

## SENATE AMENDMENTS

## 2<sup>nd</sup> Printing

By: Bell

H.B. No. 3142

A BILL TO BE ENTITLED

# 1 AN ACT

2 relating to handguns used to demonstrate proficiency in handgun use  
3 for purposes of obtaining a concealed handgun license.

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

5 SECTION 1. Section 11.041(a), Alcoholic Beverage Code, is  
6 amended to read as follows:

14 SECTION 2. Section 11.61(e), Alcoholic Beverage Code, is  
15 amended to read as follows:

21 (1) who holds a security officer commission issued  
22 under Chapter 1702, Occupations Code, if:

23 (A) the person is engaged in the performance of  
24 the person's duties as a security officer;

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1 (B) the person is wearing a distinctive uniform;

2 and

3 (C) the weapon is in plain view;

4 (2) who is a peace officer;

5 (3) who is a permittee or an employee of a permittee if  
6 the person is supervising the operation of the premises; or

7 (4) who possesses a concealed handgun [of the same  
8 ~~category~~] the person is licensed to carry under Subchapter H,  
9 Chapter 411, Government Code, unless the person is on the premises  
10 of a business described by Section 46.035(b)(1), Penal Code.

11 SECTION 3. Section 61.11(a), Alcoholic Beverage Code, is  
12 amended to read as follows:

20 SECTION 4. Section 61.71(f), Alcoholic Beverage Code, is  
21 amended to read as follows:

22 (f) Except as provided by Subsection (g) or (j), the  
23 commission or administrator shall cancel an original or renewal  
24 dealer's on-premises or off-premises license if it is found, after  
25 notice and hearing, that the licensee knowingly allowed a person to  
26 possess a firearm in a building on the licensed premises. This  
27 subsection does not apply to a person:

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

3 (A) the person is engaged in the performance of  
4 the person's duties as a security officer:

5 (B) the person is wearing a distinctive uniform;

6 and

7 (C) the weapon is in plain view;

11 (4) who possesses a concealed handgun [~~of the same~~  
12 ~~category~~] the person is licensed to carry under Subchapter H,  
13 Chapter 411, Government Code, unless the person is on the premises  
14 of a business described by Section 46.035(b)(1), Penal Code.

15 SECTION 5. Section 411.177(a), Government Code, is amended  
16 to read as follows:

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

3 (a) The department by rule shall adopt the form of the  
4 license. A license must include:

5 (1) a number assigned to the license holder by the  
6 department;

7 (2) a statement of the period for which the license is  
8 effective;

9 (3) ~~a statement of the category or categories of~~  
10 ~~handguns the license holder may carry as provided by Subsection~~  
11 ~~(b),~~

12 ~~(4)~~ a color photograph of the license holder;

13 (4) ~~(5)~~ the license holder's full name, date of  
14 birth, hair and eye color, height, weight, and signature;

15 (5) ~~(6)~~ the license holder's residence address or,  
16 as provided by Subsection (d), the street address of the courthouse  
17 in which the license holder or license holder's spouse serves as a  
18 federal judge or the license holder serves as a state judge; and

19 (6) ~~(7)~~ the number of a driver's license or an  
20 identification certificate issued to the license holder by the  
21 department.

22 SECTION 7. Section 411.187(a), Government Code, is amended  
23 to read as follows:

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

26 (1) is charged with the commission of a Class A or  
27 Class B misdemeanor or equivalent offense, or of an offense under

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

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

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

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

10 (5) commits an act of family violence and is the  
11 subject of an active protective order rendered under Title 4,  
12 Family Code; or

13 (4) ~~(6)~~ is arrested for an offense involving family  
14 violence or an offense under Section 42.072, Penal Code, and is the  
15 subject of an order for emergency protection issued under Article  
16 17.292, Code of Criminal Procedure.

