] a surcharge is assessed on that license. Each notice must:

(1) be sent by first class mail [sent] to the person's most recent address as shown on the records of the department or to the person's most recent forwarding address on record with the United States Postal Service if it is different;

(2) [~~The notice must~~] specify the date by which the surcharge must be paid;

(3) state the total dollar amount of the surcharge that must be paid, the number of monthly payments required under an installment payment plan, and the minimum monthly payment required for a person to enter and maintain an installment payment plan with the department; and

(4) state the consequences of a failure to pay the surcharge.

(b) The department shall send a first notice not later than the fifth day after the date the surcharge is assessed.

(c) If on or before the 45th day after the date the first

notice was sent the person fails to pay the amount of the surcharge or fails to enter into an installment payment agreement with the department, the department shall send a second notice. If on or before the 60th day after the date the second notice was sent the person fails to pay the amount of the surcharge or fails to enter into an installment payment agreement with the department, the department shall send a third notice that advises the person that the person's driving privileges are suspended.

SECTION 15.02. Section 708.152(a), Transportation Code, is amended to read as follows:

(a) If on [~~before~~] the 60th [~~30th~~] day after the date the department sends a second notice under Section 708.151 the person fails to pay the amount of a surcharge on the person's license or fails to enter into an installment payment agreement with the department, the license of the person is automatically suspended. A person's license may not be suspended under this section before the 105th day after the date the surcharge was assessed by the department.

SECTION 15.03. Section 708.153(b), Transportation Code, is amended to read as follows:

(b) A rule under this section:

- (1) may not require [~~permit~~] a person to:
 - (A) pay surcharges that total \$500 or more [~~a surcharge~~] over a period of less [~~more~~] than 36 consecutive months;
 - (B) pay surcharges that total more than \$250 but not more than \$499 over a period of less than 24 consecutive months; or
 - (C) pay surcharges that total \$249 or less over a period of less than 12 consecutive months; and

(2) may provide that if the person fails to make any [a] required monthly installment payment, the department may reestablish the installment plan on receipt of a payment in the amount equal to at least a required monthly installment payment [~~or declare the amount of the unpaid surcharge immediately due and payable~~].

SECTION 15.04. Subchapter D, Chapter 708, Transportation Code, is amended by adding Section 708.158 to read as follows:

Sec. 708.158. INDIGENT STATUS AND REDUCTION OF SURCHARGES.

(a) The department shall waive all surcharges assessed under this chapter for a person who is indigent. For the purposes of this section, a person is considered to be indigent if the person provides the evidence described by Subsection (b) to the court.

(b) A person must provide information to the court in which the person is convicted of the offense that is the basis for the surcharge to establish that the person is indigent. The following documentation may be used as proof:

(1) a copy of the person's most recent federal income tax return that shows that the person's income or the person's household income does not exceed 125 percent of the applicable income level established by the federal poverty guidelines;

(2) a copy of the person's most recent statement of wages that shows that the person's income or the person's household income does not exceed 125 percent of the applicable income level established by the federal poverty guidelines; or

(3) documentation from a federal agency, state agency, or school district that indicates that the person or, if the person is a dependent as defined by Section 152, Internal Revenue Code of 1986, the taxpayer claiming the person as a dependent, receives

assistance from:

(A) the food stamp program or the financial assistance program established under Chapter 31, Human Resources Code;

(B) the federal special supplemental nutrition program for women, infants, and children authorized by 42 U.S.C. Section 1786;

(C) the medical assistance program under Chapter 32, Human Resources Code;

(D) the child health plan program under Chapter 62, Health and Safety Code; or

(E) the national free or reduced-price lunch program established under 42 U.S.C. Section 1751 et seq.

(2) Add the following appropriately numbered SECTION to ARTICLE 15 of the bill and renumber subsequent SECTIONS of that article accordingly:

SECTION ____ . Section 708.157(c), Transportation Code, is amended to read as follows:

(c) The department by rule shall [~~may~~] establish an indigency program for holders of a driver's license on which a surcharge has been assessed for certain offenses, as determined by the department.

(3) In SECTION 15.06 of the bill (page 60, line 27), between "that is assessed" and "on or after", insert "under Chapter 708, Transportation Code,".

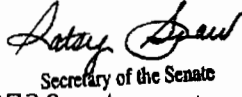
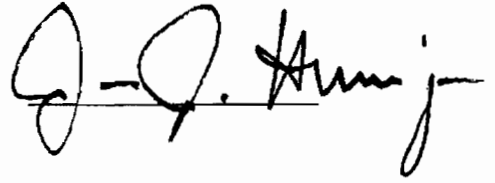
(4) In SECTION 15.06 of the bill (page 60, line 28), between "was assessed" and "before", insert "under that chapter".

ADOPTED

FLOOR AMENDMENT NO. 10

MAY 27 2009

BY:


Secretary of the Senate

1 Amend C.S.H.B. No. 2730 (senate committee printing) by
2 amending SECTION 4.37 as follows:

3 SECTION 4.37. Sections 1702.117(a), (c), and (d),
4 Occupations Code, are amended to read as follows:

5 (a) The board [~~commission~~] shall require an applicant
6 for a license under this chapter or the applicant's manager to
7 demonstrate qualifications in the person's license
8 classification, including knowledge of applicable state laws and
9 board [~~commission~~] rules, by taking an examination to be
10 determined by the board [~~commission~~].

11 (c) The board [~~commission~~] shall set the reexamination
12 fee in an amount not to exceed the amount of the renewal fee for
13 the license classification for which application was made.

14 (d) The board [~~commission~~] shall develop and provide
15 to a person who applies to take the examination under Subsection
16 (a) material containing all applicable state laws and board
17 [~~commission~~] rules.

ADOPTED

MAY 27 2009

Antony Spaw
Secretary of the Senate

FLOOR AMENDMENT NO. 11

BY: Carona

1 Amend Floor Amendment No. 10 by _____ to C.S.H.B. No.
2 2730 as follows:

3 (1) On page 1, strike lines 1 and 2 of the amendment and
4 substitute the following:

5 Amend C.S.H.B. No. 2730 (senate committee printing) as
6 follows:

7 (1) Strike Section 4.37 of the bill and substitute the
8 following:

9 (2) On page 1 of the amendment, insert the following
10 immediately after line 17:

11 (2) Add the following appropriately numbered SECTIONS to
12 Article 4 of the bill and renumber subsequent SECTIONS in that
13 article accordingly:

14 SECTION 4.____. Section 1702.104, Occupations Code, is
15 amended to read as follows:

16 Sec. 1702.104. INVESTIGATIONS COMPANY. (a) A person acts
17 as an investigations company for the purposes of this chapter if the
18 person:

19 (1) engages in the business of obtaining or
20 furnishing, or accepts employment to obtain or furnish, information
21 related to:

22 (A) crime or wrongs done or threatened against a
23 person, state, or the United States;

24 (B) the identity, habits, business, occupation,
25 knowledge, efficiency, loyalty, movement, location, affiliations,
26 associations, transactions, acts, reputation, or character of a
27 person;

28 (C) the location, disposition, or recovery of
29 lost or stolen property; or

1 (D) the cause or responsibility for a fire,
2 libel, loss, accident, damage, or injury to a person or to property;

3 (2) engages in the business of securing, or accepts
4 employment to secure, evidence for use before a court, board,
5 officer, or investigating committee;

6 (3) engages in the business of securing, or accepts
7 employment to secure, the electronic tracking of the location of an
8 individual or motor vehicle other than for criminal justice
9 purposes by or on behalf of a governmental entity; or

10 (4) engages in the business of protecting, or accepts
11 employment to protect, an individual from bodily harm through the
12 use of a personal protection officer.

13 (b) For purposes of Subsection (a)(1), obtaining or
14 furnishing information includes information obtained or furnished
15 through the review and analysis of, and the investigation into the
16 content of, computer-based data not available to the public. The
17 repair or maintenance of a computer does not constitute an
18 investigation for purposes of this section and does not require
19 licensing under this chapter if:

20 (1) the review or analysis of computer-based data is
21 performed only to diagnose a computer or software problem;

22 (2) there is no intent to obtain or furnish
23 information described by Subsection (a)(1); and

24 (3) the discovery of any information described by
25 Subsection (a)(1) is inadvertent.

26 SECTION 4.____. Section 1702.324(b), Occupations Code, is
27 amended to read as follows:

28 (b) This chapter does not apply to:

29 (1) a manufacturer or a manufacturer's authorized
30 distributor while selling equipment intended for resale;

31 (2) a person engaged exclusively in the business of

1 obtaining and providing information to:

2 (A) determine creditworthiness;

3 (B) collect debts; or

4 (C) ascertain the reliability of information

5 provided by an applicant for property, life, or disability

6 insurance or an indemnity or surety bond;

7 (3) a person engaged exclusively in the business of

8 repossessing property that is secured by a mortgage or other

9 security interest;

10 (4) a person who is engaged in the business of

11 psychological testing or other testing and interviewing services,

12 including services to determine attitudes, honesty, intelligence,

13 personality, and skills, for preemployment purposes;

14 (5) a person who:

15 (A) is engaged in obtaining information that is a

16 public record under Chapter 552, Government Code, regardless of

17 whether the person receives compensation;

18 (B) is not a full-time employee, as defined by

19 Section 61.001, Labor Code, of a person licensed under this

20 chapter; and

21 (C) does not perform any other act that requires

22 a license under this chapter;

23 (6) a licensed engineer practicing engineering or

24 directly supervising engineering practice under Chapter 1001,

25 including forensic analysis, burglar alarm system engineering, and

26 necessary data collection;

27 (7) an employee of a cattle association who inspects

28 livestock brands under the authority granted to the cattle

29 association by the Grain Inspection, Packers and Stockyards

30 Administration of the United States Department of Agriculture;

31 (8) a landman performing activities in the course and

1 scope of the landman's business;

2 (9) an attorney while engaged in the practice of law;

3 (10) a person who obtains a document for use in
4 litigation under an authorization or subpoena issued for a written
5 or oral deposition;

6 (11) an admitted insurer, insurance adjuster, agent,
7 or insurance broker licensed by the state, performing duties in
8 connection with insurance transacted by that person;

9 (12) a person who on the person's own property or on
10 property owned or managed by the person's employer:

11 (A) installs, changes, or repairs a mechanical
12 security device;

13 (B) repairs an electronic security device; or
14 (C) cuts or makes a key for a security device;

15 (13) security personnel, including security contract
16 personnel, working at a commercial nuclear power plant licensed by
17 the United States Nuclear Regulatory Commission;

18 (14) a person or firm licensed as an accountant or
19 accounting firm under Chapter 901, an owner of an accounting firm,
20 or an employee of an accountant or accounting firm while performing
21 services regulated under Chapter 901; ~~[or]~~

22 (15) a retailer, wholesaler, or other person who sells
23 mechanical security devices, including locks and deadbolts, but who
24 does not:

25 (A) service mechanical security devices for the
26 public outside of the person's premises; or

27 (B) claim to act as a locksmith; or

28 (16) an employee while performing investigative
29 services that would otherwise be subject to this chapter for an
30 entity regulated by the:

31 (A) Texas Department of Insurance;

- 1 (B) Office of Thrift Supervision;
2 (C) Securities and Exchange Commission;
3 (D) Federal Deposit Insurance Corporation;
4 (E) National Association of Securities Dealers;
5 or
6 (F) Financial Industry Regulatory Authority.

ADOPTED

MAY 27 2009

Antony Spaw
Secretary of the Senate

FLOOR AMENDMENT NO. 12

BY: 

1 Amend C.S.H.B. No. 2730 (senate committee printing) as
2 follows:

3 (1) In SECTION 4.01 of the bill (page 4, lines 65 through
4 68), strike the recital to SECTION 4.01 and substitute:

5 SECTION 4.01. Section 1702.002, Occupations Code, is
6 amended by amending Subdivisions (1), (2), (3), (5), (11), (12),
7 (13), (17), (19), (20), and (21) and adding Subdivisions (3-a) and
8 (6-b) to read as follows:

9 (2) In SECTION 4.01 of the bill, in amended Section
10 1702.002, Occupations Code (page 4, between lines 68 and 69),
11 insert the following:

12 (1) "Alarm system" means:

13 (A) electronic equipment and devices designed to
14 detect or signal:

15 (i) an unauthorized entry or attempted
16 entry of a person or object into a residence, business, or area
17 monitored by the system; or

18 (ii) the occurrence of a robbery or other
19 emergency; or

20 (B) electronic equipment and devices using a
21 computer or data processor designed to control the access of a
22 person, vehicle, or object through a door, gate, or entrance into
23 the controlled area of a residence or business ~~[, or~~

24 ~~[(C) a television camera or still camera system~~
25 ~~that:~~

26 ~~[(i) records or archives images of property~~
27 ~~or individuals in a public or private area of a residence or~~
28 ~~business; or~~

29 ~~[(ii) is monitored by security personnel or~~

1 ~~services~~].

2 (3) In SECTION 4.01 of the bill, in amended Section
3 1702.002, Occupations Code (page 5, between lines 7 and 8), insert
4 the following:

5 (3-a) "Camera system" means a device or system used to
6 capture still or moving images that are in a format that permits
7 viewing, recording, or archiving, that are monitored by a person
8 covered by this chapter on-site or off-site, and that are used in a
9 public or private place to obtain evidence of possible civil or
10 criminal law violations. The term does not include a device or
11 system used to capture still or moving images that is used
12 exclusively to:

13 (A) monitor traffic conditions on public roads;

14 (B) detect motor vehicle violations on public
15 roads;

16 (C) detect evidence of criminal activity, if the
17 device or system is monitored by a law enforcement agency;

18 (D) facilitate videoconferencing;

19 (E) monitor a manufacturing process;

20 (F) perform medical procedures; or

21 (G) record or archive testimony or a deposition,
22 if the device or system is used by a court reporter.

23 (4) In SECTION 4.60 of the bill, in amended Section
24 1702.221, Occupations Code, strike added Subsection (b) of that
25 section (page 18, line 63, through page 19, line 17) and substitute
26 the following:

27 (b) An individual must obtain the appropriate endorsement
28 [~~register~~] in accordance with the requirements of this chapter and
29 related administrative rules if the individual:

30 (1) is employed as:

31 (A) an alarm instructor;

- 1 (B) an alarm systems installer;
2 (C) an [] alarm systems monitor;
3 (D) a camera systems installer;
4 (E) an [] electronic access control device
5 installer;
6 (F) a level 3 classroom or firearm instructor;
7 (G) a [] locksmith;
8 (H) a [] dog trainer;
9 (I) a [] manager or branch office manager;
10 (J) a [] noncommissioned security officer;
11 (K) a level 4 personal protection instructor;
12 (L) a [] private investigator;
13 (M) a [] private security consultant;
14 (N) a [~~]~~ security salesperson; or
15 (O) an individual whose duties include

16 performing another activity for which an endorsement is required
17 under Subsection (e); or

18 (2) is an owner who oversees the security-related
19 aspects of the business, officer, partner, or shareholder of a
20 license holder.

21 (5) Add the following appropriately numbered SECTIONS and
22 renumber subsequent SECTIONS of the bill accordingly:

23 SECTION _____. Subchapter F, Chapter 1702, Occupations Code,
24 is amended by adding Section 1702.1057 to read as follows:

25 Sec. 1702.1057. CAMERA SYSTEMS COMPANY. A person acts as a
26 camera systems company for the purposes of this chapter if the
27 person sells, installs, services, or monitors a camera system.

28 SECTION _____. Section 1702.102(a), Occupations Code, is
29 amended to read as follows:

30 (a) Unless the person holds a license as a security services
31 contractor, a person may not:

1 (1) act as an alarm systems company, armored car
2 company, camera systems company, courier company, guard company,
3 guard dog company, locksmith company, or private security
4 consultant company;

5 (2) offer to perform the services of a company in
6 Subdivision (1); or

7 (3) engage in business activity for which a license is
8 required under this chapter.

9 SECTION _____. Subchapter J, Chapter 1702, Occupations Code,
10 is amended by adding Section 1702.2245 to read as follows:

11 Sec. 1702.2245. CAMERA SYSTEMS INSTALLER. An individual
12 acts as a camera systems installer for purposes of this chapter if
13 the individual installs, maintains, or repairs a camera system.

14 SECTION _____. Section 1702.328, Occupations Code, is
15 amended to read as follows:

16 Sec. 1702.328. SECURITY SYSTEMS SALES AND INSTALLATION.

17 This chapter does not apply to:

18 (1) a person who owns and installs a burglar detection
19 or alarm device, electronic access control device, lock, or camera
20 system on the person's own property or [~~if the person does not~~
21 ~~charge for the device or the installation,~~] installs the device for
22 the protection of the person's personal property located on another
23 person's property and does not, as a normal business practice,
24 install the devices on the property of another, and who does not
25 perform any other act that requires a license or registration under
26 this chapter;

27 (2) a person in the business of building construction
28 that installs electrical wiring and devices that may include in
29 part the installation of a burglar alarm, electronic access control
30 device, lock, camera system, or detection device if:

31 (A) the person is a party to a contract that

1 provides that:

2 (i) the installation will be performed
3 ~~[under the direct supervision of,~~ and inspected and certified
4 by~~]~~ a person licensed to install and certify the alarm or
5 detection device, electronic access control device, lock, or camera
6 system; and

7 (ii) the license holder assumes full
8 responsibility for the installation of the alarm or detection
9 device; and

10 (B) the person does not service or maintain alarm
11 systems, electronic access control devices, locks, camera systems,
12 ~~[or]~~ detection devices, or any other device or service that
13 requires a license or registration under this chapter;

14 (3) a person who sells or installs automobile burglar
15 alarm devices and who does not perform any other act that requires a
16 license under this chapter; or

17 (4) a person who sells exclusively by e-commerce, over
18 the counter transactions, or mail order, alarm systems, electronic
19 access control devices, locks, or detection devices, and who does
20 not perform any other act that requires a license or registration
21 under this chapter.

