

1-1 By: Birdwell, Kolkhorst S.B. No. 737
 1-2 (In the Senate - Filed February 23, 2021; March 11, 2021,
 1-3 read first time and referred to Committee on State Affairs;
 1-4 April 12, 2021, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 7, Nays 0; April 12, 2021,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
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			X	

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 737 By: Hall

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the carrying of a handgun by certain first responders.
 1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-23 SECTION 1. The heading to Section 112.001, Civil Practice
 1-24 and Remedies Code, is amended to read as follows:
 1-25 Sec. 112.001. CERTAIN ACTIONS OF FIRST RESPONDERS AND
 1-26 VOLUNTEER EMERGENCY SERVICES PERSONNEL.
 1-27 SECTION 2. Sections 112.001(a), (b), and (c), Civil
 1-28 Practice and Remedies Code, are amended to read as follows:
 1-29 (a) In this section:
 1-30 (1) "First responder" and "volunteer emergency
 1-31 services personnel" have the meanings assigned by Section 46.01,
 1-32 Penal Code.
 1-33 (2) "Governmental unit" has the meaning assigned by
 1-34 Section 101.001.
 1-35 [~~(2) "Volunteer emergency services personnel" has the~~
 1-36 ~~meaning assigned by Section 46.01, Penal Code.]~~
 1-37 (b) A governmental unit is not liable in a civil action
 1-38 arising from the discharge of a handgun by an individual who is a
 1-39 first responder or volunteer emergency services personnel and
 1-40 licensed to carry the handgun under Subchapter H, Chapter 411,
 1-41 Government Code.
 1-42 (c) The discharge of a handgun by an individual who is a
 1-43 first responder or volunteer emergency services personnel and
 1-44 licensed to carry the handgun under Subchapter H, Chapter 411,
 1-45 Government Code, is outside the course and scope of the
 1-46 individual's duties as a first responder or volunteer emergency
 1-47 services personnel, as applicable.
 1-48 SECTION 3. Subchapter H, Chapter 411, Government Code, is
 1-49 amended by adding Section 411.184 to read as follows:
 1-50 Sec. 411.184. TRAINING COURSE FOR CERTAIN FIRST RESPONDERS.
 1-51 (a) In this section, "first responder" has the meaning assigned by
 1-52 Section 46.01, Penal Code.
 1-53 (b) The director by rule shall establish minimum standards
 1-54 for an initial training course that a first responder who is a
 1-55 license holder and who is employed or supervised by a county or
 1-56 municipality to which Chapter 179, Local Government Code, applies
 1-57 may complete to receive a certification of completion from the
 1-58 department under this section. The training course must:
 1-59 (1) be administered by a qualified handgun instructor;
 1-60 (2) include not more than 40 hours of instruction;

- 2-1 (3) provide classroom training in:
- 2-2 (A) self-defense;
- 2-3 (B) de-escalation techniques;
- 2-4 (C) tactical thinking relating to cover for and
- 2-5 concealment of the license holder;
- 2-6 (D) methods to conceal a handgun and methods to
- 2-7 ensure the secure carrying of a concealed handgun;
- 2-8 (E) the use of restraint holsters and methods to
- 2-9 ensure the secure carrying of an openly carried handgun; and
- 2-10 (F) consequences of improper use of a handgun;

2-11 (4) provide field instruction in the use of handguns,
2-12 including:

- 2-13 (A) instinctive or reactive shooting;
- 2-14 (B) tactical shooting;
- 2-15 (C) shooting while moving; and
- 2-16 (D) shooting in low light conditions;

2-17 (5) require physical demonstrations of proficiency in
2-18 techniques learned in training; and

2-19 (6) provide procedures for securing and storing a
2-20 handgun if the first responder, while on duty, is required to enter
2-21 a location where carrying the handgun is prohibited by federal law
2-22 or otherwise.

2-23 (c) The department by rule shall establish minimum
2-24 standards for an annual continuing education course that is
2-25 administered by a qualified handgun instructor and includes not
2-26 more than 10 hours of instruction for a person who has completed the
2-27 initial training course described by Subsection (b).

2-28 (d) The department shall issue a certificate of completion
2-29 to a first responder who is a license holder and who completes the
2-30 initial training course under Subsection (b) or the continuing
2-31 education course under Subsection (c), as applicable. A
2-32 certificate of completion expires on the first anniversary of
2-33 issuance.

2-34 (e) A first responder is responsible for paying to the
2-35 course provider the costs of a training course under this section.

2-36 (f) The director by rule shall approve devices to enable a
2-37 first responder to secure and store a handgun if the first
2-38 responder, while on duty, is required to enter a location where
2-39 carrying the handgun is prohibited by federal law or otherwise.

