

By: Flynn

H.B. No. 2613

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of a procedure under which a person may maintain a license to carry a concealed handgun.

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

SECTION 1. Section 411.173(a), Government Code, is amended to read as follows:

(a) The department by rule shall establish a procedure for a person who meets the eligibility requirements of this subchapter other than the residency requirement established by Section 411.172(a)(1) to obtain a license under this subchapter if the person is a legal resident of another state or if the person relocates to this state with the intent to establish residency in this state. The procedure must include payment of a fee in an amount sufficient to recover the average cost to the department of obtaining a criminal history record check and investigation on a nonresident applicant. A license issued in accordance with the procedure established under this subsection is subject to the continuing eligibility requirements described by[+]

~~[(1) remains in effect until the license expires under Section 411.183, and~~

~~[(2) may be renewed under]~~ Section 411.185.

SECTION 2. Section 411.174(a), Government Code, is amended to read as follows:

(a) An applicant for a license to carry a concealed handgun

1 must submit to the director's designee described by Section  
2 411.176:

3 (1) a completed application on a form provided by the  
4 department that requires only the information listed in Subsection  
5 (b);

6 (2) one or more photographs of the applicant that meet  
7 the requirements of the department;

8 (3) a certified copy of the applicant's birth  
9 certificate or certified proof of age;

10 (4) proof of residency in this state;

11 (5) two complete sets of legible and classifiable  
12 fingerprints of the applicant taken by a person appropriately  
13 trained in recording fingerprints who is employed by a law  
14 enforcement agency or by a private entity designated by a law  
15 enforcement agency as an entity qualified to take fingerprints of  
16 an applicant for a license under this subchapter;

17 (6) a nonrefundable application and license fee in an  
18 amount set by the director, not to exceed \$280 and [of \$140] paid to  
19 the department;

20 (7) evidence of handgun proficiency, in the form and  
21 manner required by the department;

22 (8) an affidavit signed by the applicant stating that  
23 the applicant:

24 (A) has read and understands each provision of  
25 this subchapter that creates an offense under the laws of this state  
26 and each provision of the laws of this state related to use of  
27 deadly force; and

1 (B) fulfills all the eligibility requirements  
2 listed under Section 411.172; and

3 (9) a form executed by the applicant that authorizes  
4 the director to make an inquiry into any noncriminal history  
5 records that are necessary to determine the applicant's eligibility  
6 for a license under Section 411.172(a).

7 SECTION 3. Section 411.185, Government Code, is amended to  
8 read as follows:

9 Sec. 411.185. CONTINUING ELIGIBILITY REQUIREMENTS TO  
10 MAINTAIN LICENSE [~~RENEWAL~~]. (a) To maintain [~~renew~~] a license, a  
11 license holder must:

12 (1) complete a continuing education course in handgun  
13 proficiency under Section 411.188(c) within the six-month period  
14 preceding[+]

15 [~~(A)~~] the date the continuing eligibility [~~of~~]  
16 application form is due under Subdivision (2), except that a person  
17 who has held a license for more than 10 years [~~for renewal, for a~~  
18 ~~first or second renewal, and~~

19 [~~(B) the date of application for renewal or the~~  
20 ~~date of application for the preceding renewal, for a third or~~  
21 ~~subsequent renewal, to ensure that the license holder~~] is not  
22 required to complete the course more than once in any 10-year  
23 period; and

24 (2) on or before each fifth anniversary of the date the  
25 license is issued, submit to the department:

26 (A) a continuing eligibility [~~an~~] application  
27 [~~for renewal on a~~] form provided by the department that includes[+]

1           ~~[(B)]~~ evidence of handgun proficiency~~[7]~~ in the  
2 form and manner required by the department;

3           (B) ~~[(C)]~~ payment of a nonrefundable ~~[renewal]~~  
4 fee to maintain a license as set by the director ~~[department]~~; and

5           (C) ~~[(D)]~~ one or more photographs of the  
6 applicant that meet the requirements of the department.