ADOPTED

MAY 27 2009

FLOOR AMENDMENT NO. 14

Atty Gen
Secretary of the Senate

BY:

Thomas Hagan

1 Amend C.S.H.B. No. 2730 (senate committee printing) by
2 adding the following appropriately numbered ARTICLE to the bill
3 and renumbering subsequent ARTICLES of the bill accordingly:

4 ARTICLE ____ . CRIMINAL HISTORY REPORTING

5 SECTION ____ .001. Chapter 60, Code of Criminal Procedure,
6 is amended by adding Article 60.10 to read as follows:

7 Art. 60.10. DATA REPORTING IMPROVEMENT PLAN. (a) In this
8 article, "disposition completeness percentage" has the meaning
9 assigned by Article 60.21(c).

10 (b) This article applies only to a county that has an
11 average disposition completeness percentage, including both
12 juvenile and adult dispositions, of less than 90 percent, as
13 reflected in the first report the Department of Public Safety
14 submits under Article 60.21(b) (2) on or after January 1, 2009.

15 (c) The commissioners court of a county described by
16 Subsection (b) shall establish a local data advisory board as
17 described by Article 60.09 not later than November 1, 2009. A
18 local data advisory board established under this article may
19 include any person described by Article 60.09(b) and must
20 include:

21 (1) the sheriff of the county, or the sheriff's
22 designee;

23 (2) an attorney who represents the state in the
24 district courts of the county;

25 (3) an attorney who represents the state in the
26 county courts of the county;

27 (4) the clerk for the district courts of the county,
28 or the clerk's designee;

29 (5) the clerk for the county courts of the county, or
30 the clerk's designee;

1 (6) the police chief of the municipality with the
2 greatest population located in the county, or the chief's
3 designee;

4 (7) a representative of the county's automated data
5 processing services, if the county performs those services; and

6 (8) a representative of an entity with whom the
7 county contracts for automated data processing services, if the
8 county contracts for those services.

9 (d) In addition to the duties described by Article
10 60.09(a), a local data advisory board established under this
11 article must prepare a data reporting improvement plan. The
12 data reporting improvement plan must:

13 (1) describe the manner in which the county intends
14 to improve the county's disposition completeness percentage;

15 (2) ensure that the county takes the steps necessary
16 for the county's average disposition completeness percentage to
17 be equal to or greater than 90 percent in the first report the
18 Department of Public Safety submits under Article 60.21(b) (2) on
19 or after January 1, 2013; and

20 (3) include a comprehensive strategy by which the
21 county will permanently maintain the county's disposition
22 completeness percentage at or above 90 percent.

23 (e) Not later than June 1, 2010, a local data advisory
24 board established under this article shall submit to the
25 Department of Public Safety the data reporting improvement plan
26 prepared for the county. On receipt of a data reporting
27 improvement plan under this article, the department shall post
28 the plan on the Internet website maintained by the department.

29 (f) The public safety director of the Department of Public
30 Safety may adopt rules concerning the contents and form of a
31 data reporting improvement plan prepared under this article.

32 (g) This article expires September 1, 2013.

1 SECTION __.002. Article 60.21, Code of Criminal
2 Procedure, is amended by amending Subsection (b) and adding
3 Subsection (c) to read as follows:

4 (b) The Department of Public Safety shall:

5 (1) monitor the submission of arrest and disposition
6 information by local jurisdictions;

7 (2) annually submit to the Legislative Budget Board,
8 the governor, the lieutenant governor, the state auditor, and
9 the standing committees in the senate and house of
10 representatives that have primary jurisdiction over criminal
11 justice and the Department of Public Safety [~~council~~] a report
12 regarding the level of reporting by local jurisdictions;

13 (3) identify local jurisdictions that do not report
14 arrest or disposition information or that partially report
15 information; and

16 (4) for use in determining the status of outstanding
17 dispositions, publish monthly on the Department of Public
18 Safety's Internet website or on another electronic publication a
19 report listing each arrest by local jurisdiction for which there
20 is no corresponding final court disposition.

21 (c) The report described by Subsection (b)(2) must contain
22 a disposition completeness percentage for each county in this
23 state. For purposes of this subsection, "disposition
24 completeness percentage" means the percentage of arrest charges
25 a county reports to the Department of Public Safety to be
26 entered in the computerized criminal history system under this
27 chapter that were brought against a person in the county for
28 which a disposition has been subsequently reported and entered
29 into the computerized criminal history system.

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ADOPTED

MAY 27 2009

Atalay Spaul
Secretary of the Senate

FLOOR AMENDMENT NO. 15

BY: *William*

1 Amend C.S.H.B. 2730 (senate committee printing) by adding the
2 following appropriately numbered ARTICLE to the bill and
3 renumbering subsequent ARTICLES of the bill accordingly:

4 ARTICLE ____ . CRIMINAL HISTORY BACKGROUND CHECKS FOR CERTAIN
5 EMPLOYEES OF INSTITUTIONS OF HIGHER EDUCATION

6 SECTION ____ .01. Subchapter B, Chapter 51, Education Code,
7 is amended to read as follows:

8 SUBCHAPTER B. CRIMINAL HISTORY BACKGROUND CHECKS FOR POTENTIAL AND
9 CURRENT EMPLOYEES [~~GENERAL PROPERTY DEPOSITS; INVESTMENT AND USES~~]

10 Sec. 51.051. DEFINITIONS. In this subchapter:

11 (1) "National criminal history record information"
12 means criminal history record information obtained from the
13 Department of Public Safety under Subchapter F, Chapter 411,
14 Government Code, and the Federal Bureau of Investigation under
15 Section 411.087, Government Code.

16 (2) "Governing board" and "institution of higher
17 education" have the meanings assigned by Section 61.003.

18 Sec. 51.052. APPLICABILITY. This subchapter does not apply
19 to an applicant for employment at or employee of an institution of
20 higher education who is or will be a student enrolled in the
21 institution during the person's employment. This section does not
22 prohibit an institution from conducting a criminal history
23 background check of a student applicant for a security-sensitive
24 position at the institution.

25 Sec. 51.053. ACCESS TO NATIONAL CRIMINAL HISTORY RECORD
26 INFORMATION BY INSTITUTION. (a) An institution of higher
27 education shall subscribe to the criminal history clearinghouse as
28 provided by Section 411.0845, Government Code.

29 (b) An institution may obtain from a law enforcement or

1 criminal justice agency any criminal history record information,
2 including information contained in a closed criminal investigation
3 file, that relates to a specific applicant for employment with or an
4 employee of the institution.

5 Sec. 51.054. PREEMPLOYMENT NATIONAL CRIMINAL HISTORY
6 BACKGROUND CHECKS; RESTRICTIONS ON EMPLOYMENT. (a) An institution
7 of higher education shall condition an offer of employment on
8 obtaining acceptable national criminal history record information
9 under Section 51.053.

10 (b) An institution of higher education shall reject an
11 application for employment if:

12 (1) the applicant fails to consent to a national
13 criminal history background check or provide fingerprints
14 necessary to obtain national criminal history record information;
15 or

16 (2) the applicant's national criminal history record
17 information indicates that the applicant has been convicted of:

18 (A) a felony of the second degree, a felony of the
19 first degree, or a capital felony under the laws of this state or of
20 an equivalent offense under the laws of another jurisdiction; or

21 (B) an offense for which registration as a sex
22 offender is required under Chapter 62, Code of Criminal Procedure.

23 (c) If an applicant's national criminal history record
24 information indicates that the applicant has been convicted of an
25 offense, other than an offense listed under Subsection (b)(2), or
26 arrested for any offense, the institution of higher education shall
27 conduct an analysis under Section 51.058 to determine whether to
28 employ the applicant.

29 (d) After an analysis under Section 51.058, an institution
30 of higher education may employ an applicant whose national criminal
31 history record information indicates that the applicant has been

1 convicted of a felony, other than an offense listed under
2 Subsection (b)(2), only if employment of the applicant is:

3 (1) recommended by the person in charge of the
4 department or division to which the applicant has applied; and

5 (2) approved by the chief executive officer of the
6 institution or the officer's designee.

7 Sec. 51.055. POST-EMPLOYMENT NATIONAL CRIMINAL HISTORY

8 BACKGROUND CHECKS; TERMINATION OF EMPLOYMENT FOR FAILURE TO PROVIDE

9 INFORMATION. (a) An institution of higher education shall conduct

10 a national criminal history background check of an employee on

11 promotion or transfer of the employee within the institution if the

12 institution has not previously conducted a national criminal

13 history background check of the employee. An institution may

14 conduct additional criminal history background checks as necessary

15 to maintain the integrity of the institution's faculty and staff.

16 (b) The institution of higher education shall require that

17 every employee of the institution provide the identification

18 information and fingerprints necessary to conduct a national

19 criminal history background check. The institution may immediately

20 terminate the employment of an employee who fails to provide the

21 information or fingerprints.

22 Sec. 51.056. FALSIFICATION OF CRIMINAL HISTORY;

23 DISCIPLINARY AND OTHER ACTION. (a) An institution of higher

24 education shall reject an application for employment if the

25 applicant knowingly fails to provide or falsifies criminal history

26 record information on an application.

27 (b) An institution of higher education may take

28 disciplinary action, including termination of employment, against

29 an employee if the employee knowingly failed to provide or

30 falsified criminal history record information on the employee's

31 application for employment, a promotion, or a transfer.

1 (c) An institution of higher education may make a decision
2 to reject an application for employment under Subsection (a) or
3 take disciplinary action against an employee under Subsection (b)
4 without conducting an analysis under Section 51.058.

5 Sec. 51.057. INFORMATION REQUIRED TO BE REPORTED BY
6 APPLICANTS AND EMPLOYEES; DISCIPLINARY ACTION. (a) An institution
7 of higher education shall require:

8 (1) an applicant for employment to report an arrest
9 made after the applicant has submitted the application to the
10 institution and before the institution has notified the applicant
11 of a decision about employment of the applicant; and

12 (2) an employee to report to a supervisor, within 24
13 hours of the arrest, charge, or conviction, or at the earliest
14 practicable opportunity after that 24-hour period, the employee's
15 criminal arrest, charge, or conviction, other than for a
16 misdemeanor traffic offense punishable by a fine only.

17 (b) A supervisor who receives a report from an employee
18 under Subsection (a)(2) shall report the information to the person
19 in charge of the department or division to which the employee is
20 assigned and to the institution's human resources department.

21 (c) An institution of higher education may take
22 disciplinary action, including termination of employment, against
23 an employee who fails to report as required by Subsection (a)(2).

24 (d) An institution of higher education's human resources
25 department or, in the case of a faculty member, the provost or
26 provost's designee shall conduct an analysis under Section 51.058
27 and assist the department or division to which the employee is
28 assigned in determining, for an arrest, charge, or conviction
29 reported under Subsection (a)(2), the appropriate disciplinary
30 action to take against the employee, which may include termination
31 of employment.

1 (e) An institution of higher education, on learning of an
2 arrest, charge, or conviction reported under Subsection (a)(2), may
3 immediately suspend with pay the employee pending the outcome of an
4 administrative review under Subsection (d).

5 Sec. 51.058. ANALYSIS OF CRIMINAL HISTORY RECORD
6 INFORMATION AND SUBSEQUENT ACTIONS. (a) Except as provided by
7 Section 51.054(b)(2), before rejecting an application for
8 employment or taking disciplinary action against an employee on the
9 basis of a criminal conviction, an institution of higher education
10 must:

11 (1) consider the following factors:

12 (A) the nature and gravity of the offense;

13 (B) the amount of time that has passed since:

14 (i) the conviction; and

15 (ii) the completion of a sentence imposed

16 based on the conviction;

17 (C) the nature of the job sought or held;

18 (D) the number of convictions; and

19 (E) the institution's interest in protecting the
20 safety and welfare of its employees, the general public, state
21 property, and the integrity of the institution; and

22 (2) determine that:

23 (A) the conviction is job-related; and

24 (B) the rejection of the application or
25 disciplinary action against the employee is necessary to properly
26 administer the institution.

27 (b) Before rejecting an application for employment or
28 taking disciplinary action against an employee on the basis of a
29 criminal arrest, an institution of higher education must:

30 (1) consider the following factors:

31 (A) the nature and gravity of the activity

- 1 resulting in the arrest;
2 (B) the amount of time that has passed since the
3 arrest;
4 (C) the nature of the job sought or held;
5 (D) the number of arrests;
6 (E) the institution's interest in protecting the
7 safety and welfare of its employees, the general public, state
8 property, and the integrity of the institution;
9 (F) an explanation of the arrest by the applicant
10 or employee; and
11 (G) whether the reason for arrest violates an
12 institutional rule, policy, or procedure, regardless of whether the
13 arrest resulted in a conviction; and
14 (2) determine that:
15 (A) the alleged misconduct is job-related;
16 (B) the rejection of an application or
17 disciplinary action is necessary to properly administer the
18 institution; and
19 (C) the applicant or employee is likely to have
20 engaged in the misconduct that caused the arrest.

21 Sec. 51.059. APPEALS; DETERMINATION. (a) An applicant for
22 employment may appeal a decision of an institution of higher
23 education under this subchapter to refuse to employ the applicant
24 only on the basis that the institution discriminated against the
25 applicant for an unlawful reason, including the applicant's race,
26 color, national origin, religion, sex, disability, or age.

27 (b) An applicant alleging unlawful discrimination by the
28 institution of higher education must, not later than the 10th
29 business day after the date an application is rejected, present
30 written data or documentation of the specific actions or basis of
31 the allegation to the appropriate institution employee responsible

1 for equal employment opportunity or the employee's designee.

2 (c) On receiving the data or documentation, the employee
3 responsible for equal employment opportunity or the employee's
4 designee shall investigate the complaint and issue a written report
5 of findings to the chief executive officer of the institution or the
6 officer's designee.

7 (d) If the chief executive officer or the officer's designee
8 approves the report under Subsection (b), the officer or designee
9 shall provide a copy of the report to the rejected applicant not
10 later than the 14th day after the date the report is approved.

11 (e) The governing board of an institution of higher
12 education may adopt a separate appeals process under this section
13 or may use an existing process regarding employee discipline and
14 termination of employment.

15 Sec. 51.060. USE AND DESTRUCTION OF NATIONAL CRIMINAL
16 HISTORY RECORD INFORMATION. An institution of higher education
17 shall:

18 (1) use national criminal history record information
19 obtained under this subchapter exclusively to verify
20 employability; and

21 (2) destroy all national criminal history record
22 information obtained under this subchapter as soon as practicable,
23 consistent with the following:

24 (A) for an applicant for employment, after the
25 position for which the applicant applied has been filled and the
26 applicant that was hired reports for the first day of work; or

27 (B) for an employee, after the national criminal
28 history record information has been analyzed and any resulting
29 administrative action has been taken.

30 Sec. 51.061. POLICIES. Each governing board of an
31 institution of higher education shall adopt policies as necessary

1 for the institution to comply with this subchapter.

2 Sec. 51.062. NAME-BASED CRIMINAL HISTORY BACKGROUND

3 CHECKS. (a) An institution of higher education may, in lieu of
4 obtaining information under Section 51.053, contract with a private
5 vendor to conduct name-based criminal history background checks on
6 any current employee for which the institution has not previously
7 conducted a national criminal history background check for the sole
8 purpose of verifying continued employability.

9 (b) An institution of higher education shall destroy
10 name-based criminal history background check information obtained
11 under Subsection (a) as soon as practicable after the information
12 has been analyzed and any resulting administrative action has been
13 taken.

14 SECTION __.02. Section 411.081(i), Government Code, is
15 amended to read as follows:

16 (i) A criminal justice agency may disclose criminal history
17 record information that is the subject of an order of nondisclosure
18 to the following noncriminal justice agencies or entities only:

- 19 (1) the State Board for Educator Certification;
- 20 (2) a school district, charter school, private school,
21 regional education service center, commercial transportation
22 company, or education shared service arrangement;
- 23 (3) the Texas Medical Board;
- 24 (4) the Texas School for the Blind and Visually
25 Impaired;
- 26 (5) the Board of Law Examiners;
- 27 (6) the State Bar of Texas;
- 28 (7) a district court regarding a petition for name
29 change under Subchapter B, Chapter 45, Family Code;
- 30 (8) the Texas School for the Deaf;
- 31 (9) the Department of Family and Protective Services;

- 1 (10) the Texas Youth Commission;
- 2 (11) the Department of Assistive and Rehabilitative
3 Services;
- 4 (12) the Department of State Health Services, a local
5 mental health service, a local mental retardation authority, or a
6 community center providing services to persons with mental illness
7 or retardation;
- 8 (13) the Texas Private Security Board;
- 9 (14) a municipal or volunteer fire department;
- 10 (15) the Texas Board of Nursing;
- 11 (16) a safe house providing shelter to children in
12 harmful situations;
- 13 (17) a public or nonprofit hospital or hospital
14 district;
- 15 (18) the Texas Juvenile Probation Commission;
- 16 (19) the securities commissioner, the banking
17 commissioner, the savings and mortgage lending commissioner, or the
18 credit union commissioner;
- 19 (20) the Texas State Board of Public Accountancy;
- 20 (21) the Texas Department of Licensing and Regulation;
- 21 (22) the Health and Human Services Commission;
- 22 (23) the Department of Aging and Disability Services;
- 23 [~~and~~]
- 24 (24) the Texas Education Agency; and
- 25 (25) an institution of higher education, as defined by
26 Section 411.094(a)(1)(A).