2-40 SECTION 4. Subtitle C, Title 5, Local Government Code, is
2-41 amended by adding Chapter 179 to read as follows:

2-42 CHAPTER 179. AUTHORITY OF CERTAIN FIRST RESPONDERS TO CARRY
2-43 HANDGUN

2-44 SUBCHAPTER A. GENERAL PROVISIONS

2-45 Sec. 179.001. DEFINITIONS. In this chapter:

2-46 (1) "Department" means the Department of Public Safety
2-47 of the State of Texas.

2-48 (2) "First responder" has the meaning assigned by
2-49 Section 46.01, Penal Code.

2-50 (3) "Handgun" has the meaning assigned by Section
2-51 46.01, Penal Code.

2-52 Sec. 179.002. APPLICABILITY OF CHAPTER. This chapter
2-53 applies only to:

2-54 (1) a municipality with a population of 30,000 or less
2-55 that has not adopted Chapter 174; and

2-56 (2) a county with a population of 250,000 or less that
2-57 has not adopted Chapter 174.

2-58 Sec. 179.003. CONSTRUCTION OF CHAPTER. (a) This chapter
2-59 does not create a cause of action or liability.

2-60 (b) This chapter may not be construed to waive, under
2-61 Chapter 101, Civil Practice and Remedies Code, or any other law, a
2-62 municipality's or county's governmental immunity from suit or to
2-63 liability.

2-64 SUBCHAPTER B. AUTHORITY AND REQUIREMENTS TO CARRY HANDGUN

2-65 Sec. 179.051. AUTHORITY OF MUNICIPALITY OR COUNTY TO
2-66 PROHIBIT OR REGULATE CARRYING HANDGUN. (a) A municipality or
2-67 county to which this chapter applies and that employs or supervises
2-68 first responders may not adopt or enforce an ordinance, order, or
2-69 other measure that generally prohibits a first responder who holds

3-1 a license to carry a handgun under Subchapter H, Chapter 411,
3-2 Government Code, an unexpired certificate of completion from the
3-3 department under Section 411.184(d), Government Code, and the
3-4 required liability policy under Section 179.053 from:

3-5 (1) carrying a concealed or holstered handgun while on
3-6 duty; or

3-7 (2) storing a handgun on the premises of or in a
3-8 vehicle owned or leased by the municipality or county if the handgun
3-9 is secured with a device approved by the department under Section
3-10 411.184(f), Government Code.

3-11 (b) This section does not prohibit a municipality or county
3-12 from adopting an ordinance, order, or other measure that:

3-13 (1) prohibits a first responder from carrying a
3-14 handgun while on duty based on the conduct of the first responder;
3-15 or

3-16 (2) limits the carrying of a handgun only to the extent
3-17 necessary to ensure that carrying the handgun does not interfere
3-18 with the first responder's duties.

3-19 Sec. 179.052. AUTHORITY OF EMPLOYERS AND SUPERVISORS. (a)
3-20 A municipal or county department or private entity that employs or
3-21 supervises first responders providing services for a municipality
3-22 or county to which this chapter applies may adopt a policy
3-23 authorizing a first responder who is employed or supervised by the
3-24 municipal or county department or private entity and who holds a
3-25 license to carry a handgun under Subchapter H, Chapter 411,
3-26 Government Code, an unexpired certificate of completion from the
3-27 department under Section 411.184(d), Government Code, and the
3-28 required liability policy under Section 179.053 to:

3-29 (1) carry a concealed or holstered handgun while on
3-30 duty; or

3-31 (2) store a handgun on the premises of or in a vehicle
3-32 owned or leased by the applicable municipality or county, or by the
3-33 private entity if the handgun is secured with a device approved by
3-34 the department under Section 411.184(f), Government Code.

3-35 (b) A first responder employed or supervised by a municipal
3-36 or county department or private entity may not engage in conduct
3-37 described by Subsection (a)(1) or (2) unless the municipal or
3-38 county department or private entity has adopted a policy under
3-39 Subsection (a) that authorizes that conduct.

3-40 Sec. 179.053. LIABILITY INSURANCE REQUIRED. A first
3-41 responder shall maintain liability insurance coverage in an amount
3-42 of at least \$1 million if:

3-43 (1) the first responder carries a handgun while on
3-44 duty; and

3-45 (2) the handgun is not an essential part of the first
3-46 responder's duties.

3-47 Sec. 179.054. STORAGE OF HANDGUN. (a) A first responder
3-48 who enters a location where carrying a handgun is prohibited by
3-49 federal law or otherwise shall use a device approved by the
3-50 department under Section 411.184(f), Government Code, to secure and
3-51 store the handgun.

3-52 (b) A first responder is responsible for procuring the
3-53 device approved by the department under Section 411.184(f),
3-54 Government Code, or for reimbursing the first responder's employer
3-55 or supervisor for the use of a device provided by the employer or
3-56 supervisor.

3-57 Sec. 179.055. DISCHARGE OF HANDGUN. A first responder may
3-58 discharge a handgun while on duty only in self-defense.