7           (b) The director by rule shall adopt a continuing  
8 eligibility ~~[renewal]~~ application form requiring an update of the  
9 information on the original completed application. The director by  
10 rule shall set the ~~[renewal]~~ fee to maintain a license in an amount  
11 that is sufficient to cover the actual cost to the department to  
12 verify the information contained in the continuing eligibility  
13 application form and to conduct any necessary investigation  
14 concerning the license holder's continued eligibility to hold  
15 ~~[renew]~~ a license. Not later than the 60th day before the date on  
16 which a continuing eligibility application form is due under  
17 Subsection (a)(2) ~~[expiration date of the license]~~, the department  
18 shall mail to each license holder a written notice of the  
19 eligibility requirements to maintain a ~~[expiration of the]~~ license  
20 and a continuing eligibility application ~~[renewal]~~ form.

21           (c) The department shall allow ~~[renew the license of]~~ a  
22 license holder to maintain the person's license if the license  
23 holder ~~[who]~~ meets all the eligibility requirements and submits all  
24 the ~~[renewal]~~ materials described by Subsection (a). Not later  
25 than the 45th day after receipt of the ~~[renewal]~~ materials, the  
26 department shall ~~[issue the renewal or]~~ notify the license holder  
27 in writing whether the department accepted or denied the license

1 holder's continuing eligibility [~~that the renewal~~] application  
2 [~~was denied~~].

3 (d) The director by rule shall adopt a procedure by which a  
4 license holder who satisfies the eligibility requirements to  
5 maintain a license [~~criteria~~] may submit the application materials  
6 [~~renew a license~~] by mail or on the Internet. Under the procedure,  
7 the [~~The~~] materials [~~for renewal by mail~~] must include a form [~~to be~~  
8 ~~signed and returned to the department by the applicant~~] that  
9 describes state law regarding[+]

10 [~~(1)~~] the use of deadly force[+] and  
11 [~~(2)~~] the places where it is unlawful for the holder of  
12 a license issued under this subchapter to carry a concealed  
13 handgun. The license holder must sign and return the form to the  
14 department by mail or acknowledge the form electronically on the  
15 Internet.

16 SECTION 4. Section 411.186(d), Government Code, is amended  
17 to read as follows:

18 (d) A license holder whose license is revoked under  
19 Subsection (a)(6) may reapply for a [~~an original or renewed~~]  
20 license at any time, provided the application fee and a dishonored  
21 payment charge of \$25 is paid by cashier's check or money order made  
22 payable to the "Texas Department of Public Safety."

23 SECTION 5. Sections 411.187(a) and (c), Government Code,  
24 are amended to read as follows:

25 (a) The department shall suspend a license under this  
26 section if the license holder:

27 (1) is charged with the commission of a Class A or

1 Class B misdemeanor or equivalent offense, or of an offense under  
2 Section 42.01, Penal Code, or equivalent offense, or of a felony  
3 under an information or indictment;

4 (2) fails to notify the department of a change of  
5 address, name, or status as required by Section 411.181;

6 (3) carries a concealed handgun under the authority of  
7 this subchapter of a different category than the license holder is  
8 licensed to carry;

9 (4) fails to return a previously issued license after  
10 a license is modified as required by Section 411.184(d);

11 (5) fails to submit a continuing eligibility  
12 application form by the 30th day after the date the application is  
13 due under Section 411.185(a)(2);

14 (6) commits an act of family violence and is the  
15 subject of an active protective order rendered under Title 4,  
16 Family Code; or

17 (7) [~~6~~] is arrested for an offense involving family  
18 violence or an offense under Section 42.072, Penal Code, and is the  
19 subject of an order for emergency protection issued under Article  
20 17.292, Code of Criminal Procedure.