27 SECTION __.03. Section 411.094, Government Code, is
28 amended by adding Subsection (f) to read as follows:

29 (f) Notwithstanding Subsection (c), an institution of
30 higher education, as defined by Subsection (a)(1)(A), is entitled
31 to obtain from the department criminal history record information

1 maintained by the department that relates to a person who is
2 employed by or is an applicant for employment at the institution, to
3 the extent the information is necessary for the institution to
4 administer the institution's duties under Subchapter B, Chapter 51,
5 Education Code.

6 SECTION ____ .04. Section 51.215, Education Code, is
7 repealed.

8 SECTION ____ .05. As soon as practicable after the effective
9 date of this Act, the governing board of a public institution of
10 higher education shall adopt policies required by Section 51.061,
11 Education Code, as added by this article.

ADOPTED

FLOOR AMENDMENT NO. 16

MAY 27 2009

BY: Whitmore

Antony Spaw
Secretary of the Senate

1 Amend CSHB 2730 by adding a new SECTION _____ to read as
2 follows:

3 SECTION _____. Subchapter A, Chapter 411, Government Code,
4 is amended by adding a new Section 411.0161 to read as follows:

5 DONATION OF ACCRUED COMPENSATORY TIME OR ACCRUED ANNUAL
6 LEAVE FOR LEGISLATIVE PURPOSES. Section 411.0161 (a) The
7 director shall allow a department employee to voluntarily
8 transfer to a legislative leave pool up to eight hours of
9 compensatory time or annual leave per year earned by the
10 employee.

11 (b) The director or designee shall administer the
12 legislative leave pool.

13 (c) The Public Safety Commission shall adopt rules and
14 prescribe procedures relating to the operation of the
15 legislative leave pool.

16 (d) The director or designee shall credit the legislative
17 leave pool with the amount of time contributed by an employee
18 and deduct a corresponding amount of time from the employee's
19 earned compensatory time or annual leave as if the employee had
20 used the time for personal purposes.

21 (e) An employee is entitled to use time contributed to the
22 legislative leave pool if the employee uses the time for
23 legislative leave on behalf of a law enforcement association of
24 at least 2000 active or retired members governed by a board of
25 directors elected directly by department employees.

26 (f) The director of the pool administrator shall transfer
27 time from the pool to the employee and credit the time to the
28 employee.

29 (g) An employee may only withdraw time from the

2, 19

1 legislative leave pool in coordination and with the consent of
2 the president or designee of the law enforcement association
3 described in subsection(e), and may not draw more than 80 hours
4 of time from the pool in a 160-hours work cycle with the maximum
5 time taken not to exceed 480 hours per fiscal year.

6 (h) In addition to subsection (g), the use of any time
7 from the legislative leave pool must also be in accordance with
8 rules adopted by the Public Safety Commission.

FLOOR AMENDMENT NO. ~~16~~ 17

BY: *Jackson*

Amends F.A.# 16.

1 On page 1, strike lines 21-25 and substitute the following:

2 (e) An employee is entitled to use time contributed to the
3 legislative leave pool if the employee uses the time for
4 legislative leave on behalf of a law enforcement association of
5 at least 1,000 active or retired members governed by a board of
6 directors.

ADOPTED

MAY 27 2009

Atty. Gen.
Secretary of the Senate

ADOPTED

As amended
MAY 27 2009

Atty. Gen.
Secretary of the Senate
BY:

Sten Hegar

FLOOR AMENDMENT NO. 18

Amend C.S.H.B. No. 2730 (senate committee report) by adding the following appropriately numbered article to the bill and renumbering subsequent articles of the bill accordingly:

ARTICLE ____ . ALTERNATIVE METHODS OF OBTAINING CRIMINAL HISTORY INFORMATION AND REGISTRATION OF PRIVATE VENDORS TO OBTAIN CRIMINAL HISTORY INFORMATION

SECTION __.01. Subchapter F, Chapter 411, Government Code, is amended by adding Section 411.0852 to read as follows:

Sec. 411.0852. PRIVATE VENDORS PROVIDING CRIMINAL HISTORY RECORD INFORMATION; REGISTRATION OF VENDORS. (a) In this section:

(1) "Commission" means the Texas Commission of Licensing and Regulation.

(2) "Department" means the Texas Department of Licensing and Regulation.

(3) "Private vendor" means a person registered under this section to obtain both criminal history record information and identity verification through electronic-based data records for an entity authorized or required under the laws of this state to obtain criminal history record information, including national criminal history record information, regarding a person.

(b) An entity authorized or required under the laws of this state to obtain criminal history record information, including national criminal history record information, regarding a person may elect, as an alternative, to contract with a private vendor registered under this section to obtain both the criminal history record information and identity verification through electronic-based data records. If a governmental entity is required to obtain criminal history record information or verify a person's identity

1 using the person's fingerprints, a private vendor with whom the
2 state agency has contracted under this section must obtain the
3 criminal history record information from the Department of Public
4 Safety or verify the person's identity with the Department of
5 Public Safety.

6 (c) The commission by rule shall develop criteria for a
7 vendor to register with the state to provide criminal history
8 record information and perform identity verification. In
9 developing the criteria, the commission shall consult with law
10 enforcement officials and industry experts to ascertain the latest
11 trends in and technologies available for conducting criminal
12 background checks and identity verification. The commission may
13 annually update the criteria based on the latest trends and the
14 latest technologies available in conducting criminal background
15 checks.

16 (d) A private vendor may not provide criminal history record
17 information or perform identity verification for any entity
18 authorized or required under the laws of this state to obtain the
19 information or verification unless the vendor is registered in
20 accordance with this section and rules adopted under this section.

21 A vendor must submit to the department on the form prescribed by
22 the department an application requesting registration to provide
23 criminal history record information and perform identity
24 verification for entities required or authorized to obtain criminal
25 history record information.

26 (e) The commission shall set fees in an amount sufficient to
27 cover the costs to administer this section.

28 (f) A vendor registered by the department under this section
29 may annually renew the registration by payment of a renewal fee and

1 submitting to the department a renewal application on the form
2 prescribed by the department.

3 (g) The vendor shall report the results of a criminal
4 background check and identity verification to the contracting
5 entity by e-mail or other method approved by the department. The
6 vendor's report must be viewable to the contracting entity through
7 a secure Internet website.

8 (h) A person who violates this section or a rule or order
9 issued under this section is subject to administrative penalties,
10 civil penalties, and other penalties and enforcement proceedings
11 under Chapter 51, Occupations Code.

12 (i) The commission shall issue orders and adopt rules and
13 criminal conviction guidelines necessary to ensure compliance with
14 this section.

15 SECTION __.02. Not later than April 1, 2010, the Texas
16 Commission of Licensing and Regulation shall develop criteria for
17 registering a vendor to perform criminal background checks and
18 identity verification under Section 411.0852, Government Code, as
19 added by this article.

20 SECTION __.03. Notwithstanding Section 411.0852(d),
21 Government Code, as added by this article, a private vendor is not
22 required to register with the Texas Department of Licensing and
23 Regulation to provide criminal history record information or
24 perform identity verifications before July 1, 2010.

25 SECTION __.04. Section 411.0852, Government Code, as added by
26 this Act, applies only to a contract entered into, renewed, or
27 extended, on or after July 1, 2010. A contract entered into,
28 renewed, or extended, before July 1, 2010, is governed by the law
29 in effect when the contract was entered into, renewed, or extended

1 and the former law is continued in effect for that purpose.

ADOPTED

MAY 27 2009

Henry Spaul
Secretary of the Senate

FLOOR AMENDMENT NO. 19

BY: Carroll

Amend C.S.H.B. No. 2730 by adding the following SECTION to the bill, appropriately numbered, and renumbering existing SECTIONS accordingly:

SECTION ____ Subchapter C, Chapter 521, Transportation Code, is amended by adding Section 521.060 to read as follows:

Sec. 521.060. DRIVER RECORD MONITORING PILOT PROGRAM.

(a) The department by rule may establish a driver record monitoring pilot program. The term of the pilot program may not exceed one year.

(b) Under the pilot program, the department may enter into a contract with a person to provide driver record monitoring services, as described by Subsection (c), and certain information from the department's driver's license records to the person, if the person:

(1) is an employer, an insurer, an insurance support organization, an employer support organization, or an entity that self-insures its motor vehicles; and

(2) is eligible to receive the information under Chapter 730.

(c) A contract entered into by the department must require:

(1) the department, during the term of the contract, to:

(A) monitor the driver record of each holder of a driver's license issued by the department that is requested by the person with whom the department has contracted;

(B) identify any change in the status of a driver's license or any conviction for a traffic offense reported to the department during the monitoring period; and

(C) periodically, as specified in the contract, provide reports of those individuals identified as having a change in status or convictions to the person with whom the department has contracted; and

(2) the person with whom the department has contracted:

(A) to purchase under Section 521.046 a copy of the driver record of each individual identified in a report provided under Subdivision (1)(C);

(B) to warrant that:

(i) the person will not directly or indirectly disclose information received from the department under the contract to a third party without the express written consent of the department, except as required by law or legal process; and

(ii) if a disclosure is required by law or legal process, the person will immediately notify the department so that the department may seek to oppose, limit, or restrict the required disclosure; and

(C) if the person is an insurance support organization, to warrant that the person will not seek to obtain information about a holder of a driver's license under the contract unless the license holder is insured by a client of the organization, and that the person will provide the department with the name of each client to whom the insurance support organization provides information received from the department under the contract.

(d) The attorney general may file a suit against a person with whom the department has contracted under this section for:

(1) injunctive relief to prevent or restrain the person from violating a term of the contract or from directly or

indirectly disclosing information received from the department under the contract in a manner that violates the terms of the contract; or

(2) a civil penalty in an amount not to exceed \$2,000 for each disclosure in violation of those terms.

(e) If the attorney general brings an action against a person under Subsection (d) and an injunction is granted against the person or the person is found liable for a civil penalty, the attorney general may recover reasonable expenses, court costs, investigative costs, and attorney's fees. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty under Subsection (d).

(f) A violation of the terms of a contract entered into with the department by the person with whom the department has contracted is a false, misleading, or deceptive act or practice under Subchapter E, Chapter 17, Business & Commerce Code.

(g) A civil action brought under this section shall be filed in a district court:

(1) in Travis County; or

(2) in any county in which the violation occurred.

(h) A person with whom the department has contracted under this section commits an offense if the person directly or indirectly discloses information received from the department under the contract in a manner that violates the terms of the contract. An offense under this subsection is a Class B misdemeanor. If conduct constituting an offense under this subsection also constitutes an offense under another law, the actor may be prosecuted under this subsection, the other law, or both.

(i) The department shall impose a fee on each person with

whom the department contracts under this section for the services provided by the department under the contract. The fee must be reasonable and be not less than the amount necessary to allow the department to recover all reasonable costs to the department associated with entering into the contract and providing services to the person under the contract, including direct, indirect, and administrative costs and costs related to the development and deployment of the pilot program.

(j) The department may establish a reasonable deadline by which a person must apply to enter into a contract with the department under this section and may not enter into a contract with a person who fails to apply before that deadline.

(k) To the fullest extent practicable, the services of the department under a contract entered into under this section shall be provided by, through, or in conjunction with the interactive system established under Section 521.055.

(l) At the conclusion of the term of the pilot program, and on the recommendation of the department, the commission may authorize the department to implement the pilot program as a permanent program.

(m) Before the department recommends that the pilot program be implemented as a permanent program, the department shall submit to the lieutenant governor, the speaker of the house of representatives, and each member of the legislature a report that contains an analysis of the scope, effectiveness, and cost benefits of the pilot program. The report must include:

(1) a list of each insurance support organization with which the department has contracted under this section; and

(2) a list of each client to whom the insurance support

organization has provided information received from the department
under this section.

ADOPTED

FLOOR AMENDMENT NO. 80

MAY 27 2009

BY:

Atty. Gen. Paul
Secretary of the Senate

Lucas

1 Amend C.S.H.B. 2730 (senate committee printing) by adding
2 the following ARTICLE, appropriately numbered, and renumbering
3 ARTICLES as necessary:

4 ARTICLE ____ . SCHOOL BUS MONITORING SYSTEM

5 SECTION ____ . Section 545.066, Transportation Code, is
6 amended by adding Subsection (g) to read as follows:

7 (g) An image recorded by the monitoring system authorized
8 by Section 547.701(b)(3) may be used in the administrative
9 adjudication of a violation under this section if the image:

10 (1) is otherwise admissible;

11 (2) clearly shows the vehicle, including the license
12 plate attached to the vehicle, at the time the offense is
13 alleged to have occurred; and

14 (3) is accompanied by an affidavit executed by a
15 peace officer stating that the image is authentic and that
16 establishes probable cause that a violation occurred.

17 SECTION ____ . Chapter 545, Transportation Code, is amended
18 by adding Subchapter J to read as follows:

19 SUBCHAPTER J. SCHOOL BUS MONITORING SYSTEM

20 Sec. 545.451. APPLICABILITY OF SUBCHAPTER. This
21 subchapter applies only to a county that has a population of
22 more than 325,000 and that is located adjacent to:

23 (1) an international border; and

24 (2) a county that has a population of more than
25 550,000.

26 Sec. 545.452. DEFINITIONS. In this subchapter:

27 (1) "Owner of a motor vehicle" means the owner of a
28 motor vehicle as shown on the motor vehicle registration records

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1 of the Texas Department of Transportation or the analogous
2 department or agency of another state or country.

3 (2) "Recorded image" means a live or recorded
4 photographic, electronic, video, or digital image that depicts a
5 motor vehicle.

6 (3) "School bus monitoring system" means a system
7 authorized by Section 547.701(b)(3).

8 Sec. 545.453. AUTHORITY TO PROVIDE FOR PENALTY. (a) The
9 board of trustees of a school district by resolution may impose
10 a financial penalty on the registered owner of a vehicle that is
11 operated in a manner that violates Section 545.066 within the
12 school district.

13 (b) The resolution adopted under this section must:

14 (1) provide for a penalty of not less than \$1 or more
15 than \$250;

16 (2) authorize an attorney employed by the school
17 district or an attorney with whom the school district contracts
18 to bring suit to collect the penalty;

19 (3) provide for notice of the violation to the
20 registered owner of the motor vehicle that committed the
21 violation;

22 (4) provide that a person against whom the school
23 district seeks to impose a penalty is entitled to an
24 administrative adjudication hearing;

25 (5) designate the department, agency, or office of
26 the school district responsible for the enforcement and
27 administration of the resolution or provide that the entity with
28 which the school district enters into an interlocal agreement of
29 understanding under Section 545.454(3) is responsible for the
30 enforcement and administration of the resolution;

31 (6) provide regulations for the use of live or

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1 recorded images recorded by the school bus monitoring system;
2 and

3 (7) provide for other procedures that the board
4 determines are necessary for the imposition of any penalty
5 authorized by this section.

6 (c) Except as otherwise provided:

7 (1) by this subchapter, an image recorded by the
8 monitoring system authorized by Section 547.701(b)(3) that is
9 not used in the prosecution of an offense under this section
10 shall be destroyed by the owner of the school bus; or

11 (2) by Section 545.066(g), an image recorded by the
12 monitoring system authorized by Section 547.701(b)(3) may not be
13 sold or distributed to another person.

14 (d) Penalties collected under this section may be used by
15 a school district only to cover the cost of:

16 (1) installing, operating, and maintaining the school
17 bus monitoring system;

18 (2) collecting a penalty imposed under this section;

19 (3) developing and implementing a program that
20 promotes student safety; or

21 (4) complying with Section 547.701(e) relating to
22 three point seatbelts for school buses.

23 Sec. 545.454. INSTALLATION AND OPERATION OF SCHOOL BUS
24 MONITORING SYSTEM. A school district that implements a school
25 bus monitoring system and adopts a resolution imposing a penalty
26 under this subchapter may:

27 (1) contract for the administration and enforcement
28 of the system;

29 (2) install and operate the system or contract for
30 the installation or operation of the system;

31 (3) enter into an interlocal agreement with a

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1 municipality or county in which the school district is located
2 regarding administrative adjudication hearings required by a
3 resolution adopted under this subchapter; or

4 (4) enter into an interlocal agreement with another
5 school district regarding the administration, enforcement,
6 installation, or operation of the system.

7 Sec. 545.455. GENERAL SURVEILLANCE PROHIBITED; OFFENSE.

8 (a) A school district shall operate a monitoring system
9 authorized by Section 547.701(b)(3) only for the purpose of
10 detecting a violation or suspected violation of Section 545.066
11 within the school district.