17 SECTION 8. Sections 411.188(a) and (d), Government Code,  
18 are amended to read as follows:

19 (a) The director by rule shall establish minimum standards  
20 for handgun proficiency and shall develop a course to teach handgun  
21 proficiency and examinations to measure handgun proficiency. The  
22 course to teach handgun proficiency must contain training sessions  
23 divided into two parts. One part of the course must be classroom  
24 instruction and the other part must be range instruction and an  
25 actual demonstration by the applicant of the applicant's ability to  
26 safely and proficiently use a ~~the applicable category of~~ handgun.  
27 An applicant must be able to demonstrate, at a minimum, the degree

1 of proficiency that is required to effectively operate a handgun of  
2 .32 caliber or above. The department shall distribute the  
3 standards, course requirements, and examinations on request to any  
4 qualified handgun instructor.

5 (d) Only a qualified handgun instructor may administer the  
6 proficiency examination to obtain or to renew a license. The  
7 proficiency examination must include:

8 (1) a written section on the subjects listed in  
9 Subsection (b); and

10 (2) a physical demonstration of proficiency in the use  
11 of one or more handguns ~~[of specific categories]~~ and in handgun  
12 safety procedures.

13 SECTION 9. Section 411.1882(a), Government Code, is amended  
14 to read as follows:

15 (a) A person who is serving in this state as a judge or  
16 justice of a federal court, as an active judicial officer, as  
17 defined by Section 411.201, or as a district attorney, assistant  
18 district attorney, criminal district attorney, assistant criminal  
19 district attorney, county attorney, or assistant county attorney  
20 may establish handgun proficiency for the purposes of this  
21 subchapter by obtaining from a handgun proficiency instructor  
22 approved by the Commission on Law Enforcement Officer Standards and  
23 Education for purposes of Section 1702.1675, Occupations Code, a  
24 sworn statement that[~~+~~

25 ~~(+1)~~ indicates that the person, during the 12-month  
26 period preceding the date of the person's application to the  
27 department, demonstrated to the instructor proficiency in the use

1 of handguns [~~+~~ and

2 ~~[+2) designates the categories of handguns with~~  
3 ~~respect to which the person demonstrated proficiency].~~

4 SECTION 10. Section 411.199(e), Government Code, is amended  
5 to read as follows:

6 (e) A retired peace officer who obtains a license under this  
7 subchapter must maintain [~~, for the category of weapon licensed,~~]  
8 the proficiency required for a peace officer under Section  
9 1701.355, Occupations Code. The department or a local law  
10 enforcement agency shall allow a retired peace officer of the  
11 department or agency an opportunity to annually demonstrate the  
12 required proficiency. The proficiency shall be reported to the  
13 department on application and renewal.

14 SECTION 11. Sections 62.082(d) and (e), Parks and Wildlife  
15 Code, are amended to read as follows:

16 (d) Section 62.081 does not apply to:

17 (1) an employee of the Lower Colorado River Authority;  
18 (2) a person authorized to hunt under Subsection (c);  
19 (3) a peace officer as defined by Article 2.12, Code of  
20 Criminal Procedure; or

21 (4) a person who:

22 (A) possesses a concealed handgun and a license  
23 issued under Subchapter H, Chapter 411, Government Code, to carry a  
24 concealed handgun [~~of the same category as a handgun the person is~~  
25 ~~carrying~~]; or

26 (B) under circumstances in which the person would  
27 be justified in the use of deadly force under Chapter 9, Penal Code,

1 shoots a handgun [~~of the same category as a handgun~~] the person is  
2 licensed to carry under Subchapter H, Chapter 411, Government Code.

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

9 (1) possessing a concealed handgun [~~of the same~~  
10 ~~category as a handgun the person is licensed to carry~~]; or  
11 (2) under circumstances in which the person would be  
12 justified in the use of deadly force under Chapter 9, Penal Code,  
13 shooting a handgun [~~of the same category as a handgun the person is~~  
14 ~~licensed to carry~~].

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

17 (f) It is a defense to prosecution under this section that:

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

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

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

27 (b) Section 46.02 does not apply to a person who:

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5 (2) is traveling;

6 (3) is engaging in lawful hunting, fishing, or other  
7 sporting activity on the immediate premises where the activity is  
8 conducted, or is en route between the premises and the actor's  
9 residence, motor vehicle, or watercraft, if the weapon is a type  
10 commonly used in the activity;

11 (4) holds a security officer commission issued by the  
12 Texas Private Security Board, if the person is engaged in the  
13 performance of the person's duties as an officer commissioned under  
14 Chapter 1702, Occupations Code, or is traveling to or from the  
15 person's place of assignment and is wearing the officer's uniform  
16 and carrying the officer's weapon in plain view;

17 (5) acts as a personal protection officer and carries  
18 the person's security officer commission and personal protection  
19 officer authorization, if the person:

20 (A) is engaged in the performance of the person's  
21 duties as a personal protection officer under Chapter 1702,  
22 Occupations Code, or is traveling to or from the person's place of  
23 assignment; and

24 (B) is either:

25 (i) wearing the uniform of a security  
26 officer, including any uniform or apparel described by Section  
27 1702.323(d), Occupations Code, and carrying the officer's weapon in

1 plain view; or

2 (ii) not wearing the uniform of a security  
3 officer and carrying the officer's weapon in a concealed manner;

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

8 (7) holds an alcoholic beverage permit or license or  
9 is an employee of a holder of an alcoholic beverage permit or  
10 license if the person is supervising the operation of the permitted  
11 or licensed premises; or

12 (8) is a student in a law enforcement class engaging in  
13 an activity required as part of the class, if the weapon is a type  
14 commonly used in the activity and the person is:

15 (A) on the immediate premises where the activity  
16 is conducted; or

17 (B) en route between those premises and the  
18 person's residence and is carrying the weapon unloaded.

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

21 (1) Section 411.171(1);  
22 (2) Section 411.179(b);  
23 (3) Section 411.184; and  
24 (4) Sections 411.188(e) and (h).

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

1 effective date of this Act.

2 (b) The changes in law made by this Act to the Alcoholic  
3 Beverage Code, Parks and Wildlife Code, and Penal Code, apply only  
4 to civil or criminal proceedings involving the carrying of a  
5 handgun on or after the effective date of this Act by a person  
6 licensed to carry a concealed handgun under Subchapter H, Chapter  
7 411, Government Code, as amended by this Act.

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

# ADOPTED

FLOOR AMENDMENT NO. 1

MAY 21 2013

BY:

*Wayne L. Tamm*  
Secretary of the Senate

1 Amend H.B. 3142 by adding the appropriately numbered  
2 sections as follows:

3 SECTION \_\_\_\_\_. Section 229.001, Local Government Code, is  
4 amended to read as follows:

5 Sec. 229.001. FIREARMS; AIR GUNS; EXPLOSIVES.

6 (a) Notwithstanding any other law, including Section 43.002 of  
7 this code and Chapter 251, Agriculture Code, a municipality may  
8 not adopt regulations relating to:

9 (1) the transfer, private ownership, keeping,  
10 transportation, licensing, or registration of firearms, air  
11 guns, ammunition, or firearm or air gun supplies; or

12 (2) the discharge of a firearm or air gun at a sport  
13 shooting range.

14 (b) Subsection (a) does not affect the authority a  
15 municipality has under another law to:

16 (1) require residents or public employees to be armed  
17 for personal or national defense, law enforcement, or another  
18 lawful purpose;

19 (2) regulate the discharge of firearms or air guns  
20 within the limits of the municipality, other than at a sport  
21 shooting range;

22 (3) regulate the use of property, the location of a  
23 business, or uses at a business under the municipality's fire  
24 code, zoning ordinance, or land-use regulations as long as the  
25 code, ordinance, or regulations are not used to circumvent the  
26 intent of Subsection (a) or Subdivision (5) of this subsection;

27 (4) regulate the use of firearms or air guns in the  
28 case of an insurrection, riot, or natural disaster if the  
29 municipality finds the regulations necessary to protect public

1 health and safety;

2 (5) regulate the storage or transportation of  
3 explosives to protect public health and safety, except that 25  
4 pounds or less of black powder for each private residence and 50  
5 pounds or less of black powder for each retail dealer are not  
6 subject to regulation;

7 (6) regulate the carrying of a firearm or air gun by  
8 a person other than a person licensed to carry a concealed  
9 handgun under Subchapter H, Chapter 411, Government Code, at a:

10 (A) public park;

11 (B) public meeting of a municipality, county, or  
12 other governmental body;

13 (C) political rally, parade, or official  
14 political meeting; or

15 (D) nonfirearms-related school, college, or  
16 professional athletic event; [or]

17 (7) regulate the hours of operation of a sport  
18 shooting range, except that the hours of operation may not be  
19 more limited than the least limited hours of operation of any  
20 other business in the municipality other than a business  
21 permitted or licensed to sell or serve alcoholic beverages for  
22 on-premises consumption; or

23 (8) regulate the carrying of an air gun by a minor  
24 on:

25 (A) public property; or

26 (B) private property without consent of the  
27 property owner.

28 (c) The exception provided by Subsection (b) (6) does not  
29 apply if the firearm or air gun is in or is carried to or from  
30 an area designated for use in a lawful hunting, fishing, or  
31 other sporting event and the firearm or air gun is of the type

1 commonly used in the activity.

2 (d) The exception provided by Subsection (b) (4) does not  
3 authorize the seizure or confiscation of any firearm, air gun,  
4 or ammunition from an individual who is lawfully carrying or  
5 possessing the firearm, air gun, or ammunition.

6 (e) In this section:

7 (1) "Air gun" means any gun that discharges a pellet,  
8 BB, or paintball by means of compressed air, gas propellant, or  
9 a spring.

10 (2) "Sport[," "sport" shooting range" has the meaning  
11 assigned by Section 250.001.

12 SECTION \_\_\_\_\_. Subchapter B, Chapter 235, Local Government  
13 Code, is amended by adding Section 235.020 to read as follows:

14 Sec. 235.020. DEFINITION. In this subchapter, "air gun"  
15 has the meaning assigned by Section 229.001.

16 SECTION \_\_\_\_\_. Section 235.022, Local Government Code, is  
17 amended to read as follows:

18 Sec. 235.022. AUTHORITY TO REGULATE. To promote the  
19 public safety, the commissioners court of a county by order may  
20 prohibit or otherwise regulate the discharge of firearms and air  
21 guns on lots that are 10 acres or smaller and are located in the  
22 unincorporated area of the county in a subdivision.

23 SECTION \_\_\_\_\_. Section 235.023, Local Government Code, is  
24 amended to read as follows:

25 Sec. 235.023. PROHIBITED REGULATIONS. This subchapter  
26 does not authorize the commissioners court to regulate the  
27 transfer, ownership, possession, or transportation of firearms  
28 or air guns and does not authorize the court to require the  
29 registration of firearms or air guns.

30 SECTION \_\_\_\_\_. Section 236.001, Local Government Code, is  
31 amended to read as follows:

1 Sec. 236.001. DEFINITIONS [DEFINITION]. In this chapter:

2 (1) "Air gun" has the meaning assigned by Section  
3 229.001.

4 (2) "Sport[," "sport] shooting range" has the meaning  
5 assigned by Section 250.001.

6 SECTION \_\_\_\_\_. Section 236.002, Local Government Code, is  
7 amended to read as follows:

8 Sec. 236.002. FIREARMS; AIR GUNS; SPORT SHOOTING RANGE.

9 Notwithstanding any other law, including Chapter 251,  
10 Agriculture Code, a county may not adopt regulations relating  
11 to:

12 (1) the transfer, private ownership, keeping,  
13 transportation, licensing, or registration of firearms, air  
14 guns, ammunition, or firearm or air gun supplies; or

15 (2) the discharge of a firearm or air gun at a sport  
16 shooting range.

17 SECTION \_\_\_\_\_. Section 236.003, Local Government Code, is  
18 amended to read as follows:

19 Sec. 236.003. REGULATION OF OUTDOOR SPORT SHOOTING RANGE.

20 Notwithstanding Section 236.002, a county may regulate the  
21 discharge of a firearm or air gun at an outdoor sport shooting  
22 range as provided by Subchapter B, Chapter 235.

23

LEGISLATIVE BUDGET BOARD  
Austin, Texas

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**May 22, 2013**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB3142** by Bell (Relating to handguns used to demonstrate proficiency in handgun use for purposes of obtaining a concealed handgun license.), **As Passed 2nd House**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Alcoholic Beverage Code, Government Code, Parks and Wildlife Code, and Penal Code as they relate to requiring an applicant to demonstrate handgun proficiency prior to the issuance of a concealed handgun license. The bill would remove the distinction of a specific category of concealed handgun license.

The bill would also amend the Local Government Code to include air guns in certain rules pertaining to local government firearm regulation.

It is assumed that the costs associated with implementing the provisions of the bill could be absorbed within existing resources. The bill would take effect immediately if it receives a two-thirds vote in each house. Otherwise, the bill would take effect September 1, 2013.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 405 Department of Public Safety, 407 Commission on Law Enforcement Officer Standards and Education, 458 Alcoholic Beverage Commission

**LBB Staff:** UP, SZ, JAW, ESi, AI, GDz

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**May 13, 2013**

**TO:** Honorable Craig Estes, Chair, Senate Committee on Agriculture, Rural Affairs & Homeland Security

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB3142** by Bell (Relating to handguns used to demonstrate proficiency in handgun use for purposes of obtaining a concealed handgun license.), **As Engrossed**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Alcoholic Beverage Code, Government Code, Parks and Wildlife Code, and Penal Code as they relate to requiring an applicant to demonstrate handgun proficiency prior to the issuance of a concealed handgun license. The bill would remove the distinction of a specific category of concealed handgun license.

Under the provisions of the bill, requirements that an applicant for a concealed handgun license demonstrate handgun proficiency prior to the issuance of a concealed handgun license are removed.

It is assumed that the costs associated with implementing the provisions of the bill could be absorbed within existing resources. The bill would take effect immediately if it receives a two-thirds vote in each house. Otherwise, the bill would take effect September 1, 2013.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 405 Department of Public Safety, 407 Commission on Law Enforcement Officer Standards and Education, 458 Alcoholic Beverage Commission

**LBB Staff:** UP, SZ, ESi, AI, GDz

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**April 16, 2013**

**TO:** Honorable Joseph Pickett, Chair, House Committee on Homeland Security & Public Safety  
**FROM:** Ursula Parks, Director, Legislative Budget Board  
**IN RE:** **HB3142** by Bell (Relating to handguns used to demonstrate proficiency in handgun use for purposes of obtaining a concealed handgun license.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Alcoholic Beverage Code, Government Code, Parks and Wildlife Code, and Penal Code as they relate to requiring an applicant to demonstrate handgun proficiency prior to the issuance of a concealed handgun license. The bill would remove the distinction of a specific category of concealed handgun license.

Under the provisions of the bill, requirements that an applicant for a concealed handgun license demonstrate handgun proficiency prior to the issuance of a concealed handgun license are removed.

It is assumed that the costs associated with implementing the provisions of the bill could be absorbed within existing resources. The bill would take effect immediately if it receives a two-thirds vote in each house. Otherwise, the bill would take effect September 1, 2013.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 405 Department of Public Safety, 407 Commission on Law Enforcement Officer Standards and Education, 458 Alcoholic Beverage Commission

**LBB Staff:** UP, ESi, AI, GDz