3-59 Sec. 179.056. LIMITED LIABILITY. (a) A municipality or
3-60 county that employs or supervises first responders is not liable in
3-61 a civil action arising from the discharge of a handgun by a first
3-62 responder who is licensed to carry the handgun under Subchapter H,
3-63 Chapter 411, Government Code.

3-64 (b) The discharge of a handgun by a first responder who is
3-65 licensed to carry a handgun under Subchapter H, Chapter 411,
3-66 Government Code, is outside the course and scope of the first
3-67 responder's duties.

3-68 Sec. 179.057. COMPLAINTS. A member of the public may submit
3-69 a complaint to the municipality or county employing or supervising

4-1 the first responder using the municipality's or county's existing
4-2 complaint procedure. One or more complaints received with respect
4-3 to a specific first responder are grounds for prohibiting or
4-4 limiting that first responder's carrying a handgun while on duty.

4-5 SECTION 5. Section 30.06, Penal Code, is amended by adding
4-6 Subsection (f-1) to read as follows:

4-7 (f-1) It is a defense to prosecution under this section that
4-8 the license holder is a first responder, as defined by Section
4-9 46.01, who:

4-10 (1) holds an unexpired certificate of completion under
4-11 Section 411.184, Government Code, at the time of engaging in the
4-12 applicable conduct;

4-13 (2) was engaged in the actual discharge of the first
4-14 responder's duties while carrying the handgun; and

4-15 (3) was employed or supervised by a municipality or
4-16 county to which Chapter 179, Local Government Code, applies.

4-17 SECTION 6. Section 30.07, Penal Code, is amended by adding
4-18 Subsection (g-1) to read as follows:

4-19 (g-1) It is a defense to prosecution under this section that
4-20 the license holder is a first responder, as defined by Section
4-21 46.01, who:

4-22 (1) holds an unexpired certificate of completion under
4-23 Section 411.184, Government Code, at the time of engaging in the
4-24 applicable conduct;

4-25 (2) was engaged in the actual discharge of the first
4-26 responder's duties while carrying the handgun; and

4-27 (3) was employed or supervised by a municipality or
4-28 county to which Chapter 179, Local Government Code, applies.

4-29 SECTION 7. Section 46.01, Penal Code, is amended by adding
4-30 Subdivision (20) to read as follows:

4-31 (20) "First responder" means a public safety employee
4-32 whose duties include responding rapidly to an emergency. The term
4-33 includes fire protection personnel and emergency medical services
4-34 personnel as defined by Section 773.003, Health and Safety Code.
4-35 The term does not include:

4-36 (A) volunteer emergency services personnel;

4-37 (B) an emergency medical services volunteer, as
4-38 defined by Section 773.003, Health and Safety Code; or

4-39 (C) a peace officer or reserve law enforcement
4-40 officer, as those terms are defined by Section 1701.001,
4-41 Occupations Code, who is performing law enforcement duties.

4-42 SECTION 8. Section 46.15, Penal Code, is amended by adding
4-43 Subsection (m) to read as follows:

4-44 (m) Sections 46.02, 46.03, and 46.035(b) and (c) do not
4-45 apply to a first responder who:

4-46 (1) was carrying a handgun in a concealed manner or in
4-47 a shoulder or belt holster;

4-48 (2) holds an unexpired certificate of completion under
4-49 Section 411.184, Government Code, at the time of engaging in the
4-50 applicable conduct;

4-51 (3) was engaged in the actual discharge of the first
4-52 responder's duties while carrying the handgun; and

4-53 (4) was employed or supervised by a municipality or
4-54 county to which Chapter 179, Local Government Code, applies.

4-55 SECTION 9. The public safety director of the Department of
4-56 Public Safety shall adopt the rules necessary to implement Section
4-57 411.184, Government Code, as added by this Act, not later than
4-58 December 1, 2021.

4-59 SECTION 10. A qualified handgun instructor may not offer
4-60 the training course described by Section 411.184(b), Government
4-61 Code, as added by this Act, before January 1, 2022.

4-62 SECTION 11. Section 112.001, Civil Practice and Remedies
4-63 Code, as amended by this Act, applies only to a cause of action that
4-64 accrues on or after September 1, 2021. A cause of action that
4-65 accrues before September 1, 2021, is governed by the law in effect
4-66 immediately before that date, and the former law is continued in
4-67 effect for that purpose.

4-68 SECTION 12. The changes in law made by this Act in amending
4-69 Sections 30.06, 30.07, and 46.15, Penal Code, apply only to an

5-1 offense committed on or after the effective date of this Act. An
5-2 offense committed before the effective date of this Act is governed
5-3 by the law in effect on the date the offense was committed, and the
5-4 former law is continued in effect for that purpose. For purposes of
5-5 this section, an offense was committed before the effective date of
5-6 this Act if any element of the offense occurred before that date.
5-7 SECTION 13. This Act takes effect September 1, 2021.

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