

1-1 By: Huffines S.B. No. 1408
 1-2 (In the Senate - Filed March 7, 2017; March 16, 2017, read
 1-3 first time and referred to Committee on State Affairs;
 1-4 April 11, 2017, reported favorably by the following vote: Yeas 9,
 1-5 Nays 0; April 11, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the carrying of a handgun by certain first responders
 1-20 and volunteer emergency services personnel.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Title 5, Civil Practice and Remedies Code, is
 1-23 amended by adding Chapter 112 to read as follows:

1-24 CHAPTER 112. LIMITATION OF LIABILITY FOR GOVERNMENTAL UNITS

1-25 Sec. 112.001. CERTAIN ACTIONS OF VOLUNTEER EMERGENCY
 1-26 SERVICES PERSONNEL. (a) In this section:

1-27 (1) "Governmental unit" has the meaning assigned by
 1-28 Section 101.001.

1-29 (2) "Volunteer emergency services personnel" includes
 1-30 a volunteer firefighter, an emergency medical services volunteer as
 1-31 defined by Section 773.003, Health and Safety Code, and an
 1-32 individual who, as a volunteer, provides services for the benefit
 1-33 of the general public during emergency situations.

1-34 (b) A governmental unit is not liable in a civil action
 1-35 arising from the discharge of a handgun by an individual who is
 1-36 volunteer emergency services personnel and licensed to carry a
 1-37 handgun under Subchapter H, Chapter 411, Government Code.

1-38 (c) The discharge of a handgun by an individual who is
 1-39 volunteer emergency services personnel and licensed to carry a
 1-40 handgun under Subchapter H, Chapter 411, Government Code, is
 1-41 outside the course and scope of the individual's duties as
 1-42 volunteer emergency services personnel.

1-43 (d) This section may not be construed to waive the immunity
 1-44 from suit or liability of a governmental unit under Chapter 101 or
 1-45 any other law.

1-46 SECTION 2. Subchapter H, Chapter 411, Government Code, is
 1-47 amended by adding Section 411.184 to read as follows:

1-48 Sec. 411.184. ON-DUTY FIRST RESPONDER TRAINING COURSE.

1-49 (a) In this section, "first responder" means a public safety
 1-50 employee or volunteer whose duties include responding rapidly to an
 1-51 emergency. The term includes fire protection personnel, including
 1-52 volunteer firefighters, and emergency medical services personnel,
 1-53 including emergency medical services volunteers. The term does not
 1-54 include commissioned law enforcement personnel.

1-55 (b) The director by rule shall establish minimum standards
 1-56 for a training course that a first responder who is a license holder
 1-57 must complete before the first responder may carry a concealed
 1-58 handgun while on duty. The training course must:

- 1-59 (1) be administered by a qualified handgun instructor;
- 1-60 (2) include not more than 20 hours of instruction;
- 1-61 (3) provide classroom training in:

2-1 (A) self-defense;
 2-2 (B) de-escalation techniques;
 2-3 (C) tactical thinking relating to cover for and
 2-4 concealment of the license holder;
 2-5 (D) methods to conceal a handgun and methods to
 2-6 ensure the secure carrying of the concealed handgun; and
 2-7 (E) consequences of improper use of a handgun;
 2-8 (4) provide field instruction in the use of handguns,
 2-9 including:
 2-10 (A) instinctive or reactive shooting;
 2-11 (B) tactical shooting;
 2-12 (C) shooting while moving; and
 2-13 (D) shooting in low light conditions;
 2-14 (5) require physical demonstrations of proficiency in
 2-15 techniques learned in training; and
 2-16 (6) provide procedures for securing a handgun if the
 2-17 first responder, while on duty, is required to enter a location
 2-18 where carrying the handgun is prohibited by federal law or
 2-19 otherwise.
 2-20 (c) A first responder is responsible for paying to the
 2-21 course provider the costs of the training course under this
 2-22 section.
 2-23 (d) The director by rule shall approve devices to enable a
 2-24 first responder to secure a handgun if the first responder, while on
 2-25 duty, is required to enter a location where carrying the handgun is
 2-26 prohibited by federal law or otherwise.
 2-27 (e) The department shall issue a certificate of completion
 2-28 to a first responder who completes the training course described by
 2-29 Subsection (b).
 2-30 (f) A governmental entity that employs or otherwise
 2-31 supervises first responders may not adopt a rule or regulation that
 2-32 prohibits a first responder who holds a license to carry a handgun
 2-33 under this subchapter and who has received a certificate of
 2-34 completion from the department under Subsection (e) from:
 2-35 (1) carrying a concealed handgun while on duty; or
 2-36 (2) storing a handgun on the premises of or in a
 2-37 vehicle owned or operated by the governmental entity if the handgun
 2-38 is secured with a device approved by the department under
 2-39 Subsection (d).
 2-40 (g) A first responder may discharge a handgun while on duty
 2-41 only in self-defense.
 2-42 (h) This section does not create a cause of action or
 2-43 liability.
 2-44 (i) A governmental entity that employs or otherwise
 2-45 supervises first responders is not liable in a civil action arising
 2-46 from the discharge of a handgun by a first responder who is licensed
 2-47 to carry a handgun under this subchapter.
 2-48 (j) The discharge of a handgun by a first responder who is
 2-49 licensed to carry a handgun under this subchapter is outside the
 2-50 course and scope of the first responder's duties.
 2-51 (k) This section may not be construed to waive the immunity
 2-52 from suit or liability of a governmental entity that employs or
 2-53 otherwise supervises first responders under Chapter 101, Civil
 2-54 Practice and Remedies Code, or any other law.
 2-55 SECTION 3. Section 46.035(h-1), Penal Code, as added by
 2-56 Chapter 1222 (H.B. 2300), Acts of the 80th Legislature, Regular
 2-57 Session, 2007, is amended to read as follows:
 2-58 (h-1) It is a defense to prosecution under Subsections
 2-59 (b)(1), (2), (4), (5), and (6) [~~(4)-(6)~~] and (c) that at the time
 2-60 of the commission of the offense, the actor was:
 2-61 (1) a judge or justice of a federal court;
 2-62 (2) an active judicial officer, as defined by Section
 2-63 411.201, Government Code; [~~or~~]
 2-64 (3) a district attorney, assistant district attorney,
 2-65 criminal district attorney, assistant criminal district attorney,
 2-66 county attorney, or assistant county attorney; or
 2-67 (4) a first responder who:
 2-68 (A) was carrying a concealed handgun and held a
 2-69 license to carry a handgun under Subchapter H, Chapter 411,