12 (b) A person commits an offense if the person uses a
13 school bus monitoring system to produce a recorded image other
14 than in the manner and for the purpose specified by a resolution
15 adopted under Section 545.453.

16 (c) An offense under this section is a Class A
17 misdemeanor.

18 Sec. 545.456. EFFECT ON OTHER ENFORCEMENT. (a) The

19 implementation of a school bus monitoring system by a school
20 district under this subchapter does not:

21 (1) preclude the application or enforcement within
22 the school district of Section 545.066 in the manner prescribed
23 by Chapter 543; or

24 (2) prohibit a peace officer from arresting a
25 violation of Section 545.066 as provided by Chapter 543 or from
26 issuing the violator a citation and notice to appear as provided
27 by that chapter.

28 (b) A school district may not impose a penalty under this
29 subchapter on the owner of a motor vehicle if the operator of
30 the vehicle was arrested or issued a citation and notice to
31 appear by a peace officer for the same violation of Section

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1 545.066 recorded by the school bus monitoring system.

2 Sec. 545.457. NOTICE OF VIOLATION; CONTENTS. (a) The
3 imposition of a penalty under this subchapter is initiated by
4 the mailing of a notice of violation to the owner of the motor
5 vehicle against whom the school district seeks to impose the
6 penalty.

7 (b) Not later than the 30th day after the date the
8 violation is alleged to have occurred, the designated
9 department, agency, or office of the school district or the
10 entity with which the school district enters into an interlocal
11 agreement under Section 545.454(3) shall mail the notice of
12 violation to the owner of the motor vehicle at:

13 (1) the owner's address as shown on the registration
14 records of the Texas Department of Transportation; or

15 (2) if the vehicle is registered in another state or
16 country, the owner's address as shown on the motor vehicle
17 registration records of the department or agency of the other
18 state or country analogous to the Texas Department of
19 Transportation.

20 (c) The notice of violation must contain:

21 (1) a description of the violation alleged;

22 (2) the location where the violation occurred;

23 (3) the date and time of the violation;

24 (4) the name and address of the owner of the vehicle
25 involved in the violation;

26 (5) the registration number displayed on the license
27 plate of the vehicle involved in the violation;

28 (6) a copy of a recorded image of the violation that
29 includes a depiction of the registration number displayed on the
30 license plate of the vehicle involved in the violation;

31 (7) the amount of the penalty for which the owner is

1 liable;

2 (8) the number of days the person has in which to pay
3 or contest the imposition of the penalty;

4 (9) a statement that the owner of the vehicle in the
5 notice of violation may elect to pay the penalty instead of
6 appearing at the time and place of the administrative
7 adjudication hearing; and

8 (10) information that informs the owner of the
9 vehicle named in the notice of violation:

10 (A) of the owner's right to contest the
11 imposition of the penalty against the person in an
12 administrative adjudication hearing;

13 (B) that imposition of the penalty may be
14 contested by submitting a written request for an administrative
15 adjudication hearing before the expiration of the period
16 specified under Subdivision (8); and

17 (C) that failure to pay the penalty or to
18 contest liability for the penalty in a timely manner is an
19 admission of liability.

20 (d) A notice of violation is presumed to have been
21 received on the fifth day after the date the notice is mailed.

22 Sec. 545.458. PRESUMPTION. (a) It is presumed that the
23 owner of the motor vehicle committed the violation alleged in
24 the notice of violation mailed to the person if the motor
25 vehicle depicted in a recorded image taken by a school bus
26 monitoring system belongs to the owner of the motor vehicle.

27 (b) If, at the time of the violation alleged in the notice
28 of violation, the motor vehicle depicted in a recorded image
29 taken by a school bus monitoring system was owned by a person in
30 the business of selling, renting, or leasing motor vehicles or
31 by a person who was not the person named in the notice of

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1 violation, the presumption under Subsection (a) is rebutted on
2 the presentation of evidence establishing that the vehicle was
3 at that time:

4 (1) being test driven by another person;

5 (2) being rented or leased by the vehicle's owner to
6 another person; or

7 (3) owned by a person who was not the person named in
8 the notice of violation.

9 (c) Notwithstanding Section 545.459, the presentation of
10 evidence under Subsection (b) by a person who is in the business
11 of selling, renting, or leasing motor vehicles or did not own
12 the vehicle at the time of the violation must be made by
13 affidavit, through testimony at the administrative adjudication
14 hearing under Section 545.459, or by a written declaration under
15 penalty of perjury. The affidavit or written declaration may be
16 submitted by mail to the school district or the entity with
17 which the school district contracts under Section 545.454(1).

18 (d) If the presumption established by Subsection (a) is
19 rebutted under Subsection (b), a penalty may not be imposed on
20 the owner of the vehicle or the person named in the notice of
21 violation, as applicable.

22 (e) If, at the time of the violation alleged in the notice
23 of violation, the motor vehicle depicted in the recorded image
24 taken by the school bus monitoring system was owned by a person
25 in the business of renting or leasing motor vehicles and the
26 vehicle was being rented or leased to an individual, the owner
27 of the motor vehicle shall provide to the school district or the
28 entity with which the school district contracts under Section
29 545.454(1) the name and address of the individual who was
30 renting or leasing the motor vehicle depicted in the recorded
31 image and a statement of the date and times during which that

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1 individual was renting or leasing the vehicle. The owner shall
2 provide the information required by this subsection not later
3 than the 30th day after the date the notice of violation is
4 received. If the owner provides the required information, it is
5 presumed that the individual renting or leasing the motor
6 vehicle committed the violation alleged in the notice of
7 violation and the school district or contractor may send a
8 notice of violation to that individual at an address provided by
9 the owner of the motor vehicle or from motor vehicle
10 registration records.

11 Sec. 545.459. ADMINISTRATIVE ADJUDICATION HEARING. (a) A
12 person who receives a notice of violation under this subchapter
13 may contest the imposition of the penalty specified in the
14 notice of violation by filing a written request for an
15 administrative adjudication hearing. The request for a hearing
16 must be filed on or before the date specified in the notice of
17 violation, which may not be earlier than the 30th day after the
18 date the notice of violation was mailed.

19 (b) On receipt of a timely request for an administrative
20 adjudication hearing, the school district shall notify the
21 person of the date and time of the hearing.

22 (c) An administrative adjudication hearing under this
23 subchapter may be conducted by any justice of the peace court in
24 a county where the alleged violation of Section 545.066 within
25 the school district occurred. For purpose of establishing
26 jurisdiction for justice of the peace courts to conduct
27 administrative adjudication hearings under this subchapter only
28 a violation of this subchapter is a case under Article 4.11(a),
29 Code of Criminal Procedure.

30 (d) In an administrative adjudication hearing, the issues
31 must be proven by a preponderance of the evidence.

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1 (e) The reliability of the school bus monitoring system
2 used to produce the recorded image of the motor vehicle involved
3 in the violation may be attested to by affidavit of an officer
4 or employee of the school district or of the entity with which
5 the school district contracts under Section 545.454(1) who is
6 responsible for inspecting and maintaining the system.

7 (f) An affidavit of a peace officer that alleges a
8 violation based on an inspection of the applicable recorded
9 image is:

10 (1) admissible in the administrative adjudication
11 hearing; and

12 (2) evidence of the facts contained in the affidavit.

13 (g) At the conclusion of the administrative adjudication
14 hearing, the hearing officer shall enter a finding of liability
15 for the penalty or a finding of no liability for the penalty. A
16 finding under this subsection must be in writing and be signed
17 and dated by the hearing officer.

18 (h) A finding of liability for a penalty must specify the
19 amount of the penalty for which the person is liable. If the
20 hearing officer enters a finding of no liability, a penalty for
21 the violation may not be imposed against the person.

22 (i) A finding of liability or a finding of no liability
23 entered under this section may:

24 (1) be filed with a person designated by the board of
25 trustees of the school district; and

26 (2) be recorded on microfilm or microfiche or using
27 data processing techniques.

28 Sec. 545.460. IMPOSITION OF PENALTY NOT A CONVICTION. The
29 imposition of a penalty under this subchapter is not a
30 conviction and may not be considered a conviction for any
31 purpose.

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1 Sec. 545.461. FAILURE TO PAY PENALTY. (a) If the owner
2 of the motor vehicle fails to timely pay the amount of the
3 penalty imposed against the owner:

4 (1) an arrest warrant may not be issued for the
5 owner; and

6 (2) the imposition of the penalty may not be recorded
7 on the owner's driving record.

8 (b) Notice of Subsection (a) must be included in the
9 notice of violation required by Section 545.456.

10 SECTION __. Subsection (b), Section 547.701,
11 Transportation Code, is amended to read as follows:

12 (b) A school bus may be equipped with:

13 (1) rooftop warning lamps:

14 (A) that conform to and are placed on the bus in
15 accordance with specifications adopted under Section 34.002,
16 Education Code; and

17 (B) that are operated under rules adopted by the
18 school district; ~~and~~

19 (2) movable stop arms:

20 (A) that conform to regulations adopted under
21 Section 34.002, Education Code; and

22 (B) that may be operated only when the bus is
23 stopped to load or unload students; and

24 (3) a monitoring system that:

25 (A) is capable of taking live or recorded
26 photographic, electronic, video, or digital images of vehicles
27 that pass the bus when the bus is operating a visual signal as
28 required by this section;

29 (B) conforms to regulations adopted under
30 Section 34.002, Education Code; and

31 (C) is capable of producing a live or recorded

1 visual image of a person inside the bus that may be viewed from
2 another location or of taking photographic, electronic, video,
3 or digital images of a person inside the bus.

4 (c) When a school bus is being stopped or is stopped on a
5 highway to permit students to board or exit the bus, the
6 operator of the bus shall activate all flashing warning signal
7 lights and other equipment on the bus designed to warn other
8 drivers that the bus is stopping to load or unload children. A
9 person may not operate such a light or other equipment except
10 when the bus is being stopped or is stopped on a highway to
11 permit students to board or exit the bus.

12 (d) The exterior of a school bus may not bear advertising
13 or another paid announcement directed at the public if the
14 advertising or announcement distracts from the effectiveness of
15 required safety warning equipment. The department shall adopt
16 rules to implement this subsection. A school bus that violates
17 this section or rules adopted under this section shall be placed
18 out of service until it complies.

19 (e) In this subsection, "bus" includes a school bus and a
20 school activity bus. A bus operated by or contracted for use by
21 a school district for the transportation of schoolchildren shall
22 be equipped with a three-point seat belt for each passenger,
23 including the operator. This subsection applies to:

24 (1) each bus purchased by a school district on
25 or after September 1, 2010, for the transportation of
26 schoolchildren; and

27 (2) each school-chartered bus contracted for use
28 by a school district on or after September 1, 2011, for the
29 transportation of schoolchildren.

30 (f) A school district is required to comply with
31 Subsection (e) only to the extent that the Texas Education

1 Agency pays or commits to pay the district for expenses incurred
2 in complying with that subsection. The Texas Education Agency
3 may make grants of appropriated money for the purpose of paying
4 school districts under this subsection.

5 SECTION __. Section 5, Chapter 259 (H.B. 323), Acts of the
6 80th Legislature, Regular Session, 2007, is repealed.

7 SECTION __. Section 547.701(e), Transportation Code, as
8 added by Chapter 259 (H.B. 323), Acts of the 80th Legislature,
9 Regular Session, 2007, takes effect September 1, 2009.

10 SECTION __. Except as provided by subsection (e) and (f)
11 of Section 547.701, Transportation Code, this ARTICLE expires
12 September 1, 2013

ADOPTED

MAY 27 2009

Atty. Gen.
Secretary of the Senate

FLOOR AMENDMENT NO. 21

BY: *Roger W. N.*

1 Amend C.S.H.B. No. 2730 (senate committee report) by adding
2 the following appropriately numbered article to the bill and
3 renumbering subsequent articles of the bill accordingly:

4 ARTICLE __. DISCLOSURE OF CRIMINAL HISTORY RECORD INFORMATION
5 REGARDING PUBLIC SCHOOL EMPLOYEES

6 SECTION ____ .01. Section 411.084, Government Code, is
7 amended by amending Subsection (a) and adding Subsections (a-1) and
8 (c) to read as follows:

9 (a) Criminal history record information obtained from the
10 department under this subchapter, including any identification
11 information that could reveal the identity of a person about whom
12 criminal history record information is requested and information
13 that directly or indirectly indicates or implies involvement of a
14 person in the criminal justice system:

15 (1) is for the exclusive use of the authorized
16 recipient of the information; and

17 (2) may be disclosed or used by the recipient only if,
18 and only to the extent that, disclosure or use is authorized or
19 directed by:

20 (A) this subchapter;

21 (B) another statute;

22 (C) a rule adopted under a statute; or

23 (D) an order of a court of competent
24 jurisdiction.

25 (a-1) The term criminal history record information under
26 Subsection (a) does not refer to any specific document produced to
27 comply with this subchapter but to the information contained,
28 wholly or partly, in a document's original form or any subsequent
29 form or use.

1 (c) An agency or individual may not confirm the existence or
2 nonexistence of criminal history record information to any person
3 that is not eligible to receive the information.

4 SECTION ____ .02. Sections 411.090(b) and (c), Government
5 Code, are amended to read as follows:

6 (b) Criminal history record information obtained by the
7 board in the original form or any subsequent form [~~under Subsection~~
8 ~~(a)~~]:

9 (1) may be used only for a [~~any~~] purpose related to the
10 issuance, denial, suspension, or cancellation of a certificate
11 issued by the board;

12 (2) may not be released to any person except:

13 (A) the person who is the subject of the
14 information;

15 (B) the Texas Education Agency;

16 (C) a local or regional educational entity as
17 provided by Section 411.097; or

18 (D) by [~~on~~] court order [~~or with the consent of~~
19 ~~the applicant for a certificate~~]; [~~and~~]

20 (3) is not subject to disclosure as provided by
21 Chapter 552; and

22 (4) shall be destroyed by the board after the
23 information is used for the authorized purposes.

24 (c) The department shall notify the State Board for Educator
25 Certification of the arrest of any educator, as defined by Section
26 5.001, Education Code, who has fingerprints on file with the
27 department. Any record of the notification and any information
28 contained in the notification is not subject to disclosure as
29 provided by Chapter 552.

30 SECTION ____ .03. Section 411.0901, Government Code, is
31 amended to read as follows:

1 Sec. 411.0901. ACCESS TO CRIMINAL HISTORY RECORD
2 INFORMATION: TEXAS EDUCATION AGENCY. (a) The Texas Education
3 Agency is entitled to obtain criminal history record information
4 maintained by the department about a person who:

5 (1) is employed or is an applicant for employment by a
6 school district or open-enrollment charter school;

7 (2) is employed or is an applicant for employment by a
8 shared services arrangement, if the employee's or applicant's
9 duties are or will be performed on school property or at another
10 location where students are regularly present; or

11 (3) is employed or is an applicant for employment by an
12 entity that contracts with a school district, open-enrollment
13 charter school, or shared services arrangement if:

14 (A) the employee or applicant has or will have
15 continuing duties relating to the contracted services; and

16 (B) the employee or applicant has or will have
17 direct contact with students.

18 (b) Criminal history record information obtained by the
19 agency in the original form or any subsequent form:

20 (1) may be used only for a purpose authorized by the
21 Education Code;

22 (2) may not be released to any person except:

23 (A) the person who is the subject of the
24 information;

25 (B) the State Board for Educator Certification;

26 (C) a local or regional educational entity as
27 provided by Section 411.097; or

28 (D) by court order;

29 (3) is not subject to disclosure as provided by
30 Chapter 552; and

31 (4) shall be destroyed by the agency after the

1 information is used for the authorized purposes.

2 SECTION ____ .04. Section 411.097, Government Code, is
3 amended by amending Subsection (d) and adding Subsection (f) to
4 read as follows:

5 (d) Criminal history record information obtained by a
6 school district, charter school, private school, service center,
7 commercial transportation company, or shared services arrangement
8 in the original form or any subsequent form:

9 (1) [~~under Subsection (a), (b), or (c)~~] may not be
10 released [~~or disclosed~~] to any person except:

11 (A) [~~other than~~] the individual who is the
12 subject of the information;

13 (B) [] the Texas Education Agency;

14 (C) [] the State Board for Educator
15 Certification;

16 (D) [~~or~~] the chief personnel officer of the
17 transportation company, if the information is obtained under
18 Subsection (a)(2); or

19 (E) by court order;

20 (2) is not subject to disclosure as provided by
21 Chapter 552; and

22 (3) shall be destroyed by the school district, charter
23 school, private school, service center, commercial transportation
24 company, or shared services arrangement on the earlier of:

25 (A) the first anniversary of the date the
26 information was originally obtained; or

27 (B) the date the information is used for the
28 authorized purpose.

29 (f) An employee of a school district, charter school,
30 private school, regional education service center, commercial
31 transportation company, or education shared services arrangement

1 or an entity that contracts to provide services to a school
2 district, charter school, or shared services arrangement may
3 request from the employer a copy of any criminal history record
4 information relating to that employee that the employer has
5 obtained as provided by Subchapter C, Chapter 22, Education Code.
6 The employer may charge a fee to an employee requesting a copy of
7 the information in an amount not to exceed the actual cost of
8 copying the requested criminal history record information.

