

1 AN ACT

2 relating to the carrying of weapons, including the application of  
3 certain weapons and handgun license laws to certain persons, the  
4 carrying of handguns by license holders on the property of a state  
5 hospital, and the liability for certain actions of volunteer  
6 emergency services personnel licensed to carry a handgun; providing  
7 a civil penalty.

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

9 SECTION 1. Title 5, Civil Practice and Remedies Code, is  
10 amended by adding Chapter 112 to read as follows:

11 CHAPTER 112. LIMITATION OF LIABILITY FOR GOVERNMENTAL UNITS

12 Sec. 112.001. CERTAIN ACTIONS OF VOLUNTEER EMERGENCY  
13 SERVICES PERSONNEL. (a) In this section:

14 (1) "Governmental unit" has the meaning assigned by  
15 Section 101.001.

16 (2) "Volunteer emergency services personnel" has the  
17 meaning assigned by Section 46.01, Penal Code.

18 (b) A governmental unit is not liable in a civil action  
19 arising from the discharge of a handgun by an individual who is  
20 volunteer emergency services personnel and licensed to carry the  
21 handgun under Subchapter H, Chapter 411, Government Code.

22 (c) The discharge of a handgun by an individual who is  
23 volunteer emergency services personnel and licensed to carry the  
24 handgun under Subchapter H, Chapter 411, Government Code, is

1 outside the course and scope of the individual's duties as  
2 volunteer emergency services personnel.

3 (d) This section may not be construed to waive the immunity  
4 from suit or liability of a governmental unit under Chapter 101 or  
5 any other law.

6 SECTION 2. Section 411.179(c), Government Code, is amended  
7 to read as follows:

8 (c) In adopting the form of the license under Subsection  
9 (a), the department shall establish a procedure for the license of a  
10 qualified handgun instructor or of the attorney general or a judge,  
11 justice, United States attorney, assistant United States attorney,  
12 assistant attorney general, prosecuting attorney, or assistant  
13 prosecuting attorney, as described by Section 46.15(a)(4), ~~[or]~~  
14 (6), or (7), Penal Code, to indicate on the license the license  
15 holder's status as a qualified handgun instructor or as the  
16 attorney general or a judge, justice, United States attorney,  
17 assistant United States attorney, assistant attorney general,  
18 district attorney, criminal district attorney, or county attorney.  
19 In establishing the procedure, the department shall require  
20 sufficient documentary evidence to establish the license holder's  
21 status under this subsection.

22 SECTION 3. Section 411.1882(a), Government Code, is amended  
23 to read as follows:

24 (a) A person who is serving in this state as the attorney  
25 general or as a judge or justice of a federal court, as an active  
26 judicial officer as defined by Section 411.201, as a United States  
27 attorney, assistant United States attorney, assistant attorney

1 general, district attorney, assistant district attorney, criminal  
2 district attorney, assistant criminal district attorney, county  
3 attorney, or assistant county attorney, as a supervision officer as  
4 defined by [~~Section 27~~] Article 42A.001 [~~42.12~~], Code of Criminal  
5 Procedure, or as a juvenile probation officer may establish handgun  
6 proficiency for the purposes of this subchapter by obtaining from a  
7 handgun proficiency instructor approved by the Texas Commission on  
8 Law Enforcement for purposes of Section 1702.1675, Occupations  
9 Code, a sworn statement that indicates that the person, during the  
10 12-month period preceding the date of the person's application to  
11 the department, demonstrated to the instructor proficiency in the  
12 use of handguns.

13 SECTION 4. Section 411.201(h), Government Code, is amended  
14 to read as follows:

15 (h) The department shall issue a license to carry a handgun  
16 under the authority of this subchapter to a United States attorney  
17 or an assistant United States attorney, or to an [~~elected~~] attorney  
18 elected or employed to represent [~~representing~~] the state in the  
19 prosecution of felony cases, who meets the requirements of this  
20 section for an active judicial officer. The department shall waive  
21 any fee required for the issuance of an original, duplicate, or  
22 renewed license under this subchapter for an applicant who is a  
23 United States attorney or an assistant United States attorney or  
24 who is an attorney elected or employed to represent the state in the  
25 prosecution of felony cases.

26 SECTION 5. The heading to Section 411.209, Government Code,  
27 is amended to read as follows:

1           Sec. 411.209. WRONGFUL EXCLUSION OF [~~CONCEALED~~] HANDGUN  
2 LICENSE HOLDER.

3           SECTION 6. Section 411.209, Government Code, is amended by  
4 amending Subsections (a) and (d) and adding Subsection (i) to read  
5 as follows:

6           (a) Except as provided by Subsection (i), a [A] state agency  
7 or a political subdivision of the state may not provide notice by a  
8 communication described by Section 30.06, Penal Code, or by any  
9 sign expressly referring to that law or to a [~~concealed handgun~~]  
10 license to carry a handgun, that a license holder carrying a handgun  
11 under the authority of this subchapter is prohibited from entering  
12 or remaining on a premises or other place owned or leased by the  
13 governmental entity unless license holders are prohibited from  
14 carrying a handgun on the premises or other place by Section 46.03  
15 or 46.035, Penal Code.