21 (c) The department shall suspend a license under this  
22 section:

23 (1) for 30 days, if the person's license is subject to  
24 suspension for a reason listed in Subsection (a)(2), (3), or (4),  
25 except as provided by Subdivision (2);

26 (2) for not less than one year and not more than three  
27 years, if the person's license:

1 (A) is subject to suspension for a reason listed  
2 in Subsection (a), other than the reason listed in Subsection  
3 (a)(1); and

4 (B) has been previously suspended for the same  
5 reason;

6 (3) until dismissal of the charges, if the person's  
7 license is subject to suspension for the reason listed in  
8 Subsection (a)(1); ~~or~~

9 (4) until the person submits a continuing eligibility  
10 application form and meets all the eligibility requirements to  
11 maintain a license, if the person's license is subject to  
12 suspension for the reason listed in Subsection (a)(5); or

13 (5) for the duration of or the period specified by:

14 (A) the protective order issued under Title 4,  
15 Family Code, if the person's license is subject to suspension for  
16 the reason listed in Subsection (a)(6) ~~[(a)(5)]~~; or

17 (B) the order for emergency protection issued  
18 under Article 17.292, Code of Criminal Procedure, if the person's  
19 license is subject to suspension for the reason listed in  
20 Subsection (a)(7) ~~[(a)(6)]~~.

21 SECTION 6. Sections 411.188(c), (d), (g), (j), and (k),  
22 Government Code, are amended to read as follows:

23 (c) The department by rule shall develop a continuing  
24 education course in handgun proficiency for a license holder to  
25 establish evidence of handgun proficiency for purposes of a  
26 continuing eligibility application under Section 411.185 ~~[who~~  
27 ~~wishes to renew a license]~~. Only a qualified handgun instructor may

1 administer the continuing education course. The course must  
2 include:

3 (1) at least four hours of instruction on one or more  
4 of the subjects listed in Subsection (b); and

5 (2) other information the director determines is  
6 appropriate.

7 (d) Only a qualified handgun instructor may administer the  
8 proficiency examination to obtain or to maintain [~~renew~~] a license.

9 The proficiency examination must include:

10 (1) a written section on the subjects listed in  
11 Subsection (b); and

12 (2) a physical demonstration of proficiency in the use  
13 of one or more handguns of specific categories and in handgun safety  
14 procedures.

15 (g) A person who wishes to obtain or maintain [~~renew~~] a  
16 license to carry a concealed handgun must apply in person to a  
17 qualified handgun instructor to take the appropriate course in  
18 handgun proficiency and demonstrate handgun proficiency as  
19 required by the department.

20 (j) The department may offer online, or allow a qualified  
21 handgun instructor to offer online, the continuing education  
22 instruction course and written section of the proficiency  
23 examination required to establish evidence of handgun proficiency  
24 for purposes of a continuing eligibility application under Section  
25 411.185 [~~renew a license~~].

26 (k) A qualified handgun instructor may submit to the  
27 department a written recommendation for disapproval of the

1 application for a license, continuing eligibility application  
2 [~~renewal~~], or modification of a license, accompanied by an  
3 affidavit stating personal knowledge or naming persons with  
4 personal knowledge of facts that lead the instructor to believe  
5 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 7. Section 411.1881(a), Government Code, is amended  
16 to read as follows:

17 (a) Notwithstanding any other provision of this subchapter,  
18 a person may not be required to complete the range instruction  
19 portion of a handgun proficiency course to obtain or maintain  
20 [~~renew~~] a concealed handgun license issued under this subchapter if  
21 the person:

22 (1) is currently serving in or is honorably discharged  
23 from:

24 (A) the army, navy, air force, coast guard, or  
25 marine corps of the United States or an auxiliary service or reserve  
26 unit of one of those branches of the armed forces; or

27 (B) the state military forces, as defined by

1 Section 431.001; and

2 (2) has, within the five years preceding the date of  
3 the person's application for an original [~~or renewed~~] license or  
4 continuing eligibility application, as applicable, completed a  
5 course of training in handgun proficiency or familiarization as  
6 part of the person's service with the armed forces or state military  
7 forces.

8 SECTION 8. Section 411.1882(c), Government Code, is amended  
9 to read as follows:

10 (c) A license issued under this section becomes subject to  
11 the continuing eligibility requirements described by Section  
12 411.185 [~~automatically expires~~] on the six-month anniversary of the  
13 date the person's status under Subsection (a) becomes inapplicable.  
14 [~~A license that expires under this subsection may be renewed under~~  
15 ~~Section 411.185.~~]

16 SECTION 9. Section 411.194(a), Government Code, is amended  
17 to read as follows:

18 (a) Notwithstanding any other provision of this subchapter,  
19 the department shall reduce by 50 percent any fee required for the  
20 issuance of an original, duplicate, or modified[~~, or renewed~~]  
21 license or to maintain a license under this subchapter if the  
22 department determines that the applicant is indigent.