9 SECTION ____ .05. Subchapter C, Chapter 22, Education Code,
10 is amended by adding Section 22.08391 to read as follows:

11 Sec. 22.08391. CONFIDENTIALITY OF INFORMATION. (a)
12 Information collected about a person to comply with this
13 subchapter, including the person's name, address, phone number,
14 social security number, driver's license number, other
15 identification number, and fingerprint records:

16 (1) may not be released except:

17 (A) to comply with this subchapter;

18 (B) by court order; or

19 (C) with the consent of the person who is the
20 subject of the information;

21 (2) is not subject to disclosure as provided by
22 Chapter 552, Government Code; and

23 (3) shall be destroyed by the requestor or any
24 subsequent holder of the information not later than the first
25 anniversary of the date the information is received.

26 (b) Any criminal history record information received by the
27 State Board for Educator Certification as provided by this
28 subchapter is subject to Section 411.090(b), Government Code.

29 (c) Any criminal history record information received by the
30 agency as provided by this subchapter is subject to Section
31 411.0901(b), Government Code.

1 (d) Any criminal history record information received by a
2 school district, charter school, private school, regional
3 education service center, commercial transportation company, or
4 education shared services arrangement or an entity that contracts
5 to provide services to a school district, charter school, or shared
6 services arrangement as provided by this subchapter is subject to
7 Section 411.097(d), Government Code.

8 SECTION _____.06. The change in law made by this article
9 applies to information collected, assembled, or maintained before,
10 on, or after the effective date of this article.

ADOPTED

FLOOR AMENDMENT NO. 22

MAY 27 2009

Lotay Spaw
Secretary of the Senate

BY: *Robley Ellis*

Amend H.B. No. 2730 (Senate committee printing) by adding the following SECTION to the bill, appropriately numbered, and renumbering subsequent SECTIONS accordingly:

SECTION __. Section 548.005, Transportation Code, is amended to read as follows:

Sec. 548.005. INSPECTION ONLY BY STATE-CERTIFIED AND SUPERVISED INSPECTION STATION. A compulsory inspection under this chapter may be made only by an inspection station, except that the department may:

(1) permit inspection to be made by an inspector under terms and conditions the department prescribes; ~~and~~

(2) authorize the acceptance in this state of a certificate of inspection and approval issued in another state having a similar inspection law; and

(3) authorize the acceptance in this state of a certificate of inspection and approval issued in compliance with 49 C.F.R. Part 396 to a motor bus, as defined by Section 502.001, that is registered in this state but is not domiciled in this state.

ADOPTED

MAY 27 2009

Atty Gen
Secretary of the Senate

FLOOR AMENDMENT NO. 23

BY: *Willis*

1 Amend C.S.H.B. No. 2730 (Senate committee printing) by adding
2 the following appropriately numbered ARTICLE to the bill and
3 renumbering subsequent ARTICLES accordingly:

4 ARTICLE ____ . TRANSFER OF REGULATORY PROGRAMS RELATING TO
5 DISPENSING CONTROLLED SUBSTANCES BY PRESCRIPTION

6 SECTION ____ .01. (a) The director of the Department of
7 Public Safety or the director's designee, the executive director of
8 the Texas State Board of Pharmacy or the executive director's
9 designee, and the executive director of the Texas Medical Board or
10 the executive director's designee shall meet as an interagency
11 council to develop a transition plan for the orderly transfer from
12 the Department of Public Safety to the Texas State Board of Pharmacy
13 of certain records and regulatory functions relating to dispensing
14 controlled substances by prescription under Chapter 481, Health and
15 Safety Code.

16 (b) In developing the transition plan, the council shall:

17 (1) consult with the Health and Human Services
18 Commission, the Department of State Health Services, and other
19 health and human services agencies that contract with a third party
20 for data collection;

21 (2) specify the records and regulatory functions to be
22 transferred;

23 (3) create a time frame within which the specified
24 records and functions will be transferred;

25 (4) ensure the Department of Public Safety's continued
26 access for law enforcement purposes to prescription drug
27 information obtained under Chapter 481, Health and Safety Code;

28 (5) develop a plan for the transfer of relevant
29 database information;

1 (6) make recommendations for improvements to data
2 transmission, including examining the feasibility of implementing
3 an electronic data transmission system for use by registrants and
4 the Department of Public Safety or the Texas State Board of
5 Pharmacy;

6 (7) estimate the fiscal impact of the transfer,
7 including an estimate of the costs associated with any necessary
8 staff increase;

9 (8) minimize disruptions to the professions affected
10 by the transfer;

11 (9) identify any obstacles to the transfer and make
12 recommendations to address those obstacles; and

13 (10) address any other consideration the council
14 determines is appropriate.

15 (c) Not later than January 1, 2011, the council shall submit
16 its recommendations to the legislature on the transition plan
17 developed by the council.

18 (d) The Department of Public Safety may not enter into any
19 contract or otherwise take any action that would prevent, delay, or
20 hinder a potential transfer to the Texas State Board of Pharmacy
21 occurring on or after September 1, 2011, of certain records and
22 regulatory functions relating to dispensing controlled substances
23 by prescription.

24 (e) This section expires September 1, 2011.

FLOOR AMENDMENT NO. 24

BY: *[Signature]*

1 Amend CSHB 2730 by adding the following appropriately
2 numbered SECTION to the bill and renumbering subsequent SECTIONS
3 of the bill appropriately:

4 SECTION _____. This Act does not make an appropriation.
5 This Act takes effect only if a specific appropriation for the
6 implementation of the Act is provided in a general
7 appropriations act of the 81st Legislature.

ADOPTED
MAY 27 2009
[Signature]
Secretary of the Senate

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ADOPTED

MAY 27 2009

Letay Spaw
Secretary of the Senate

FLOOR AMENDMENT NO. 25

BY: *J. J. Hing*

1 Amend Floor Amendment No. 18 by Hegar to H.B. No. 2730 (senate
2 committee printing) by striking the text of the amendment and
3 substituting the following:

4 Sec. 411.0852. STUDY REGARDING PRIVATE VENDORS PROVIDING
5 CRIMINAL HISTORY RECORD INFORMATION. (a) Not later than
6 December 31, 2010, the department shall conduct a study and
7 report to the governor, lieutenant governor, speaker of the
8 house, and the House and Senate standing committees with
9 jurisdiction over this issue regarding allowing an entity
10 authorized or required under the laws of this state to obtain
11 criminal history record information, including national criminal
12 history record information, regarding whether a person may
13 elect, as an alternative, to contract with a private vendor to
14 obtain both the criminal history record information and identity
15 verification through electronic-based data records.

16

17

✓ 2582

FLOOR AMENDMENT NO.

26

BY:

J. J. Army

- 1 Amend C.S.H.B. No. 2730 (senate committee printing) in
- 2 SECTION 15.07 of the bill (page 60, line 32) by striking
- 3 "September 1, 2009" and substituting "September 1, 2011".

ADOPTED

MAY 27 2009

Atay Spaw
Secretary of the Senate

✓ 383

9.147.664 BEF

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION
Revision 1

May 28, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2730 by Kolkhorst (Relating to the continuation and functions of the Department of Public Safety of the State of Texas and the Texas Private Security Board; providing penalties.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2730, As Passed 2nd House: a positive impact of \$4,350,074 through the biennium ending August 31, 2011.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	\$2,173,016
2011	\$2,177,058
2012	(\$3,323,977)
2013	(\$3,323,977)
2014	(\$798,977)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>Trauma Facility And Ems</i> 5111	Probable Revenue Gain from <i>General Revenue Fund</i> 1	Probable Savings/ (Cost) from <i>General Revenue Fund</i> 1
2010	\$0	\$0	\$4,165,391	(\$1,992,375)
2011	\$0	\$0	\$4,169,433	(\$1,992,375)
2012	(\$5,504,500)	(\$5,395,500)	\$4,172,898	(\$1,992,375)
2013	(\$5,504,500)	(\$5,395,500)	\$4,172,898	(\$1,992,375)
2014	(\$2,979,500)	(\$2,920,500)	\$4,172,898	(\$1,992,375)

Fiscal Analysis

The Department of Public Safety (DPS) and the Private Security Board (the Board) are subject to the Sunset Act and will be abolished on September 1, 2009 unless continued by the Legislature. The bill contains the following Sunset Commission recommendations regarding DPS and the Board, among others.

- Requires DPS to manage the Vehicle Inspection Program (VIP) as a civilian business and licensing operation with established goals and expected performance outcomes. The Sunset Advisory Commission (Sunset) states Section 1.02 of the bill would not have a significant fiscal impact because DPS already operates VIP with a director.
- Changes Governor's Division of Emergency Management to Texas Division of Emergency

Management (TDEM) and clarifies that it is a division of DPS and specifies that DPS' director appoints the chief of TDEM with the approval of the Governor.

- Authorizes the Private Security Board to receive reimbursement for travel expenses and to license by endorsement to streamline the licensing process and reduce regulation. Sunset states the travel provisions in the bill would not have a significant fiscal impact since the Board currently receives travel reimbursement. Sunset states the endorsement provisions in Section 4.01 could result in significant reduction in license issuance responsibilities and efficiencies that would reduce staffing needs. However, until the agency is funded for and implements information technology improvements, these staffing reductions may not be realized.

DPS reported to Sunset that their database is outdated (the agency originally planned upgrades to the database in fiscal year 2009) and the database needs to be upgraded before it can implement the proposed endorsement provisions. DPS states the estimated cost of upgrading the database at \$2,000,000 for the biennium. However, Sunset states DPS put the upgrade on hold after an outside audit reorganized the agency's IT priorities. Sunset states the endorsement provisions would be part of the DPS planned upgrade and separating the cost of the provision from the rest of the upgrade would be difficult to determine.

Sunset also states current statute requires the administration of the Private Security Act be a self-leveling function through fees charged to the regulated community. Sunset assumes that any potential savings or costs associated with changes to the Private Security Act would be offset by increases or decreases in fees and therefore the fee generating provisions of the bill would be revenue neutral.

- Requires the Board to adopt rules necessary to comply with Chapter 53 regarding offenses that would prohibit a person from obtaining or retaining a license under the Private Security Act. Sunset states the Section 4.02 provisions could require staff time to develop the rules, but this is a typical staff responsibility. Sunset states DPS predicts these provisions could result in 30 percent more applicants being eligible and would require three additional staff to process an increase in applications. However, Sunset states that while the number of approvals for licensure may increase, the number of applicants, and the resulting background checks and investigations, would not likely change. In addition, Sunset states the license approval rate would depend on the rules adopted by the Board. Sunset states no significant fiscal impact for these provisions.
- Applies standard Sunset across-the-board language requiring the Board to develop a policy that encourages the use of negotiated rule making and alternative dispute resolution (ADR), as well as designate a trained person to coordinate the Board's ADR efforts. The person designated by the Board to coordinate ADR efforts must be an existing employee of the agency, who would expand on existing efforts to achieve agreed settlements. Sunset assumes the potential minimal training costs could be more than offset by reduced costs from avoiding protracted rule making or lengthy contested case hearings.
- Authorizes the Private Security Board to require jurisprudence exams to ensure all licensees understand the laws and rules that guide their professions. Sunset states the Board could experience costs from developing exam questions (should it decide to require exams). However, Sunset states the overall Section 4.73 costs could be recovered through exam fees and therefore the jurisprudence provisions of the bill would be revenue neutral.
- Eliminates fee caps in the Private Security Act. Regarding Section 4.19, Sunset states the Private Security Act specifies that fees collected must produce sufficient revenue to administer the chapter without producing unnecessary fund balances. Therefore, Sunset assumes the fee generating provisions of the bill would be revenue neutral.
- Increases the amount of the Private Security Act's maximum administrative penalty from \$500 to \$5,000. Regarding Section 4.98, Sunset states the Board's ability to assess higher administrative penalties could potentially increase revenue deposited to the General Revenue Fund, but the Board does not anticipate assessing the maximum penalty often, if ever. Sunset states the administrative penalty provisions of this bill would have no significant revenue impact.
- Requires the Public Safety Commission to hire the Director of the Office of Inspector General (OIG) and to directly oversee the activities of the Office. Sunset states DPS already operates the OIG with seven FTEs. Sunset states staff outside of the Office currently perform additional internal affairs investigations and these resources could be transferred to the OIG. DPS states these provisions would require an additional 36 FTEs to comply with the bill requirements. Sunset states the provisions of the bill would not increase the overall number of internal affairs

investigations, but merely consolidate efforts within a single office. Therefore, Sunset assumes these provisions in the bill would have no significant fiscal impact.

- Authorizes DPS to put the classroom portion of the concealed handgun licensing renewal class and written test online. Sunset states that DPS staff indicates the agency would not develop the class and test, but that qualified concealed handgun license instructors would, which is current practice. Because these instructors do not work for the State, Sunset assumes the instructors would absorb the cost of developing an online class and exam and that there would be no significant fiscal impact to the state for these provisions.
- Requires the Sunset Commission to conduct a limited scope review of DPS in 2011 that studies the agency's implementation of the 2008 information technology audit and a civilian business management model for the driver license program. DPS states this provision would require the agency to move the current commission based driver license division to a civilian based business model. DPS states they would require an additional 264 civilian FTEs to accommodate the suggested change. As part of DPS exceptional items for fiscal years 2010-11, DPS' driver license restructure plan is to move commissioned officers into the Highway Patrol Division, but leave the salaries for the troopers in the Driver License Division to help pay for the additional civilian FTEs. DPS has not requested additional funds for the 264 civilians, but they did request an additional \$32,737,176 in fiscal years 2010 and 2011 for trooper salary costs to pay for the FTEs that moved to Highway Patrol.

It is assumed that Sunset views the civilian model concept costs as not significant because the movement of troopers from the Driver License Division to Highway Patrol would address current trooper vacancies. The concept is that DPS could use current vacancy salary funds to pay for the movement of troopers between divisions. However, DPS states they need additional funds for this purpose. Sunset states the bill does not contain agency requirements related to the civilian business model. Sunset states they would accomplish this study within existing resources and that the bill does not require any action by DPS.

Regarding the 2008 information technology audit reporting requirement, DPS states the following fiscal analysis based on the Gartner Assessment implementation plan developed for the agency. To upgrade software, hardware, and various program upgrades to increase agency security, the assessment determined \$11,471,790 in fiscal year 2010 and \$2,950,000 in fiscal year 2011 for equipment would be required with an additional \$4,160,000 in fiscal year 2011 for staff augmentation. Sunset states the bill does not contain agency requirements related to the information technology audit. Sunset states they would accomplish this study within existing resources and that the bill does not require any action by DPS.

- Requires DPS to collect data regarding collisions of automobiles driven by students taught by different driver education programs, and to report annually on the data. Sunset reports DPS states this provision is revenue neutral. DPS did not include a cost estimate for these provisions in their fiscal note response. This analysis assumes that DPS would be able to implement these provisions of the bill with existing resources.
- Increases the fee for a provisional license or instruction permit from \$5 to \$15 and makes the provisional license expire on the youth's 18th birthday, instead of the first birthday after the date of application. Sunset states DPS reports this provision is revenue neutral. DPS did not include a cost estimate for these provisions in their fiscal note response. This analysis assumes that DPS would be able to implement these provisions of the bill with existing resources.
- Requires DPS to establish a system for verifying that a person actually lives at the address they've provided on their driver license or identification certificate application. Sunset reports DPS states this provision is revenue neutral. DPS did not include a cost estimate for these provisions in their fiscal note response. This analysis assumes that DPS would be able to implement these provisions of the bill with existing resources.
- Requires DPS to adopt rules for determining whether a person's domicile has been established, and allows DPS to contract with a third party to verify claims of domicile. Sunset reports DPS anticipates no significant fiscal impact to the state. DPS did not include a cost estimate for these provisions in their fiscal note response. This analysis assumes that DPS would be able to implement these provisions of the bill with existing resources.
- Requires DPS to participate in an inmate identification verification pilot program to issue driver licenses' and identification cards to inmates at the Department of Criminal Justice. Sunset states DPS reports no fiscal impact to the agency and the fiscal note for Senate Bill 1783 assumes any

additional fiscal impact created by the provisions in the bill could be absorbed within current appropriations.