3-1 Government Code;
3-2 (B) has received a certificate of completion for
3-3 a training course under Section 411.184, Government Code; and
3-4 (C) was engaged in the actual discharge of the
3-5 first responder's duties while carrying the handgun.
3-6 SECTION 4. Section 46.15(a), Penal Code, is amended to read
3-7 as follows:
3-8 (a) Sections 46.02 and 46.03 do not apply to:
3-9 (1) peace officers or special investigators under
3-10 Article 2.122, Code of Criminal Procedure, and neither section
3-11 prohibits a peace officer or special investigator from carrying a
3-12 weapon in this state, including in an establishment in this state
3-13 serving the public, regardless of whether the peace officer or
3-14 special investigator is engaged in the actual discharge of the
3-15 officer's or investigator's duties while carrying the weapon;
3-16 (2) parole officers and neither section prohibits an
3-17 officer from carrying a weapon in this state if the officer is:
3-18 (A) engaged in the actual discharge of the
3-19 officer's duties while carrying the weapon; and
3-20 (B) in compliance with policies and procedures
3-21 adopted by the Texas Department of Criminal Justice regarding the
3-22 possession of a weapon by an officer while on duty;
3-23 (3) community supervision and corrections department
3-24 officers appointed or employed under Section 76.004, Government
3-25 Code, and neither section prohibits an officer from carrying a
3-26 weapon in this state if the officer is:
3-27 (A) engaged in the actual discharge of the
3-28 officer's duties while carrying the weapon; and
3-29 (B) authorized to carry a weapon under Section
3-30 76.0051, Government Code;
3-31 (4) an active judicial officer as defined by Section
3-32 411.201, Government Code, who is licensed to carry a handgun under
3-33 Subchapter H, Chapter 411, Government Code;
3-34 (5) an honorably retired peace officer, qualified
3-35 retired law enforcement officer, federal criminal investigator, or
3-36 former reserve law enforcement officer who holds a certificate of
3-37 proficiency issued under Section 1701.357, Occupations Code, and is
3-38 carrying a photo identification that is issued by a federal, state,
3-39 or local law enforcement agency, as applicable, and that verifies
3-40 that the officer is:
3-41 (A) an honorably retired peace officer;
3-42 (B) a qualified retired law enforcement officer;
3-43 (C) a federal criminal investigator; or
3-44 (D) a former reserve law enforcement officer who
3-45 has served in that capacity not less than a total of 15 years with
3-46 one or more state or local law enforcement agencies;
3-47 (6) a district attorney, criminal district attorney,
3-48 county attorney, or municipal attorney who is licensed to carry a
3-49 handgun under Subchapter H, Chapter 411, Government Code;
3-50 (7) an assistant district attorney, assistant
3-51 criminal district attorney, or assistant county attorney who is
3-52 licensed to carry a handgun under Subchapter H, Chapter 411,
3-53 Government Code;
3-54 (8) a bailiff designated by an active judicial officer
3-55 as defined by Section 411.201, Government Code, who is:
3-56 (A) licensed to carry a handgun under Subchapter
3-57 H, Chapter 411, Government Code; and
3-58 (B) engaged in escorting the judicial officer;
3-59 [~~or~~]
3-60 (9) a juvenile probation officer who is authorized to
3-61 carry a firearm under Section 142.006, Human Resources Code; or
3-62 (10) a first responder who:
3-63 (A) is carrying a concealed handgun and holds a
3-64 license to carry a handgun under Subchapter H, Chapter 411,
3-65 Government Code;
3-66 (B) has received a certificate of completion for
3-67 a training course under Section 411.184, Government Code; and
3-68 (C) is engaged in the actual discharge of the
3-69 first responder's duties while carrying the handgun.

4-1 SECTION 5. The public safety director of the Department of
4-2 Public Safety shall adopt the rules necessary to implement Section
4-3 411.184, Government Code, as added by this Act, not later than
4-4 December 1, 2017.

4-5 SECTION 6. A qualified handgun instructor may not offer the
4-6 training course described by Section 411.184(b), Government Code,
4-7 as added by this Act, before January 1, 2018.

4-8 SECTION 7. Chapter 112, Civil Practice and Remedies Code,
4-9 as added by this Act, applies only to a cause of action that accrues
4-10 on or after the effective date of this Act. A cause of action that
4-11 accrued before the effective date of this Act is governed by the law
4-12 applicable to the cause of action immediately before the effective
4-13 date of this Act, and that law is continued in effect for that
4-14 purpose.

4-15 SECTION 8. The change in law made by this Act in amending
4-16 Sections 46.035 and 46.15, Penal Code, applies only to an offense
4-17 committed on or after January 1, 2018. An offense committed before
4-18 January 1, 2018, is governed by the law in effect on the date the
4-19 offense was committed, and the former law is continued in effect for
4-20 that purpose. For purposes of this section, an offense was
4-21 committed before January 1, 2018, if any element of the offense
4-22 occurred before that date.

4-23 SECTION 9. This Act takes effect September 1, 2017.

4-24

* * * * *