23 SECTION 10. Section 411.195, Government Code, is amended to  
24 read as follows:

25 Sec. 411.195. REDUCTION OF FEES FOR SENIOR CITIZENS.  
26 Notwithstanding any other provision of this subchapter, the  
27 department shall reduce by 50 percent any fee required for the

1 issuance of an original, duplicate, or modified[~~, or renewed~~  
2 license or to maintain a license under this subchapter if the  
3 applicant for the license is 60 years of age or older.

4 SECTION 11. Sections 411.1951(b) and (c), Government Code,  
5 are amended to read as follows:

6 (b) Notwithstanding any other provision of this subchapter,  
7 the department shall waive any fee required for the issuance of an  
8 original, duplicate, or modified[~~, or renewed~~] license or to  
9 maintain a license under this subchapter if the applicant for the  
10 license is:

11 (1) a member of the United States armed forces,  
12 including a member of the reserves, national guard, or state guard;  
13 or

14 (2) a veteran who, within 365 days preceding the date  
15 of the application, was honorably discharged from the branch of  
16 service in which the person served.

17 (c) Notwithstanding any other provision of this subchapter,  
18 the department shall reduce by 50 percent any fee required for the  
19 issuance of an original, duplicate, or modified[~~, or renewed~~  
20 license or to maintain a license under this subchapter if the  
21 applicant for the license is a veteran who, more than 365 days  
22 preceding the date of the application, was honorably discharged  
23 from the branch of the service in which the person served.

24 SECTION 12. Section 411.199(e), Government Code, is amended  
25 to read as follows:

26 (e) A retired peace officer who obtains a license under this  
27 subchapter must maintain, for the category of weapon licensed, the

1 proficiency required for a peace officer under Section 1701.355,  
2 Occupations Code. The department or a local law enforcement agency  
3 shall allow a retired peace officer of the department or agency an  
4 opportunity to annually demonstrate the required proficiency. The  
5 proficiency shall be reported to the department on application and  
6 to establish evidence of handgun proficiency for purposes of a  
7 continuing eligibility application under Section 411.185  
8 ~~[renewal]~~.

9 SECTION 13. Section 401.201(g), Government Code, is amended  
10 to read as follows:

11 (g) A license issued under this section is subject to the  
12 continuing eligibility requirements described by ~~[expires as~~  
13 ~~provided by Section 411.183 and, except as otherwise provided by~~  
14 ~~this subsection, may be renewed in accordance with]~~ Section  
15 411.185, except as otherwise provided by this subsection ~~[of this~~  
16 ~~subchapter]~~. An active judicial officer is not required to attend  
17 the classroom instruction part of the continuing education  
18 proficiency course to maintain ~~[renew]~~ a license.

19 SECTION 14. Sections 411.181(h), 411.183, 411.199(f), and  
20 411.1991(d), Government Code, are repealed.

21 SECTION 15. The change in law made by this Act applies only  
22 to a license to carry a concealed handgun that is issued on or after  
23 the effective date of this Act. A license to carry a concealed  
24 handgun issued before the effective date of this Act is covered by  
25 the law as it existed immediately before the effective date of this  
26 Act, and the former law is continued in effect for that purpose.

27 SECTION 16. (a) Notwithstanding the change in law made by

1 this Act, a person who holds an unexpired license to carry a  
2 concealed handgun under Subchapter H, Chapter 411, Government Code,  
3 on the effective date of this Act may apply for renewal of that  
4 license in the manner provided by Subchapter H, Chapter 411,  
5 Government Code, as it existed immediately before the effective  
6 date of this Act.

7 (b) On receipt of an application for renewal submitted on or  
8 after the effective date of this Act by a person described by  
9 Subsection (a) of this section, the Department of Public Safety  
10 shall issue the person a concealed handgun license that may be  
11 maintained under the provisions of Subchapter H, Chapter 411,  
12 Government Code, as amended by this Act.

13 SECTION 17. This Act takes effect September 1, 2011.