

1-1 By: Bell (Senate Sponsor - Estes) H.B. No. 3142  
1-2 (In the Senate - Received from the House May 9, 2013;  
1-3 May 10, 2013, read first time and referred to Committee on  
1-4 Agriculture, Rural Affairs, and Homeland Security; May 17, 2013,  
1-5 reported favorably by the following vote: Yeas 3, Nays 0;  
1-6 May 17, 2013, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8 Estes	X			
1-9 Uresti			X	
1-10 Hegar	X			
1-11 Hinojosa			X	
1-12 Schwertner	X			
1-13				

1-14 A BILL TO BE ENTITLED  
1-15 AN ACT

1-16 relating to handguns used to demonstrate proficiency in handgun use  
1-17 for purposes of obtaining a concealed handgun license.

1-18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-19 SECTION 1. Section 11.041(a), Alcoholic Beverage Code, is  
1-20 amended to read as follows:

1-21 (a) Each holder of a permit who is not otherwise required to  
1-22 display a sign under Section 411.204, Government Code, shall  
1-23 display in a prominent place on the permit holder's premises a sign  
1-24 giving notice that it is unlawful for a person to carry a weapon on  
1-25 the premises unless the weapon is a concealed handgun [of the same  
1-26 category] the person is licensed to carry under Subchapter H,  
1-27 Chapter 411, Government Code.

1-28 SECTION 2. Section 11.61(e), Alcoholic Beverage Code, is  
1-29 amended to read as follows:

1-30 (e) Except as provided by Subsection (f) or (i), the  
1-31 commission or administrator shall cancel an original or renewal  
1-32 permit if it is found, after notice and hearing, that the permittee  
1-33 knowingly allowed a person to possess a firearm in a building on the  
1-34 licensed premises. This subsection does not apply to a person:

1-35 (1) who holds a security officer commission issued  
1-36 under Chapter 1702, Occupations Code, if:

1-37 (A) the person is engaged in the performance of  
1-38 the person's duties as a security officer;

1-39 (B) the person is wearing a distinctive uniform;  
1-40 and

1-41 (C) the weapon is in plain view;

1-42 (2) who is a peace officer;

1-43 (3) who is a permittee or an employee of a permittee if  
1-44 the person is supervising the operation of the premises; or

1-45 (4) who possesses a concealed handgun [of the same  
1-46 category] the person is licensed to carry under Subchapter H,  
1-47 Chapter 411, Government Code, unless the person is on the premises  
1-48 of a business described by Section 46.035(b)(1), Penal Code.

1-49 SECTION 3. Section 61.11(a), Alcoholic Beverage Code, is  
1-50 amended to read as follows:

1-51 (a) Each holder of a license who is not otherwise required  
1-52 to display a sign under Section 411.204, Government Code, shall  
1-53 display in a prominent place on the license holder's premises a sign  
1-54 giving notice that it is unlawful for a person to carry a weapon on  
1-55 the premises unless the weapon is a concealed handgun [of the same  
1-56 category] the person is licensed to carry under Subchapter H,  
1-57 Chapter 411, Government Code.

1-58 SECTION 4. Section 61.71(f), Alcoholic Beverage Code, is  
1-59 amended to read as follows:

1-60 (f) Except as provided by Subsection (g) or (j), the  
1-61 commission or administrator shall cancel an original or renewal

2-1 dealer's on-premises or off-premises license if it is found, after  
 2-2 notice and hearing, that the licensee knowingly allowed a person to  
 2-3 possess a firearm in a building on the licensed premises. This  
 2-4 subsection does not apply to a person:

2-5 (1) who holds a security officer commission issued  
 2-6 under Chapter 1702, Occupations Code, if:

2-7 (A) the person is engaged in the performance of  
 2-8 the person's duties as a security officer;

2-9 (B) the person is wearing a distinctive uniform;  
 2-10 and

2-11 (C) the weapon is in plain view;

2-12 (2) who is a peace officer;

2-13 (3) who is a licensee or an employee of a licensee if  
 2-14 the person is supervising the operation of the premises; or

2-15 (4) who possesses a concealed handgun [of the same  
 2-16 category] the person is licensed to carry under Subchapter H,  
 2-17 Chapter 411, Government Code, unless the person is on the premises  
 2-18 of a business described by Section 46.035(b)(1), Penal Code.

2-19 SECTION 5. Section 411.177(a), Government Code, is amended  
 2-20 to read as follows:

2-21 (a) The department shall issue a license to carry a  
 2-22 concealed handgun to an applicant if the applicant meets all the  
 2-23 eligibility requirements and submits all the application  
 2-24 materials. [The department may issue a license to carry handguns  
 2-25 only of the categories for which the applicant has demonstrated  
 2-26 proficiency in the form and manner required by the department.] The  
 2-27 department shall administer the licensing procedures in good faith  
 2-28 so that any applicant who meets all the eligibility requirements  
 2-29 and submits all the application materials shall receive a license.  
 2-30 The department may not deny an application on the basis of a  
 2-31 capricious or arbitrary decision by the department.

2-32 SECTION 6. Section 411.179(a), Government Code, is amended  
 2-33 to read as follows:

2-34 (a) The department by rule shall adopt the form of the  
 2-35 license. A license must include:

2-36 (1) a number assigned to the license holder by the  
 2-37 department;

2-38 (2) a statement of the period for which the license is  
 2-39 effective;

2-40 (3) [a statement of the category or categories of  
 2-41 handguns the license holder may carry as provided by Subsection  
 2-42 (b),

2-43 [4] a color photograph of the license holder;

2-44 (4) [5] the license holder's full name, date of  
 2-45 birth, hair and eye color, height, weight, and signature;

2-46 (5) [6] the license holder's residence address or,  
 2-47 as provided by Subsection (d), the street address of the courthouse  
 2-48 in which the license holder or license holder's spouse serves as a  
 2-49 federal judge or the license holder serves as a state judge; and

2-50 (6) [7] the number of a driver's license or an  
 2-51 identification certificate issued to the license holder by the  
 2-52 department.

2-53 SECTION 7. Section 411.187(a), Government Code, is amended  
 2-54 to read as follows:

2-55 (a) The department shall suspend a license under this  
 2-56 section if the license holder:

2-57 (1) is charged with the commission of a Class A or  
 2-58 Class B misdemeanor or equivalent offense, or of an offense under  
 2-59 Section 42.01, Penal Code, or equivalent offense, or of a felony  
 2-60 under an information or indictment;

2-61 (2) fails to notify the department of a change of  
 2-62 address, name, or status as required by Section 411.181;

2-63 (3) [carries a concealed handgun under the authority  
 2-64 of this subchapter of a different category than the license holder  
 2-65 is licensed to carry;

2-66 [4] fails to return a previously issued license after  
 2-67 a license is modified as required by Section 411.184(d);

2-68 [5] commits an act of family violence and is the  
 2-69 subject of an active protective order rendered under Title 4,

3-1 Family Code; or  
 3-2 (4) [+] is arrested for an offense involving family  
 3-3 violence or an offense under Section 42.072, Penal Code, and is the  
 3-4 subject of an order for emergency protection issued under Article  
 3-5 17.292, Code of Criminal Procedure.

3-6 SECTION 8. Sections 411.188(a) and (d), Government Code,  
 3-7 are amended to read as follows:

3-8 (a) The director by rule shall establish minimum standards  
 3-9 for handgun proficiency and shall develop a course to teach handgun  
 3-10 proficiency and examinations to measure handgun proficiency. The  
 3-11 course to teach handgun proficiency must contain training sessions  
 3-12 divided into two parts. One part of the course must be classroom  
 3-13 instruction and the other part must be range instruction and an  
 3-14 actual demonstration by the applicant of the applicant's ability to  
 3-15 safely and proficiently use a [the applicable category of] handgun.  
 3-16 An applicant must be able to demonstrate, at a minimum, the degree  
 3-17 of proficiency that is required to effectively operate a handgun of  
 3-18 .32 caliber or above. The department shall distribute the  
 3-19 standards, course requirements, and examinations on request to any  
 3-20 qualified handgun instructor.

3-21 (d) Only a qualified handgun instructor may administer the  
 3-22 proficiency examination to obtain or to renew a license. The  
 3-23 proficiency examination must include:

3-24 (1) a written section on the subjects listed in  
 3-25 Subsection (b); and  
 3-26 (2) a physical demonstration of proficiency in the use  
 3-27 of one or more handguns [of specific categories] and in handgun  
 3-28 safety procedures.

3-29 SECTION 9. Section 411.1882(a), Government Code, is amended  
 3-30 to read as follows:

3-31 (a) A person who is serving in this state as a judge or  
 3-32 justice of a federal court, as an active judicial officer, as  
 3-33 defined by Section 411.201, or as a district attorney, assistant  
 3-34 district attorney, criminal district attorney, assistant criminal  
 3-35 district attorney, county attorney, or assistant county attorney  
 3-36 may establish handgun proficiency for the purposes of this  
 3-37 subchapter by obtaining from a handgun proficiency instructor  
 3-38 approved by the Commission on Law Enforcement Officer Standards and  
 3-39 Education for purposes of Section 1702.1675, Occupations Code, a  
 3-40 sworn statement that[+]

3-41 [+] indicates that the person, during the 12-month  
 3-42 period preceding the date of the person's application to the  
 3-43 department, demonstrated to the instructor proficiency in the use  
 3-44 of handguns[+ and]

3-45 [+] designates the categories of handguns with  
 3-46 respect to which the person demonstrated proficiency].

3-47 SECTION 10. Section 411.199(e), Government Code, is amended  
 3-48 to read as follows:

3-49 (e) A retired peace officer who obtains a license under this  
 3-50 subchapter must maintain[ for the category of weapon licensed,]  
 3-51 the proficiency required for a peace officer under Section  
 3-52 1701.355, Occupations Code. The department or a local law  
 3-53 enforcement agency shall allow a retired peace officer of the  
 3-54 department or agency an opportunity to annually demonstrate the  
 3-55 required proficiency. The proficiency shall be reported to the  
 3-56 department on application and renewal.

3-57 SECTION 11. Sections 62.082(d) and (e), Parks and Wildlife  
 3-58 Code, are amended to read as follows:

3-59 (d) Section 62.081 does not apply to:  
 3-60 (1) an employee of the Lower Colorado River Authority;  
 3-61 (2) a person authorized to hunt under Subsection (c);  
 3-62 (3) a peace officer as defined by Article 2.12, Code of  
 3-63 Criminal Procedure; or

3-64 (4) a person who:  
 3-65 (A) possesses a concealed handgun and a license  
 3-66 issued under Subchapter H, Chapter 411, Government Code, to carry a  
 3-67 concealed handgun [of the same category as a handgun the person is  
 3-68 carrying]; or

3-69 (B) under circumstances in which the person would

4-1 be justified in the use of deadly force under Chapter 9, Penal Code,  
4-2 shoots a handgun [~~of the same category as a handgun~~] the person is  
4-3 licensed to carry under Subchapter H, Chapter 411, Government Code.

4-4 (e) A state agency, including the department, the  
4-5 Department of Public Safety, and the Lower Colorado River  
4-6 Authority, may not adopt a rule that prohibits a person who  
4-7 possesses a license issued under Subchapter H, Chapter 411,  
4-8 Government Code, from entering or crossing the land of the Lower  
4-9 Colorado River Authority while:

4-10 (1) possessing a concealed handgun [~~of the same~~  
4-11 ~~category as a handgun the person is licensed to carry~~]; or

4-12 (2) under circumstances in which the person would be  
4-13 justified in the use of deadly force under Chapter 9, Penal Code,  
4-14 shooting a handgun [~~of the same category as a handgun the person is~~  
4-15 ~~licensed to carry~~].

4-16 SECTION 12. Section 30.05(f), Penal Code, is amended to  
4-17 read as follows:

4-18 (f) It is a defense to prosecution under this section that:

4-19 (1) the basis on which entry on the property or land or  
4-20 in the building was forbidden is that entry with a handgun was  
4-21 forbidden; and

4-22 (2) the person was carrying a concealed handgun and a  
4-23 license issued under Subchapter H, Chapter 411, Government Code, to  
4-24 carry a concealed handgun [~~of the same category the person was~~  
4-25 ~~carrying~~].

4-26 SECTION 13. Section 46.15(b), Penal Code, is amended to  
4-27 read as follows:

4-28 (b) Section 46.02 does not apply to a person who:

4-29 (1) is in the actual discharge of official duties as a  
4-30 member of the armed forces or state military forces as defined by  
4-31 Section 431.001, Government Code, or as a guard employed by a penal  
4-32 institution;

4-33 (2) is traveling;

4-34 (3) is engaging in lawful hunting, fishing, or other  
4-35 sporting activity on the immediate premises where the activity is  
4-36 conducted, or is en route between the premises and the actor's  
4-37 residence, motor vehicle, or watercraft, if the weapon is a type  
4-38 commonly used in the activity;

4-39 (4) holds a security officer commission issued by the  
4-40 Texas Private Security Board, if the person is engaged in the  
4-41 performance of the person's duties as an officer commissioned under  
4-42 Chapter 1702, Occupations Code, or is traveling to or from the  
4-43 person's place of assignment and is wearing the officer's uniform  
4-44 and carrying the officer's weapon in plain view;

4-45 (5) acts as a personal protection officer and carries  
4-46 the person's security officer commission and personal protection  
4-47 officer authorization, if the person:

4-48 (A) is engaged in the performance of the person's  
4-49 duties as a personal protection officer under Chapter 1702,  
4-50 Occupations Code, or is traveling to or from the person's place of  
4-51 assignment; and

4-52 (B) is either:

4-53 (i) wearing the uniform of a security  
4-54 officer, including any uniform or apparel described by Section  
4-55 1702.323(d), Occupations Code, and carrying the officer's weapon in  
4-56 plain view; or

4-57 (ii) not wearing the uniform of a security  
4-58 officer and carrying the officer's weapon in a concealed manner;

4-59 (6) is carrying a concealed handgun and a valid  
4-60 license issued under Subchapter H, Chapter 411, Government Code, to  
4-61 carry a concealed handgun [~~of the same category as the handgun the~~  
4-62 ~~person is carrying~~];

4-63 (7) holds an alcoholic beverage permit or license or  
4-64 is an employee of a holder of an alcoholic beverage permit or  
4-65 license if the person is supervising the operation of the permitted  
4-66 or licensed premises; or

4-67 (8) is a student in a law enforcement class engaging in  
4-68 an activity required as part of the class, if the weapon is a type  
4-69 commonly used in the activity and the person is:

(A) on the immediate premises where the activity is conducted; or  
(B) en route between those premises and the person's residence and is carrying the weapon unloaded.

SECTION 14. The following provisions of the Government Code are repealed:

- (1) Section 411.171(1);
- (2) Section 411.179(b);
- (3) Section 411.184; and
- (4) Sections 411.188(e) and (h).

SECTION 15. (a) The change in law made by this Act to Subchapter H, Chapter 411, Government Code, applies only to a license issued or renewed under that subchapter on or after the effective date of this Act.

(b) The changes in law made by this Act to the Alcoholic Beverage Code, Parks and Wildlife Code, and Penal Code, apply only to civil or criminal proceedings involving the carrying of a handgun on or after the effective date of this Act by a person licensed to carry a concealed handgun under Subchapter H, Chapter 411, Government Code, as amended by this Act.

SECTION 16. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

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