- Increases the administrative fine for parking violations in the Capitol Complex from \$10 to \$25, and increases the late fee from \$2 to \$5. Sunset states that DPS estimates an annual gain to General Revenue of \$205,473 per year.
- Protects judge's addresses from being revealed through concealed handgun license (CHL) records, eases testing requirements for judges to obtain CHLs, allows handgun instructors to renew online and clarifies several provisions of CHL statutes. Sunset states DPS indicates they have the ability to provide online renewal for handgun instructors without additional resources.
- Requires subcontractors of school contractors to obtain criminal history record information on their employees that will work on school ground. Sunset states the subcontractor or its employees would be required to pay the cost of obtaining the criminal history background check resulting in no fiscal impact. This analysis assumes that DPS would be able to implement these provisions of the bill with existing resources.
- Authorizes the DPS director to appoint a deputy director. Sunset states the agency already has and is funded for such a position.
- Allows DPS public security officers to earn comp time on holidays that fall on Saturday or Sunday. The fiscal note for House Bill 3712 reports no significant fiscal impact to the State.
- Makes changes to the Driver Responsibility Program, including payment plans and reducing or eliminating payments for indigent persons; however these provisions do not take effect until September 1, 2011, resulting in no fiscal impact for the FY 10-11 biennium. Based on information from the Comptroller's Office, General Revenue loss in 2012 would be \$5.5 million and the same again in 2013, with \$5.4 million lost each year in GR account 5111-Trauma. For fiscal year 2014, General Revenue loss would be \$3.0 million and \$2.9 million in GR account 5111-Trauma.
- Clarifies that people that repair or maintain computers or work for several governmental entities do not fall under the Private Security Act licensing requirements. Sunset states these people do not currently obtain private security licenses or endorsements so no change in revenue or expenses will occur.
- Requires camera system installers to obtain an endorsement under the private security act. Sunset states any costs incurred by these provisions of the bill would be recovered through fees.
- Requires certain counties to establish a local data advisory board to plan for the adequate collection and transmission of records under rules to be established by the DPS director. Sunset states that local governments could incur minor costs; however, there is no state fiscal impact.
- Requires criminal history background checks for potential and some current employees of higher education institutions. The fiscal note for SB 2046 which is similar to this amendment will result in a gain to General Revenue Funds of about \$2 million per year.
- Allows donation of compensatory or annual leave time from and to certain DPS employees for DPS Officers Association and Texas State Troopers Association legislative matters. Sunset states while DPS will spend a small amount of time managing the accounts, the change will not have a fiscal impact.
- Requires DPS to conduct a study of private vendors performing criminal history background checks and identity verification. Sunset assumes this study can be done with existing resources.
- Authorizes DPS to establish a driver record monitoring pilot program. The fiscal note for Senate Bill 512 reports no significant fiscal impact to the State.
- Authorizes a county to pilot a school bus video monitoring system. These provisions of the bill also clarify that school districts need only comply with school bus seat belt requirements if the Texas Education Agency (TEA) grants appropriated funds for that purpose. Sunset states these provisions are similar to language in current law. Sunset states no fiscal impact is expected since the state nor TEA are required to appropriate funds for this purpose, although the state could choose to do so.
- Limits the release of criminal history and other records regarding school employees. These provisions would prohibit release of criminal history record information regarding employees obtained by school districts, charter schools, or other entities approved to collect such information on public education employees except as authorized by the provisions of bill. The bill would specify that other related information is not subject to disclosure, and provides that

certain related information may not be released to an ineligible party. Sunset states there is no fiscal impact to the state.

- Allows buses registered but not kept in Texas to use certificates of inspection in compliance with federal law. Sunset states no significant fiscal impact to the state.
- Creates an interagency council to develop a plan to transfer controlled drugs prescription information from DPS to the Board of Pharmacy. Sunset assumes agencies would participate in the council using existing resources.
- Limits the effectiveness of this Act only if a specific appropriation for the implementation of the Act is provided in the appropriations act. Sunset states no such appropriation appears to be in the appropriations act, however the bill also does not require an appropriation.
- The bill repeals the following provisions in the Occupations Code: Section 1702.002(4), 1702.045, 1702.046, 1702.047, 1702.065, 1702.069, 1702.113(e), 1702, Subchapter K, and 1702.364(j) as well as Government Code, Sections 411.0195(d) and (e), and 421.072, and Transportation Code, Chapter 601, Subchapter N. The bill also repeals Occupations Code, Section 1702.003 which removes the Private Security Board's separate Sunset date, but it continues the Board and the Act.
- Continues DPS for 12 years.

The bill would take effect on September 1, 2009.

Methodology

Senate Floor Amendments 9 and 26 establish minimum lengths for installment agreements to pay Driver Responsibility Program (DRP) surcharges and an indigency program for driver license holders who have been assessed a surcharge in the program. These provisions do not take effect until September 1, 2011, resulting in no fiscal impact in the 2010-2011 biennium. The Comptroller of Public Accounts (CPA) states that deferring installment agreements would have a cost of \$5.0 million annually, of which 50.5 percent would be from the General Revenue Fund and 49.5 percent would be from General Revenue-Dedicated Account 5111 (Trauma Fund), in fiscal years 2012 and 2013. The CPA assumes there would be no revenue loss in fiscal year 2014 and beyond. CPA assumes the indigency program would have a revenue loss of \$5.9 million annually starting in fiscal year 2012, of which \$3.0 million would be from the General Revenue Fund and \$2.9 million would be from the Trauma Fund.

Senate Floor Amendment 15 requires institutions of higher education to subscribe to the criminal history clearing house as provided by Government Code 411.0845 or obtain criminal history record information from a private vendor that offers comparable services, and would be allowed to obtain criminal history record information that relates to a specific applicant for employment or current employee. These provisions require institutions to condition offers of employment on obtaining a criminal history record and to reject applicants who fail to consent to the background check or provide finger prints needed to obtain the information.

Applicants would be rejected if the information obtained indicates conviction of a felony of the second degree, a felony of the first degree, a capital felony or an offense for which registration as a sex offender is required. Applicants whose records indicate other convictions or arrests could be considered for employment after an analysis is conducted as outlined in the bill and could be employed if recommended by the person in charge of the department or division to which the applicant has applied and approved by the chief executive officer of the institution.

Institutions would be required to conduct background checks of employees within the institution for promotions and transfers, and otherwise as necessary to maintain the integrity of the institution's faculty and staff. Institutions would require that every employee provide the information necessary to conduct background checks and would be allowed to terminate the employment of anyone who fails to provide it. Institutions would also be required to reject applicants and would be allowed take disciplinary action against employees who knowingly fail to provide or falsify criminal history record information. Applicants would be required by the institutions to report arrests subsequent to submission of an application and employees would be required by the institution to report arrests, charges, or convictions for offenses other than misdemeanor traffic offenses punishable by a fine only

as early as possible. These provisions would also repeal section 51.215 of Education Code.

Calculations assume that implementation of the bill would require criminal record history information (CHRI) checks that would include FBI fingerprint-based checks be performed in each fiscal year. It is not known whether institutions would use DPS or private vendors to obtain the criminal history background checks. For the purpose of this fiscal note, it is assumed that institutions of higher education would subscribe to the criminal history clearing house maintained by the Department of Public Safety (DPS). To the extent that institutions of higher education chose to use a private vendor, rather than DPS, the revenue gain would be reduced proportionally.

The fiscal note calculations for these provisions assume 115,500 criminal history checks would be submitted per fiscal year, based on an estimated 330,000 current employees, a 15% new hire rate (49,500) and a 15% promotions and transfers rate (49,500) in addition to an estimated 16,500 checks to maintain integrity of faculty and staff. Calculations also assume that 3.5% of the total records retained by DPS will be updated per year. The number of records retained by DPS would total 115,500 in fiscal year 2010, 231,000 in fiscal year 2011 and 330,000 in subsequent fiscal years. Both DPS and Federal Bureau of Investigation (FBI) CHRI checks would be required. DPS CHRI checks would generate \$15.00 each. FBI CHRI checks would generate \$17.25 each. The DPS FBI processing fee would generate \$2.00 each, while updates would generate \$1.00 each.

Fees assessed by the DPS would result in a total increase in revenue of \$3,959,918 in fiscal year 2010, \$3,963,960 in fiscal year 2011 and \$3,967,425 per year in fiscal years 2011 through 2014. However, a portion of the DPS fee revenue (\$1,992,375 in fiscal years 2010 through 2014) would be returned to the FBI for professional services. It is assumed that other costs to DPS associated with the background checks can be absorbed within available resources. It is assumed that provisions of the bill will be implemented by institutions of higher education within existing resources.

Section 16 of the bill would increase the driver license reinstatement fee from \$50 to \$100 for certain motor vehicle offenses. Based on specific bill text for the revenue collected to deposit into the General Revenue Fund (instead of the Mobility Fund where these fees are currently deposited), the assumption would be that this section of the bill could produce additional General Revenue for the state. However, a fiscal note has not been completed on this bill text and therefore cannot be determined at this time.

Section 20 of the bill would amend the Government Code, Sections 411.067 (a), (b), and (c) to increase the parking fees in the Capitol Complex from \$10 to \$25 each and increases late fees from \$2 to \$5 each. The bill also associates security and parking enforcement to the Department of Public Safety highway patrol district who is responsible for the Capitol Complex. DPS states that approximately 12,173 parking citations are paid annually at the current rate of \$10 each. DPS estimates that a \$15 increase in the each fine could result in a General Revenue gain of approximately \$182,595 per year (12,173 * 10). DPS also states that approximately 7,626 parking citations are paid annually with a current late fee of \$2 each. DPS estimates that a \$3 increase in the late fee could result in a General Revenue gain of approximately \$22,878 per year (7,626 * 3). DPS states this bill could result in a total General Revenue gain of approximately \$205,473 per year (\$182,595 + \$22,878).

The bill also includes various sections that would establish a fee for licenses or personal identification certificates issued to an applicant who is not a citizen of the United States. The CPA states the fee amounts for the licenses and certificates to be issued to noncitizens by DPS would be set by agency rule. The CPA states that because the amount of the license or certificate fee is not known, and the number of noncitizens applying for these licenses or certificates is not known, the fiscal impact of this provision of the bill cannot be estimated. This analysis assumes that the fiscal impact to DPS would not be significant.

The Office of the Governor and the Office of Administrative Hearings anticipate no significant fiscal impact to their agencies. The CPA states the net fee amounts set by the Private Security Board are not known and can not be estimated. The CPA also states the administrative penalties imposed on a person licensed, commissioned, or registered under the chapter, who violated the chapter or rule, can not be determined.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 116 Sunset Advisory Commission, 304 Comptroller of Public Accounts, 405
Department of Public Safety

LBB Staff: JOB, SD, KK, GG, LG

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 28, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2730 by Kolkhorst (Relating to the continuation and functions of the Department of Public Safety of the State of Texas and the Texas Private Security Board; providing penalties.), **As Passed 2nd House**

The fiscal implications of the bill cannot be determined at this time

Local Government Impact

The fiscal implications of the bill cannot be determined at this time

Source Agencies:

LBB Staff: JOB, SD

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

Revision 1

May 24, 2009

TO: Honorable Rodney Ellis, Chair, Senate Committee on Government Organization

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2730 by Kolkhorst (relating to the continuation and functions of the Department of Public Safety of the State of Texas and the Texas Private Security Board; providing penalties.),
Committee Report 2nd House, Substituted

Estimated Two-year Net Impact to General Revenue Related Funds for HB2730, Committee Report 2nd House, Substituted: a negative impact of (\$42,089,054) through the biennium ending August 31, 2011.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	(\$16,794,527)
2011	(\$25,294,527)
2012	(\$33,794,527)
2013	(\$42,294,527)
2014	(\$42,294,527)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from General Revenue Fund 1	Probable Revenue Gain/ (Loss) from Trauma Facility And Ems 5111	Probable Revenue Gain from General Revenue Fund 1
2010	(\$17,000,000)	(\$16,800,000)	\$205,473
2011	(\$25,500,000)	(\$25,200,000)	\$205,473
2012	(\$34,000,000)	(\$33,600,000)	\$205,473
2013	(\$42,500,000)	(\$42,000,000)	\$205,473
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- Requires DPS to collect data regarding collisions of automobiles driven by students taught by different driver education programs, and to report annually on the data. Sunset reports DPS states this provision is revenue neutral. DPS did not include a cost estimate for these provisions in their fiscal note response. This analysis assumes that DPS would be able to implement these provisions of the bill with existing resources.
- Increases the fee for a provisional license or instruction permit from \$5 to \$15 and makes the provisional license expire on the youth's 18th birthday, instead of the first birthday after the date of application. Sunset states DPS reports this provision is revenue neutral. DPS did not include a cost estimate for these provisions in their fiscal note response. This analysis assumes that DPS would be able to implement these provisions of the bill with existing resources.
- Requires DPS to establish a system for verifying that a person actually lives at the address they've provided on their driver license or identification certificate application. Sunset reports DPS states this provision is revenue neutral. DPS did not include a cost estimate for these provisions in their fiscal note response. This analysis assumes that DPS would be able to implement these provisions of the bill with existing resources.
- Requires DPS to adopt rules for determining whether a person's domicile has been established, and allows DPS to contract with a third party to verify claims of domicile. Sunset reports DPS anticipates no significant fiscal impact to the state. DPS did not include a cost estimate for these provisions in their fiscal note response. This analysis assumes that DPS would be able to implement these provisions of the bill with existing resources.
- Requires DPS to participate in an inmate identification verification pilot program to issue driver licenses' and identification cards to inmates at the Department of Criminal Justice. Sunset states DPS reports no fiscal impact to the agency and the fiscal note for Senate Bill 1783 assumes any additional fiscal impact created by the provisions in the bill could be absorbed within current

appropriations.

- Establishes that courts that have jurisdiction over a person's offense also have jurisdiction over all matters relating to a Driver Responsibility Program surcharges, and allows the court to reduce or waive surcharges. The bill also prohibits DPS from assessing a surcharge against a person who is indigent. Sunset states DPS and the Comptroller estimate a biennial revenue loss of \$42.5 million from loss in surcharge revenue from indigent persons.
- Increases the administrative fine for parking violations in the Capitol Complex from \$10 to \$25, and increases the late fee from \$2 to \$5. Sunset states that DPS estimates an annual gain to General Revenue of \$205,473 per year.
- The bill repeals the following provisions in the Occupations Code: Section 1702.002(4), 1702.045, 1702.046, 1702.047, 1702.065, 1702.069, 1702.113(e), 1702, Subchapter K, and 1702.364(j) as well as Government Code, Sections 411.0195(d) and (e), and 421.072, and Transportation Code, Chapter 601, Subchapter N. The bill also repeals Occupations Code, Section 1702.003 which removes the Private Security Board's separate Sunset date, but it continues the Board and the Act.
- Continues DPS for 12 years.

The bill would take effect on September 1, 2009.

Methodology

Section 15 of the bill would amend Chapter 708 of the Transportation Code to require DPS to send a second and third notice to offenders about outstanding surcharges due under the Driver Responsibility Program (DRP). Current statute requires the department to notify offenders once. Under current law, if the offender has failed to pay the surcharge or enter into an installment agreement by the 30th day after notification, the offender's license is automatically suspended. The bill would extend the automatic suspension until the 30th day after the third notification. The bill would modify DRP installment agreements. Current law states that DPS may not permit offenders to enter into installment agreements of a period more than 36 consecutive months. The bill would state that DPS cannot require an offender to enter into an installment agreement of less than 36 consecutive months.

The bill would extend a court's jurisdiction for a conviction resulting in a surcharge to the person who is assessed a surcharge and DPS and all agents of the department regarding all matters related to the surcharge. The bill would allow a court to reduce or waive a surcharge and would establish that all persons required to pay a surcharge could invoke the jurisdiction of the court. The bill would require DPS to waive a surcharge for a person considered indigent. The bill would define an indigent person as a person who submits documentation to the court that proves that his or her income does not exceed 200 percent of the applicable income level established by the federal poverty guidelines or a person who is a full-time student enrolled in an institution of higher education. The court is required to notify DPS that a person is indigent. The bill would also require the DPS to establish a procedure by rule to annually deduct one point accumulated under Chapter 708 of the Transportation Code for each year that the person does not accumulate another point.

Approximately \$166 million was collected from DRP surcharges in fiscal 2008. The bill would allow a court to reduce or waive surcharges for an offender. Surcharges could not be assessed on an indigent person. Revenue from the DRP is dedicated 50.5 percent to General Revenue Fund (which includes 1 percent for DPS administration) and 49.5 percent to GR Account-Dedicated Trauma and EMS 5111.

For the purposes of this estimate, the Comptroller of Public Accounts assumed that, through court-ordered reductions or waiving of surcharges and no collection of surcharges from indigent persons, revenue would decline by 20 percent in fiscal 2010, 30 percent in 2011, 40 percent in 2012, and 50 percent each year thereafter. DPS estimates the costs for mailing two more notices at \$590,764 annually. It is assumed that these costs would be passed on to offenders.

Section 16 of the bill would increase the driver license reinstatement fee from \$50 to \$100 for certain motor vehicle offenses. Based on specific bill text for the revenue collected to deposit into the General Revenue Fund (instead of the Mobility Fund where these fees are currently deposited), the assumption would be that this section of the bill could produce additional General Revenue for the state. However,

a fiscal note has not been completed on this bill text and therefore cannot be determined at this time.

Section 20 of the bill would amend the Government Code, Sections 411.067 (a), (b), and (c) to increase the parking fees in the Capitol Complex from \$10 to \$25 each and increases late fees from \$2 to \$5 each. The bill also associates security and parking enforcement to the Department of Public Safety highway patrol district who is responsible for the Capitol Complex. DPS states that approximately 12,173 parking citations are paid annually at the current rate of \$10 each. DPS estimates that a \$15 increase in the each fine could result in a General Revenue gain of approximately \$182,595 per year (12,173 * 10). DPS also states that approximately 7,626 parking citations are paid annually with a current late fee of \$2 each. DPS estimates that a \$3 increase in the late fee could result in a General Revenue gain of approximately \$22,878 per year (7,626 *3). DPS states this bill could result in a total General Revenue gain of approximately \$205,473 per year (\$182,595 + \$22,878).

The bill also includes various sections that would establish a fee for licenses or personal identification certificates issued to an applicant who is not a citizen of the United States. The Comptroller of Public Accounts (CPA) states the fee amounts for the licenses and certificates to be issued to noncitizens by DPS would be set by agency rule. The CPA states that because the amount of the license or certificate fee is not known, and the number of noncitizens applying for these licenses or certificates is not known, the fiscal impact of this provision of the bill cannot be estimated. This analysis assumes that the fiscal impact to DPS would not be significant.

The Office of the Governor and the Office of Administrative Hearings anticipate no significant fiscal impact to their agencies. The Comptroller of Public Accounts (CPA) states the net fee amounts set by the Private Security Board are not known and can not be estimated. The CPA also states the administrative penalties imposed on a person licensed, commissioned, or registered under the chapter, who violated the chapter or rule, can not be determined.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 116 Sunset Advisory Commission, 405 Department of Public Safety

LBB Staff: JOB, KK, GG, LG

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 19, 2009

TO: Honorable Rodney Ellis, Chair, Senate Committee on Government Organization

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2730 by Kolkhorst (Relating to the continuation and functions of the Department of Public Safety of the State of Texas and the Texas Private Security Board; providing a penalty.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2730. As Engrossed: an impact of \$0 through the biennium ending August 31, 2011.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	\$0
2011	\$0
2012	\$0
2013	\$0
2014	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>State Highway Fund</i> 6	Change in Number of State Employees from FY 2009
2010	(\$785,907)	5.0
2011	(\$393,371)	5.0
2012	\$0	0.0
2013	\$0	0.0
2014	\$0	0.0

Fiscal Analysis

The Department of Public Safety (DPS) and the Private Security Board (the Board) are subject to the Sunset Act and will be abolished on September 1, 2009 unless continued by the Legislature. The bill contains the following Sunset Commission recommendations regarding DPS and the Board, among others.

- Requires the Vehicle Inspection Advisory Committee to meet at least once per quarter instead of twice a year. The Sunset Advisory Commission (Sunset) states that because advisory committee members are authorized to be reimbursed for expenses, the provision could have a small cost, but Sunset does not have the information to estimate the cost. This analysis assumes that DPS would be able to implement these provisions of the bill with existing resources.
- Requires DPS to manage the Vehicle Inspection Program (VIP) as a civilian business and licensing operation with established goals and expected performance outcomes. The Sunset

Advisory Commission (Sunset) states Section 1.02 of the bill would not have a significant fiscal impact because DPS already operates VIP with a director.

- Increases the fee for a motor vehicle inspection from \$12.50 to \$14.00 and the fee for a moped inspection from \$5.75 to \$6.75. Increases the fee from \$1 to \$2 for a verification form that's required for any car brought to Texas before it can be registered in the state. Sunset states and DPS reports the fee increases would go to inspection stations, not the State, so there would be no impact to general revenue.
- Changes Governor's Division of Emergency Management to Texas Division of Emergency Management (TDEM) and clarifies that it is a division of DPS and specifies that DPS' director appoints the chief of TDEM with the approval of the Governor.
- Specifies that members of the Texas State Guard called to state active duty during a state emergency are temporary state employees during state active duty. Sunset states this provision could have a fiscal impact if it authorizes these employees to receive workers' compensation payments through the State Office or Risk Management.
- Requires DPS to consider developing a pilot program to test reentry credentials for allowing reentry to an area after a disaster or threat of disaster. Also prohibits DPS from requiring residents of an evacuated area to participate or comply with program. Sunset states these provisions could have a cost, but Sunset does not have the information to estimate that cost. This analysis assumes that DPS would be able to implement these provisions of the bill with existing resources.
- Requires affidavits of breath test operators and supervisors to be admissible in administrative hearings without their appearance unless the judge requires their presence. Sunset states Section 3.01 could have a positive fiscal impact to the state and local communities because fewer breath test operators and supervisors would likely be called to hearings (saving travel and overtime expenses). However, Sunset states the number of witnesses impacted could not be determined. The bill would require administrative law judges at the State Office of Administrative Hearings (SOAH) to spend limited additional time reviewing affidavits and subpoena requests. Both Sunset and SOAH estimate no significant fiscal impact for these provisions.
- Authorizes the Private Security Board to receive reimbursement for travel expenses and to license by endorsement to streamline the licensing process and reduce regulation. Sunset states the travel provisions in the bill would not have a significant fiscal impact since the Board currently receives travel reimbursement. Sunset states the endorsement provisions in Section 4.01 could result in significant reduction in license issuance responsibilities and efficiencies that would reduce staffing needs. However, until the agency is funded for and implements information technology improvements, these staffing reductions may not be realized.

DPS reported to Sunset that their database is outdated (the agency originally planned upgrades to the database in fiscal year 2009) and the database needs to be upgraded before it can implement the proposed endorsement provisions. DPS states the estimated cost of upgrading the database at \$2,000,000 for the biennium. However, Sunset states DPS put the upgrade on hold after an outside audit reorganized the agency's IT priorities. Sunset states the endorsement provisions would be part of the DPS planned upgrade and separating the cost of the provision from the rest of the upgrade would be difficult to determine.

Sunset also states current statute requires the administration of the Private Security Act be a self-leveling function through fees charged to the regulated community. Sunset assumes that any potential savings or costs associated with changes to the Private Security Act would be offset by increases or decreases in fees and therefore the fee generating provisions of the bill would be revenue neutral.

- Requires the Board to adopt rules necessary to comply with Chapter 53 regarding offenses that would prohibit a person from obtaining or retaining a license under the Private Security Act. Sunset states the Section 4.02 provisions could require staff time to develop the rules, but this is a typical staff responsibility. Sunset states DPS predicts these provisions could result in 30 percent more applicants being eligible and would require three additional staff to process an increase in applications. However, Sunset states that while the number of approvals for licensure may increase, the number of applicants, and the resulting background checks and investigations, would not likely change. In addition, Sunset states the license approval rate would depend on the rules adopted by the Board. Sunset states no significant fiscal impact for these provisions.

- Applies standard Sunset across-the-board language requiring the Board to develop a policy that encourages the use of negotiated rule making and alternative dispute resolution (ADR), as well as designate a trained person to coordinate the Board's ADR efforts. The person designated by the Board to coordinate ADR efforts must be an existing employee of the agency, who would expand on existing efforts to achieve agreed settlements. Sunset assumes the potential minimal training costs could be more than offset by reduced costs from avoiding protracted rule making or lengthy contested case hearings.
- Authorizes the Private Security Board to require jurisprudence exams to ensure all licensees understand the laws and rules that guide their professions. Sunset states the Board could experience costs from developing exam questions (should it decide to require exams). However, Sunset states the overall Section 4.80 costs could be recovered through exam fees and therefore the jurisprudence provisions of the bill would be revenue neutral.
- Eliminates fee caps in the Private Security Act. Regarding Section 4.19, Sunset states the Private Security Act specifies that fees collected must produce sufficient revenue to administer the chapter without producing unnecessary fund balances. Therefore, Sunset assumes the fee generating provisions of the bill would be revenue neutral.
- Increases the amount of the Private Security Act's maximum administrative penalty from \$500 to \$5,000. Regarding Section 4.103, Sunset states the Board's ability to assess higher administrative penalties could potentially increase revenue deposited to the General Revenue Fund, but the Board does not anticipate assessing the maximum penalty often, if ever. Sunset states the administrative penalty provisions of this bill would have no significant revenue impact.
- Requires the Public Safety Commission to hire the Director of the Office of Inspector General (OIG) and to directly oversee the activities of the Office. Sunset states DPS already operates the OIG with seven FTEs. Sunset states staff outside of the Office currently perform additional internal affairs investigations and these resources could be transferred to the OIG. DPS states these provisions would require an additional 36 FTEs to comply with the bill requirements. Sunset states the provisions of the bill would not increase the overall number of internal affairs investigations, but merely consolidate efforts within a single office. Therefore, Sunset assumes these provisions in the bill would have no significant fiscal impact.
- Authorizes DPS to put the classroom portion of the concealed handgun licensing renewal class and written test online. Sunset states that DPS staff indicates the agency would not develop the class and test, but that qualified concealed handgun license instructors would, which is current practice. Because these instructors do not work for the State, Sunset assumes the instructors would absorb the cost of developing an online class and exam and that there would be no significant fiscal impact to the state for these provisions.
- Requires the Sunset Commission to conduct a limited scope review of DPS in 2011 that studies the agency's implementation of the 2008 information technology audit and a civilian business management model for the driver license program. DPS states this provision would require the agency to move the current commission based driver license division to a civilian based business model. DPS states they would require an additional 264 civilian FTEs to accommodate the suggested change. As part of DPS exceptional items for fiscal years 2010-11, DPS' driver license restructure plan is to move commissioned officers into the Highway Patrol Division, but leave the salaries for the troopers in the Driver License Division to help pay for the additional civilian FTEs. DPS has not requested additional funds for the 264 civilians, but they did request an additional \$32,737,176 in fiscal years 2010 and 2011 for trooper salary costs to pay for the FTEs that moved to Highway Patrol.

It is assumed that Sunset views the civilian model concept costs as not significant because the movement of troopers from the Driver License Division to Highway Patrol would address current trooper vacancies. The concept is that DPS could use current vacancy salary funds to pay for the movement of troopers between divisions. However, DPS states they need additional funds for this purpose. Sunset states the bill does not contain agency requirements related to the civilian business model. Sunset states they would accomplish this study within existing resources and that the bill does not require any action by DPS.

Regarding the 2008 information technology audit reporting requirement, DPS states the following fiscal analysis based on the Gartner Assessment implementation plan developed for the agency. To upgrade software, hardware, and various program upgrades to increase agency security, the assessment determined \$11,471,790 in fiscal year 2010 and \$2,950,000 in fiscal

year 2011 for equipment would be required with an additional \$4,160,000 in fiscal year 2011 for staff augmentation. Sunset states the bill does not contain agency requirements related to the information technology audit. Sunset states they would accomplish this study within existing resources and that the bill does not require any action by DPS.

- Requires DPS to make and distribute to the public a list of concealed handgun license instructors' phone numbers, and email and website addresses. Sunset states DPS already maintains the list and currently redacts the information that is now required to be public, so Sunset assumes DPS will not incur any expense to make all of the information public.
- Requires DPS to develop customer service, cultural diversity, and proof of citizenship document training to be completed by all driver license staff that interact with the public. Sunset states these provisions could have a fiscal impact, but Sunset does not have the information to estimate any cost the agency might incur. DPS states these provisions could have some fiscal impact. This analysis assumes that DPS would be able to implement these provisions of the bill with existing resources.
- Requires DPS' Emergency Management Division to provide a minimum of three hours emergency management training to all representatives and any elected officials whose duties include emergency management and preparedness. Allows elected public officers whose duties include emergency management responsibilities to attend the training. Sunset states DPS indicates that the provision largely duplicates existing requirements, so it appears that it would not have a cost
- Requires state law enforcement agencies to have physical fitness programs for officers in addition to physical fitness standards, and requires each law enforcement agency to adopt a reward policy that provides incentives to officers who participate in the program and meet the standards. The bill states the reward incentives offered must be in an amount of administrative leave of not more than four days per year. Sunset states that the manner by which DPS would choose to administer the program is unknown, but Sunset assumes the reward incentives could likely be accomplished with existing resources.
- Requires DPS to establish a health management and wellness program to counsel commercial driver license applicants on the increased risks caused by high blood pressure, high cholesterol, and diabetes while driving a commercial motor vehicle. Sunset states this provision could have a cost, but Sunset does not have the information to estimate the cost. DPS states these provisions could have some fiscal impact. This analysis assumes that DPS would be able to implement these provisions of the bill with existing resources.
- Requires DPS to send additional notices of Driver Responsibility Program surcharges and to waive a certain percentage of surcharges for indigent persons. Sunset states these provisions could have a cost but that they do not have the information to estimate the cost. DPS states these provisions could have some fiscal impact. This analysis assumes that DPS would be able to implement these provisions of the bill with existing resources.
- Requires, rather than authorizes, DPS to establish an indigency program for driver license holders who have been assessed a surcharge in the Driver Responsibility Program. Sunset states that DPS reports based on the documents defined as acceptable proof of indigency, the agency will have significant trouble manually reviewing these documents for program compliance, but Sunset does not have the information to estimate any cost the agency might incur. DPS did not include a cost estimate for these provisions in their fiscal note response. This analysis assumes that DPS would be able to implement these provisions of the bill with existing resources
- Specifies that, subject to availability of funds, all DPS employees charged with issuing driver licenses and identification cards shall receive a one time pay raise of \$3,000 upon meeting certain qualifications. Sunset states that because this provision is subject to available funds, it would not have a cost to DPS. Otherwise, it would cost the agency \$3.6 million over two years. DPS did not include a cost estimate for these provisions in their fiscal note response.
- Requires DPS to allocate and monitor border security grants awarded to counties and communities. Sunset states and DPS reported in House Bill 4092's fiscal note that this provision would not have a fiscal impact but likely can't be implemented because it violates requirements for disbursement of federal homeland security funds.
- Requires DPS to develop a safe schools unit pilot program to provide school districts with information on juvenile delinquency, substance abuse, and other law enforcement issues that affect school districts. Sunset states and DPS reported in House Bill 318's fiscal note that it will

need five troopers for a 2-year cost to Highway Fund 6 of \$1.2 million.

- Requires DPS to develop a free public website that include criminal history information on persons convicted of at least two intoxication offenses. Sunset states House Bill 314's fiscal note assumes that any implementation costs could be reasonably absorbed within current resources and therefore the provision would have no fiscal impact.
- The bill repeals the following provisions in the Occupations Code: Section 1702.002(4), 1702.045, 1702.046, 1702.047, 1702.065, 1702.069, 1702.113(e), 1702, Subchapter K, and 1702.364(j) as well as Government Code, Sections 411.0195(d) and (e), and 421.072, and Transportation Code, Chapter 601, Subchapter N. The bill also repeals Occupations Code, Section 1702.003 which removes the Private Security Board's separate Sunset date, but it continues the Board and the Act.
- Continues DPS for 6 years.

This bill would take effect immediately if two-thirds of the members in both the House of Representatives and the Senate vote to approve this bill. If not, the bill would take effect on September 1, 2009.

Methodology

Sections 9.01 and 9.02 add Government Code, Section 411.0203 which requires the DPS to establish a safe school unit pilot program for the 2010-2011 school year. The pilot program would provide selected school districts with information and assistance on juvenile delinquency, juvenile substance abuse, and other law enforcement issues that affect school districts. The bill would take effect on September 1, 2009 and expire on August 31, 2011.

DPS states they would require 5 additional employees (troopers within salary group C-3) to comply with the provisions of the bill. The total estimated cost for these additional responsibilities including salaries, benefits, equipment, travel, and other operating costs would equal \$785,907 in fiscal year 2010 and \$393,371 in fiscal years 2011. The requirements of the bill would expire on August 31, 2011, which would limit the fiscal impact to two fiscal years.

The Office of the Governor and the Office of Administrative Hearings anticipate no significant fiscal impact to their agencies. The Comptroller of Public Accounts (CPA) states the net fee amounts set by the Private Security Board are not known and can not be estimated. The CPA also states the administrative penalties imposed on a person licensed, commissioned, or registered under the chapter, who violated the chapter or rule, can not be determined. Based on the fiscal analysis provided by both the Sunset Advisory Commission and the Department of Public Safety, this analysis assumes no significant fiscal impact to the State.

Technology

The technology costs for fiscal year 2010 include \$51,695 for trooper in-car computer systems, class training equipment and enterprise agreements. The technology cost for fiscal year 2011 includes costs for enterprise agreements.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 405 Department of Public Safety

LBB Staff: JOB, KK, GG, LG

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 8, 2009

TO: Honorable Tommy Merritt, Chair, House Committee on Public Safety

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2730 by Kolkhorst (Relating to the continuation and functions of the Department of Public Safety of the State of Texas and the Texas Private Security Board; providing a penalty.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The Department of Public Safety (DPS) and the Private Security Board (the Board) are subject to the Sunset Act and will be abolished on September 1, 2009 unless continued by the Legislature. The bill contains the following Sunset Commission recommendations regarding DPS and the Board, among others.

- Requires DPS to manage the Vehicle Inspection Program (VIP) as a civilian business and licensing operation with established goals and expected performance outcomes. The Sunset Advisory Commission (Sunset) states Section 1.01 of the bill would not have a significant fiscal impact because DPS already operates VIP with a director.
- Changes Governor's Division of Emergency Management to Texas Division of Emergency Management (TDEM) and clarifies that it is a division of DPS and specifies that DPS' director appoints the chief of TDEM.
- Requires affidavits of breath test operators and supervisors to be admissible in administrative hearings without their appearance unless the judge requires their presence. Sunset states Section 3.01 could have a positive fiscal impact to the state and local communities because fewer breath test operators and supervisors would likely be called to hearings (saving travel and overtime expenses). However, Sunset states the number of witnesses impacted could not be determined. The bill would require administrative law judges at the State Office of Administrative Hearings (SOAH) to spend limited additional time reviewing affidavits and subpoena requests. Both Sunset and SOAH estimate no significant fiscal impact for these provisions.
- Authorizes the Private Security Board to receive reimbursement for travel expenses and to license by endorsement to streamline the licensing process and reduce regulation. Sunset states the travel provisions in the bill would not have a significant fiscal impact since the Board currently receives travel reimbursement. Sunset states the endorsement provisions in Section 4.01 could result in significant reduction in license issuance responsibilities and efficiencies that would reduce staffing needs. However, until the agency is funded for and implements information technology improvements, these staffing reductions may not be realized.

DPS reported to Sunset that their database is outdated (the agency originally planned upgrades to the database in fiscal year 2009) and the database needs to be upgraded before it can implement the proposed endorsement provisions. DPS states the estimated cost of upgrading the database at \$2,000,000 for the biennium. However, Sunset states DPS put the upgrade on hold after an outside audit reorganized the agency's IT priorities. Sunset states the endorsement provisions would be part of the DPS planned upgrade and separating the cost of the provision from the rest of the upgrade would be difficult to determine.

Sunset also states current statute requires the administration of the Private Security Act be a self-leveling function through fees charged to the regulated community. Sunset assumes that any potential savings or costs associated with changes to the Private Security Act would be

offset by increases or decreases in fees and therefore the fee generating provisions of the bill would be revenue neutral.

- Requires the Board to adopt rules necessary to comply with Chapter 53 regarding offenses that would prohibit a person from obtaining or retaining a license under the Private Security Act. Sunset states the Section 4.02 provisions could require staff time to develop the rules, but this is a typical staff responsibility. Sunset states DPS predicts these provisions could result in 30 percent more applicants being eligible and would require three additional staff to process an increase in applications. However, Sunset states that while the number of approvals for licensure may increase, the number of applicants, and the resulting background checks and investigations, would not likely change. In addition, Sunset states the license approval rate would depend on the rules adopted by the Board. Sunset states no significant fiscal impact for these provisions.
- Applies standard Sunset across-the-board language requiring the Board to develop a policy that encourages the use of negotiated rule making and alternative dispute resolution (ADR), as well as designate a trained person to coordinate the Board's ADR efforts. The person designated by the Board to coordinate ADR efforts must be an existing employee of the agency, who would simply expand on existing efforts to achieve agreed settlements. Sunset assumes the potential minimal training costs could be more than offset by reduced costs from avoiding protracted rule making or lengthy contested case hearings.
- Authorizes the Private Security Board to require jurisprudence exams to ensure all licensees understand the laws and rules that guide their professions. Sunset states the Board could experience costs from developing exam questions (should it decide to require exams). However, Sunset states the overall Section 4.80 costs could be recovered through exam fees and therefore the jurisprudence provisions of the bill would be revenue neutral.
- Eliminates fee caps in the Private Security Act. Regarding Section 4.19, Sunset states the Private Security Act specifies that fees collected must produce sufficient revenue to administer the chapter without producing unnecessary fund balances. Therefore, Sunset assumes the fee generating provisions of the bill would be revenue neutral.
- Increases the amount of the Private Security Act's maximum administrative penalty from \$500 to \$5,000. Regarding Section 4.103, Sunset states the Board's ability to assess higher administrative penalties could potentially increase revenue deposited to the General Revenue Fund, but the Board does not anticipate assessing the maximum penalty often, if ever. Sunset states the administrative penalty provisions of this bill would have no significant revenue impact.
- Requires the Public Safety Commission to hire the Director of the Office of Inspector General (OIG) and to directly oversee the activities of the Office. Sunset states DPS already operates the OIG with seven FTEs. Sunset states staff outside of the Office currently perform additional internal affairs investigations and these resources could be transferred to the OIG. DPS states these provisions would require an additional 36 FTEs to comply with the bill requirements. Sunset states the provisions of the bill would not increase the overall number of internal affairs investigations, but merely consolidate efforts within a single office. Therefore, Sunset assumes these provisions in the bill would have no significant fiscal impact.
- Authorizes DPS to put the classroom portion of the concealed handgun licensing renewal class and written test online. Sunset states that DPS staff indicate the agency would not develop the class and test, but that qualified concealed handgun license instructors would, which is current practice. Because these instructors do not work for the State, Sunset assumes the instructors would absorb the cost of developing an online class and exam and that there would be no significant fiscal impact to the state for these provisions.
- Requires the Sunset Commission to conduct a limited scope review of DPS in 2011 that studies the agency's implementation of the 2008 information technology audit and a civilian business management model for the driver license program. DPS states this provision would require the agency to move the current commission based driver license division to a civilian based business model. DPS states they would require an additional 264 civilian FTEs to accommodate the suggested change. As part of DPS exceptional items for fiscal years 2010-11, DPS' driver license restructure plan is to move commissioned officers into the Highway Patrol Division, but leave the salaries for the troopers in the Driver License Division to help pay for the additional civilian FTEs. DPS has not requested additional funds for the 264 civilians, but they did request an additional \$32,737,176 in fiscal years 2010 and 2011 for trooper salary costs to pay for the FTEs that moved to Highway Patrol.

Sunset staff views the civilian model concept costs as not significant because the movement of troopers from the Driver License Division to Highway Patrol would address current trooper vacancies. The concept is that DPS could use current vacancy salary funds to pay for the movement of troopers between divisions. However, DPS states they need additional funds for this purpose. Sunset states the bill does not contain agency requirements related to the civilian business model. Sunset states they would accomplish this study within existing resources and that the bill does not require any action by DPS.

Regarding the 2008 information technology audit reporting requirement, DPS states the following fiscal analysis based on the Gartner Assessment implementation plan developed for the agency. To upgrade software, hardware, and various program upgrades to increase agency security, the assessment determined \$11,471,790 in fiscal year 2010 and \$2,950,000 in fiscal year 2011 for equipment was required with an additional \$4,160,000 in fiscal year 2011 for staff augmentation. Sunset states the bill does not contain agency requirements related to the information technology audit. Sunset states they would accomplish this study within existing resources and that the bill does not require any action by DPS.

- Requires DPS to make and distribute to the public a list of concealed handgun license instructors' phone numbers, and email and website addresses. Sunset states DPS already maintains the list and currently redacts the information that is now required to be public, so Sunset assumes DPS will not incur any expense to make all of the information public.
- Requires state law enforcement agencies to have physical fitness programs for officers in addition to physical fitness standards, and requires each law enforcement agency to adopt a reward policy that provides incentives to officers who participate in the program and meet the standards. The bill states the reward incentives offered must be in an amount of administrative leave of not more than four days per year. Sunset states exactly how DPS will choose to administer the program is unknown, but Sunset assumes the reward incentives could likely be accomplished with existing resources.
- Makes numerous changes to various driver licenses and identification certificates for persons who are not United States citizens and establishes new fees, and authorizes DPS to implement a process to verify that license applicants actually live at the addresses on their applications. Sunset states they do not have the information to estimate these potential costs. However, in response to similar legislation the Comptroller of Public Accounts and DPS state the number of noncitizens applying for these licenses or certificates is not known, therefore potential revenue estimates cannot be estimated. This analysis assumes that DPS would be able to implement the provisions of the bill with existing resources.
- The bill repeals the following provisions in the Occupations Code: Section 1702.002(4), 1702.045, 1702.046, 1702.047, 1702.065, 1702.069, 1702.113(e), 1702, Subchapter K, and 1702.364(j) as well as Government Code, Sections 411.0195(d) and (e). A The bill also repeals Occupations Code, Section 1702.003 which removes the Private Security Board's separate Sunset date, but it continues the Board and the Act.
- Continues DPS for 12 years.

This bill would take effect immediately if two-thirds of the members in both the House of Representatives and the Senate vote to approve this bill. If not, the bill would take effect on September 1, 2009.

The Office of the Governor and the Office of Administrative Hearings anticipate no significant fiscal impact to their agencies. The Comptroller of Public Accounts (CPA) states the net fee amounts set by the Private Security Board are not known and can not be estimated. The CPA also states the administrative penalties imposed on a person licensed, commissioned, or registered under the chapter, who violated the chapter or rule, can not be determined. Based on the fiscal analysis provided by both the Sunset Advisory Commission and the Department of Public Safety, this analysis assumes no significant fiscal impact to the State.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 116 Sunset Advisory Commission, 405 Department of Public Safety

LBB Staff: JOB, ESi, GG, LG

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 29, 2009

TO: Honorable Tommy Merritt, Chair, House Committee on Public Safety

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2730 by Kolkhorst (Relating to the continuation and functions of the Department of Public Safety of the State of Texas and the Texas Private Security Board.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The Department of Public Safety (DPS) and the Private Security Board (the Board) are subject to the Sunset Act and will be abolished on September 1, 2009 unless continued by the Legislature. The bill contains the following Sunset Commission recommendations regarding DPS and the Board, among others.

- Requires DPS to manage the Vehicle Inspection Program (VIP) as a civilian business and licensing operation with established goals and expected performance outcomes. The Sunset Advisory Commission (Sunset) states Section 1.01 of the bill would not have a significant fiscal impact because DPS already operates VIP with a director.
- Changes Governor's Division of Emergency Management to Texas Division of Emergency Management (TDEM) and clarifies that it's a division of DPS and specifies that DPS' director appoints the chief of TDEM.
- Requires affidavits of breath test operators and supervisors to be admissible in administrative hearings without their appearance unless the judge finds that justice requires their presence. Sunset states Section 3.01 could have a positive fiscal impact to the state and local communities because fewer breath test operators and supervisors would likely be called to hearings (saving travel and overtime expenses). However, Sunset states the number of witnesses impacted could not be determined. The bill would require administrative law judges at the State Office of Administrative Hearings (SOAH) to spend limited additional time reviewing affidavits and subpoena requests. Both Sunset and SOAH estimate no significant fiscal impact for these provisions.
- Authorizes the Private Security Board to receive reimbursement for travel expenses and to license by endorsement to streamline the licensing process and reduce regulation. Sunset states the travel provisions in the bill would not have a significant fiscal impact since the Board currently receives travel reimbursement. Sunset states the endorsement provisions in Section 4.01 could result in significant reduction in license issuance responsibilities and efficiencies that would reduce staffing needs. However, until the agency is funded for and implements information technology improvements, these staffing reductions may not be realized.

DPS reported to Sunset that their database is outdated (the agency originally planned to the database in fiscal year 2009) and the database needs to be upgraded before it can implement the proposed endorsement provisions. DPS states the estimated cost of upgrading the database at \$2,000,000 for the biennium. However, Sunset states DPS put the upgrade on hold after an outside audit reorganized the agency's IT priorities. Sunset states the endorsement provisions would be part of the DPS planned upgrade and separating the cost of the provision from the rest of the upgrade would be difficult to determine.

Sunset also states current statute requires the administration of the Private Security Act be a self-leveling function through fees charged to the regulated community. Sunset assumes that any potential savings or costs associated with changes to the Private Security Act would be offset by increases or decreases in fees and therefore the fee generating provisions of the bill

would be revenue neutral.

- Requires the Board to adopt rules necessary to comply with Chapter 53 regarding offenses that would prohibit a person from obtaining or retaining a license under the Private Security Act. Sunset states the Section 4.02 provisions could require staff time to develop the rules, but this is a typical staff responsibility. Sunset states DPS predicts these provisions could result in 30 percent more applicants being eligible and would require three additional staff to process an increase in applications. However, Sunset states while the number of approvals for licensure may increase, the number of applicants, and the resulting background checks and investigations, would not likely change. In addition, Sunset states the license approval rate would depend on the rules adopted by the Board. Sunset states no significant fiscal impact for these provisions.
- Applies standard Sunset across-the-board language requiring the Board to develop a policy that encourages the use of negotiated rule making and alternative dispute resolution (ADR), as well as designate a trained person to coordinate the Board's ADR efforts. The person designated by the Board to coordinate ADR efforts must be an existing employee of the agency, who would simply expand on existing efforts to achieve agreed settlements. Sunset assumes the potential minimal training costs could be more than offset by reduced costs from avoiding protracted rule making or lengthy contested case hearings.
- Authorizes the Private Security Board to require jurisprudence exams to ensure all licensees understand the laws and rules that guide their professions. Sunset states the Board could experience costs from developing exam questions (should it decide to require exams). However, Sunset states the overall Section 4.80 costs could be recovered through exam fees and therefore the jurisprudence provisions of the bill would be revenue neutral.
- Eliminates fee caps in the Private Security Act. Regarding Section 4.20, Sunset states the Private Security Act specifies that fees collected must produce sufficient revenue to administer the chapter without producing unnecessary fund balances. Therefore, Sunset assumes the fee generating provisions of the bill would be revenue neutral.
- Increases the amount of the Private Security Act's maximum administrative penalty from \$500 to \$5,000. Regarding Section 4.108, Sunset states the Board's ability to assess higher administrative penalties could potentially increase revenue deposited to the General Revenue Fund, but the Board does not anticipate assessing the maximum penalty often, if ever. Sunset states the administrative penalty provisions of this bill would have not significant revenue impact.
- Requires the Public Safety Commission to hire the Director of the Office of Internal Affairs (OIA) and to directly oversee the activities of the Office. Sunset states DPS already operates the OIA with seven FTEs. Sunset states staff outside of the Office currently perform additional internal affairs investigations and these resources could be transferred to the OIA. DPS states these provisions would require an additional 36 FTEs to comply with the bill requirements. Sunset states the provisions of the bill would not increase the overall number of internal affairs investigations, but merely consolidate efforts within a single office. Therefore, Sunset assumes these provisions in the bill would have no significant fiscal impact.
- Authorizes DPS to put the classroom portion of the concealed handgun licensing renewal class and written test online. Sunset states that DPS staff indicates the agency would not develop the class and test, but that qualified concealed handgun license instructors would, which is current practice. Because these instructors do not work for the State, Sunset assumes the instructors would absorb the cost of developing an online class and exam and that there would be no significant fiscal impact to the state for these provisions.
- Requires the Sunset Commission to conduct a limited scope review of DPS in 2011 that studies the agency's implementation of the 2008 information technology audit and a civilian business management model for the driver license program. DPS states this provision would require the agency to move the current commission based driver license division to a civilian based business model. DPS states they would require an additional 264 civilian FTEs to accommodate the suggested change. As part of DPS exceptional items for fiscal years 2010-11, DPS' driver license restructure plan is to move commissioned officers into the Highway Patrol Division, but leave the salaries for the troopers in the Driver License Division to help pay for the additional civilian FTEs. DPS has not requested additional funds for the 264 civilians, but they did request an additional \$32,737,176 in fiscal years 2010 and 2011 for in trooper salary costs to pay for the FTEs that moved to Highway Patrol.

It is our understanding that Sunset views the civilian model concept costs as not significant because the movement of troopers from the Driver License Division to Highway Patrol would address current trooper vacancies. The concept is that DPS could use current vacancy salary funds to pay for the movement of troopers between divisions. However, DPS states they need additional funds for this purpose. Sunset states the bill does not contain agency requirements related to the civilian business model. Sunset states they would accomplish this study within existing resources and that the bill does not require any action by DPS.

Regarding the 2008 information technology audit reporting requirement, DPS states the following fiscal analysis based on the Gartner Assessment implementation plan developed for the agency. To upgrade software, hardware, and various program upgrades to increase agency security, the assessment determined \$11,471,790 in fiscal year 2010 and \$2,950,000 in fiscal year 2011 for equipment was required with an additional \$4,160,000 in fiscal year 2011 for staff augmentation. Sunset states the bill does not contain agency requirements related to the information technology audit. Sunset states they would accomplish this study within existing resources and that the bill does not require any action by DPS.

- The bill repeals the following provisions in the Occupations Code: Section 1702.002(4), 1702.065, 1702.113(e), and 1702.364(j) as well as Government Code, Sections 411.0195(d) and (e). A The bill also repeals Occupations Code, Section 1702.003 which removes the Private Security Board's separate Sunset date, but it continues the Board and the Act.
- Continues DPS for 12 years.

The bill would take effect on September 1, 2009.

The Office of the Governor and the Office of Administrative Hearings anticipate no significant fiscal impact to their agencies. The Comptroller of Public Accounts (CPA) states the net fee amounts set by the Private Security Board are not known and can not be estimated. The CPA also states the administrative penalties imposed on a person licensed, commissioned, or registered under the chapter, who violated the chapter or rule, can not be determined. Based on the fiscal analysis provided by both the Sunset Advisory Commission and the Department of Public Safety, this analysis assumes no significant fiscal impact to the State.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 116 Sunset Advisory Commission, 301 Office of the Governor, 304 Comptroller of Public Accounts, 360 State Office of Administrative Hearings, 405 Department of Public Safety

LBB Staff: JOB, ESi, GG, LG, BTA, ACa

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

CRIMINAL JUSTICE IMPACT STATEMENT

81ST LEGISLATIVE REGULAR SESSION

May 8, 2009

TO: Honorable Tommy Merritt, Chair, House Committee on Public Safety

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2730 by Kolkhorst (Relating to the continuation and functions of the Department of Public Safety of the State of Texas and the Texas Private Security Board; providing a penalty.), **Committee Report 1st House, Substituted**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, TMP

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

81ST LEGISLATIVE REGULAR SESSION

March 29, 2009

TO: Honorable Tommy Merritt, Chair, House Committee on Public Safety

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2730 by Kolkhorst (Relating to the continuation and functions of the Department of Public Safety of the State of Texas and the Texas Private Security Board.), **As Introduced**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, GG