16           (d) A resident [~~citizen~~] of this state or a person licensed  
17 to carry a [~~concealed~~] handgun under this subchapter may file a  
18 complaint with the attorney general that a state agency or  
19 political subdivision is in violation of Subsection (a) if the  
20 resident [~~citizen~~] or person provides the agency or subdivision a  
21 written notice that describes the violation and specific location  
22 of the sign found to be in violation and the agency or subdivision  
23 does not cure the violation before the end of the third business day  
24 after the date of receiving the written notice. A complaint filed  
25 under this subsection must include evidence of the violation and a  
26 copy of the written notice.

27           (i) Subsection (a) does not apply to a written notice

1 provided by a state hospital under Section 552.002, Health and  
2 Safety Code.

3 SECTION 7. Subchapter A, Chapter 552, Health and Safety  
4 Code, is amended by adding Section 552.002 to read as follows:

5 Sec. 552.002. CARRYING OF HANDGUN BY LICENSE HOLDER IN  
6 STATE HOSPITAL. (a) In this section:

7 (1) "License holder" has the meaning assigned by  
8 Section 46.035(f), Penal Code.

9 (2) "State hospital" means the following facilities:

10 (A) the Austin State Hospital;

11 (B) the Big Spring State Hospital;

12 (C) the El Paso Psychiatric Center;

13 (D) the Kerrville State Hospital;

14 (E) the North Texas State Hospital;

15 (F) the Rio Grande State Center;

16 (G) the Rusk State Hospital;

17 (H) the San Antonio State Hospital;

18 (I) the Terrell State Hospital; and

19 (J) the Waco Center for Youth.

20 (3) "Written notice" means a sign that is posted on  
21 property and that:

22 (A) includes in both English and Spanish written  
23 language identical to the following: "Pursuant to Section 552.002,  
24 Health and Safety Code (carrying of handgun by license holder in  
25 state hospital), a person licensed under Subchapter H, Chapter 411,  
26 Government Code (handgun licensing law), may not enter this  
27 property with a handgun";

1           (B) appears in contrasting colors with block  
2 letters at least one inch in height; and

3           (C) is displayed in a conspicuous manner clearly  
4 visible to the public at each entrance to the property.

5           (b) A state hospital may prohibit a license holder from  
6 carrying a handgun under the authority of Subchapter H, Chapter  
7 411, Government Code, on the property of the hospital by providing  
8 written notice.

9           (c) A license holder who carries a handgun under the  
10 authority of Subchapter H, Chapter 411, Government Code, on the  
11 property of a state hospital at which written notice is provided is  
12 liable for a civil penalty in the amount of:

13                   (1) \$100 for the first violation; or

14                   (2) \$500 for the second or subsequent violation.

15           (d) The attorney general or an appropriate prosecuting  
16 attorney may sue to collect a civil penalty under this section.

17           SECTION 8. Section 30.06, Penal Code, is amended by adding  
18 Subsection (f) to read as follows:

19           (f) It is a defense to prosecution under this section that  
20 the license holder is volunteer emergency services personnel, as  
21 defined by Section 46.01.

22           SECTION 9. Section 30.07, Penal Code, is amended by adding  
23 Subsection (g) to read as follows:

24           (g) It is a defense to prosecution under this section that  
25 the license holder is volunteer emergency services personnel, as  
26 defined by Section 46.01.

27           SECTION 10. Section 46.01, Penal Code, is amended by adding

1 Subdivision (18) to read as follows:

2 (18) "Volunteer emergency services personnel"  
3 includes a volunteer firefighter, an emergency medical services  
4 volunteer as defined by Section 773.003, Health and Safety Code,  
5 and any individual who, as a volunteer, provides services for the  
6 benefit of the general public during emergency situations. The  
7 term does not include a peace officer or reserve law enforcement  
8 officer, as those terms are defined by Section 1701.001,  
9 Occupations Code, who is performing law enforcement duties.

10 SECTION 11. Section 46.035(h-1), Penal Code, as added by  
11 Chapter 1222 (H.B. 2300), Acts of the 80th Legislature, Regular  
12 Session, 2007, is amended to read as follows:

13 (h-1) It is a defense to prosecution under Subsections  
14 (b)(1), (2), (4), (5), and (6) [~~(4)-(6)~~] and (c) that at the time  
15 of the commission of the offense, the actor was:

16 (1) a judge or justice of a federal court;  
17 (2) an active judicial officer, as defined by Section  
18 411.201, Government Code; or

19 (3) the attorney general or a United States attorney,  
20 assistant United States attorney, assistant attorney general,  
21 district attorney, assistant district attorney, criminal district  
22 attorney, assistant criminal district attorney, county attorney,  
23 or assistant county attorney.

24 SECTION 12. Section 46.035, Penal Code, is amended by  
25 adding Subsection (m) to read as follows:

26 (m) It is a defense to prosecution under Subsections (b) and  
27 (c) that the actor is volunteer emergency services personnel

1 engaged in providing emergency services.

2 SECTION 13. Section 46.15(a), Penal Code, is amended to  
3 read as follows:

4 (a) Sections 46.02 and 46.03 do not apply to:

5 (1) peace officers or special investigators under  
6 Article 2.122, Code of Criminal Procedure, and neither section  
7 prohibits a peace officer or special investigator from carrying a  
8 weapon in this state, including in an establishment in this state  
9 serving the public, regardless of whether the peace officer or  
10 special investigator is engaged in the actual discharge of the  
11 officer's or investigator's duties while carrying the weapon;

12 (2) parole officers and neither section prohibits an  
13 officer from carrying a weapon in this state if the officer is:

14 (A) engaged in the actual discharge of the  
15 officer's duties while carrying the weapon; and

16 (B) in compliance with policies and procedures  
17 adopted by the Texas Department of Criminal Justice regarding the  
18 possession of a weapon by an officer while on duty;

19 (3) community supervision and corrections department  
20 officers appointed or employed under Section 76.004, Government  
21 Code, and neither section prohibits an officer from carrying a  
22 weapon in this state if the officer is:

23 (A) engaged in the actual discharge of the  
24 officer's duties while carrying the weapon; and

25 (B) authorized to carry a weapon under Section  
26 76.0051, Government Code;

27 (4) an active judicial officer as defined by Section

1 411.201, Government Code, who is licensed to carry a handgun under  
2 Subchapter H, Chapter 411, Government Code;

3 (5) an honorably retired peace officer, qualified  
4 retired law enforcement officer, federal criminal investigator, or  
5 former reserve law enforcement officer who holds a certificate of  
6 proficiency issued under Section 1701.357, Occupations Code, and is  
7 carrying a photo identification that is issued by a federal, state,  
8 or local law enforcement agency, as applicable, and that verifies  
9 that the officer is:

10 (A) an honorably retired peace officer;

11 (B) a qualified retired law enforcement officer;

12 (C) a federal criminal investigator; or

13 (D) a former reserve law enforcement officer who  
14 has served in that capacity not less than a total of 15 years with  
15 one or more state or local law enforcement agencies;

16 (6) the attorney general or a United States attorney,  
17 district attorney, criminal district attorney, county attorney, or  
18 municipal attorney who is licensed to carry a handgun under  
19 Subchapter H, Chapter 411, Government Code;

20 (7) an assistant United States attorney, assistant  
21 attorney general, assistant district attorney, assistant criminal  
22 district attorney, or assistant county attorney who is licensed to  
23 carry a handgun under Subchapter H, Chapter 411, Government Code;

24 (8) a bailiff designated by an active judicial officer  
25 as defined by Section 411.201, Government Code, who is:

26 (A) licensed to carry a handgun under Subchapter  
27 H, Chapter 411, Government Code; and

1 (B) engaged in escorting the judicial officer;

2 [~~or~~]

3 (9) a juvenile probation officer who is authorized to  
4 carry a firearm under Section 142.006, Human Resources Code; or

5 (10) a person who is volunteer emergency services  
6 personnel if the person is:

7 (A) carrying a handgun under the authority of  
8 Subchapter H, Chapter 411, Government Code; and

9 (B) engaged in providing emergency services.

10 SECTION 14. The changes in law made by this Act to Sections  
11 30.06 and 30.07 and Chapter 46, Penal Code, apply only to an offense  
12 committed on or after the effective date of this Act. An offense  
13 committed before the effective date of this Act is governed by the  
14 law in effect when the offense was committed, and the former law is  
15 continued in effect for that purpose. For purposes of this section,  
16 an offense was committed before the effective date of this Act if  
17 any element of the offense occurred before that date.

18 SECTION 15. To the extent of any conflict, this Act prevails  
19 over another Act of the 85th Legislature, Regular Session, 2017,  
20 relating to nonsubstantive additions to and corrections in enacted  
21 codes.

22 SECTION 16. This Act takes effect September 1, 2017.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 435 was passed by the House on May 3, 2017, by the following vote: Yeas 144, Nays 2, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 435 on May 26, 2017, by the following vote: Yeas 136, Nays 9, 2 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 435 was passed by the Senate, with amendments, on May 24, 2017, by the following vote: Yeas 28, Nays 3.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor