

BILL ANALYSIS

C.S.H.B. 300
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Homeland Security & Public Safety
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that the fees to apply for or renew a handgun license in Texas are too high and impose an undue burden on citizens' constitutional right to bear arms. C.S.H.B. 300 seeks to address these concerns by reducing certain fees relating to a handgun license.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 300 amends the Government Code to decrease from \$140 to \$40 the application and license fee for a handgun license and to decrease from \$100 to \$40 the fee a handgun license applicant who is certified as a qualified handgun instructor is required to submit to the Department of Public Safety (DPS) in addition to a training fee. The bill removes the requirement for the public safety director of DPS to set by rule the handgun license renewal fee and instead sets the renewal fee at \$40. The bill sets the application and license fee for a handgun license applicant who is an active or retired judicial officer at \$25 and removes reference to DPS setting the amount of that fee. The bill removes the requirements for DPS to reduce by 50 percent any fee required for the issuance of an original handgun license for an applicant who is 60 years of age or older or who DPS determines is indigent and replaces the requirements for DPS to reduce by 50 percent any fee required for the issuance of a renewed handgun license for such persons with a requirement for DPS to reduce by \$5 any such fee.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 300 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. Section 411.0625(c),	No equivalent provision.

Government Code, is amended to read as follows:

(c) The department shall adopt rules to establish a procedure by which a resident of the state may apply for and be issued a Capitol access pass. Rules adopted under this section must include provisions for eligibility, application, approval, issuance, and renewal that:

(1) require the department to conduct the same background check on an applicant for a Capitol access pass that is conducted on an applicant for a license to carry a handgun under Subchapter H;

(2) enable the department to conduct the background check described by Subdivision (1); and

(3) establish application and renewal fees in amounts sufficient to cover the cost of administering this section[, not to exceed the amounts of similar fees required under Section 411.174 for a license to carry a handgun].

SECTION 2. Section 411.173(a), Government Code, is amended to read as follows:

(a) The department by rule shall establish a procedure for a person who meets the eligibility requirements of this subchapter other than the residency requirement established by Section 411.172(a)(1) to obtain a license under this subchapter if the person is a legal resident of another state or if the person relocates to this state with the intent to establish residency in this state. ~~[The procedure must include payment of a fee in an amount sufficient to recover the average cost to the department of obtaining a criminal history record check and investigation on a nonresident applicant.]~~ A license issued in accordance with the procedure established under this subsection:

(1) remains in effect until the license expires under Section 411.183; and

(2) may be renewed under Section 411.185.

SECTION 3. Section 411.174(a), Government Code, is amended to read as follows:

(a) An applicant for a license to carry a handgun must submit to the director's designee described by Section 411.176:

(1) a completed application on a form

No equivalent provision.

SECTION 1. Section 411.174(a), Government Code, is amended to read as follows:

(a) An applicant for a license to carry a handgun must submit to the director's designee described by Section 411.176:

(1) a completed application on a form

provided by the department that requires only the information listed in Subsection (b);

(2) one or more photographs of the applicant that meet the requirements of the department;

(3) a certified copy of the applicant's birth certificate or certified proof of age;

(4) proof of residency in this state;

(5) two complete sets of legible and classifiable fingerprints of the applicant taken by a person appropriately trained in recording fingerprints who is employed by a law enforcement agency or by a private entity designated by a law enforcement agency as an entity qualified to take fingerprints of an applicant for a license under this subchapter;

(6) ~~[a nonrefundable application and license fee of \$140 paid to the department;~~

~~[(7)]~~ evidence of handgun proficiency, in the form and manner required by the department;

~~[(7)] [(8)]~~ an affidavit signed by the applicant stating that the applicant:

(A) has read and understands each provision of this subchapter that creates an offense under the laws of this state and each provision of the laws of this state related to use of deadly force; and

(B) fulfills all the eligibility requirements listed under Section 411.172; and

~~[(8)] [(9)]~~ a form executed by the applicant that authorizes the director to make an inquiry into any noncriminal history records that are necessary to determine the applicant's eligibility for a license under Section 411.172(a).

SECTION 4. Section 411.179, Government Code, is amended by amending Subsection (e) and adding Subsection (f) to read as follows:

(e) ~~[In this subsection, "veteran" has the meaning assigned by Section 411.1951.]~~ The department shall include the designation "VETERAN" on the face of any original, duplicate, modified, or renewed license under this subchapter or on the reverse side of the license, as determined by the department, if the license is issued to a veteran who:

(1) requests the designation; and

(2) provides proof sufficient to the department of the veteran's military service

provided by the department that requires only the information listed in Subsection (b);

(2) one or more photographs of the applicant that meet the requirements of the department;

(3) a certified copy of the applicant's birth certificate or certified proof of age;

(4) proof of residency in this state;

(5) two complete sets of legible and classifiable fingerprints of the applicant taken by a person appropriately trained in recording fingerprints who is employed by a law enforcement agency or by a private entity designated by a law enforcement agency as an entity qualified to take fingerprints of an applicant for a license under this subchapter;

(6) a nonrefundable application and license fee of \$40 ~~[\$140]~~ paid to the department;

(7) evidence of handgun proficiency, in the form and manner required by the department;

(8) an affidavit signed by the applicant stating that the applicant:

(A) has read and understands each provision of this subchapter that creates an offense under the laws of this state and each provision of the laws of this state related to use of deadly force; and

(B) fulfills all the eligibility requirements listed under Section 411.172; and

(9) a form executed by the applicant that authorizes the director to make an inquiry into any noncriminal history records that are necessary to determine the applicant's eligibility for a license under Section 411.172(a).

No equivalent provision.

and honorable discharge.

(f) For purposes of Subsection (e), "veteran" means a person who:

(1) has served in:

(A) the army, navy, air force, coast guard, or marine corps of the United States;

(B) the Texas military forces as defined by Section 437.001; or

(C) an auxiliary service of one of those branches of the armed forces; and

(2) has been honorably discharged from the branch of the service in which the person served.

SECTION 5. Section 411.181(h), Government Code, is amended to read as follows:

(h) If a license holder is required under this section to apply for a duplicate license and the license expires not later than the 60th day after the date of the loss, theft, or destruction of the license, the applicant may renew the license with the modified information included on the new license. ~~[The applicant must pay only the nonrefundable renewal fee.]~~

SECTION 6. Sections 411.185(a) and (b), Government Code, are amended to read as follows:

(a) To renew a license, a license holder must, on or before the date the license expires, submit to the department by mail or, in accordance with the procedure adopted under Subsection (f), on the Internet:

(1) a renewal application on a form provided by the department;

~~[(2) payment of a nonrefundable renewal fee as set by the department;]~~ and

~~(2) [(3)]~~ the informational form described by Subsection (c) signed or electronically acknowledged by the applicant.

(b) The director by rule shall adopt a renewal application form requiring an update of the information on the original completed application. ~~[The director by rule shall set the renewal fee in an amount that is sufficient to cover the actual cost to the department to:~~

~~[(1) verify the information contained in the renewal application form;~~

~~[(2) conduct any necessary investigation concerning the license holder's continued~~

No equivalent provision.

SECTION 2. Sections 411.185(a) and (b), Government Code, are amended to read as follows:

(a) To renew a license, a license holder must, on or before the date the license expires, submit to the department by mail or, in accordance with the procedure adopted under Subsection (f), on the Internet:

(1) a renewal application on a form provided by the department;

(2) payment of a nonrefundable renewal fee of \$40 ~~[as set by the department];~~ and

(3) the informational form described by Subsection (c) signed or electronically acknowledged by the applicant.

(b) The director by rule shall adopt a renewal application form requiring an update of the information on the original completed application. ~~[The director by rule shall set the renewal fee in an amount that is sufficient to cover the actual cost to the department to:~~

~~[(1) verify the information contained in the renewal application form;~~

~~[(2) conduct any necessary investigation concerning the license holder's continued~~

eligibility to hold a license; and
[~~(3) issue the renewed license.~~]

eligibility to hold a license; and
[~~(3) issue the renewed license.~~]

SECTION 7. Sections 411.186(a) and (c), Government Code, are amended to read as follows:

No equivalent provision.

(a) The department shall revoke a license under this section if the license holder:

(1) was not entitled to the license at the time it was issued;

(2) made a material misrepresentation or failed to disclose a material fact in an application submitted under this subchapter;

(3) subsequently becomes ineligible for a license under Section 411.172, unless the sole basis for the ineligibility is that the license holder is charged with the commission of a Class A or Class B misdemeanor or equivalent offense, or of an offense under Section 42.01, Penal Code, or equivalent offense, or of a felony under an information or indictment;

(4) is convicted of an offense under Section 46.035, Penal Code; or

(5) is determined by the department to have engaged in conduct constituting a reason to suspend a license listed in Section 411.187(a) after the person's license has been previously suspended twice for the same reason[; ~~or~~

~~[(6) submits an application fee that is dishonored or reversed if the applicant fails to submit a cashier's check or money order made payable to the "Department of Public Safety of the State of Texas" in the amount of the dishonored or reversed fee, plus \$25, within 30 days of being notified by the department that the fee was dishonored or reversed].~~

(c) A license holder whose license is revoked for a reason listed in Subsection (a) [~~Subsections (a)(1)-(5)~~] may reapply as a new applicant for the issuance of a license under this subchapter after the second anniversary of the date of the revocation if the cause for revocation does not exist on the date of the second anniversary. If the cause for revocation exists on the date of the second anniversary after the date of revocation, the license holder may not apply for a new license until the cause for revocation no longer exists and has not existed for a period of two years.

SECTION 8. Section 411.190(c), Government Code, is amended to read as follows:

(c) In the manner applicable to a person who applies for a license to carry a handgun, the department shall conduct a background check of a person who applies for certification as a qualified handgun instructor. If the background check indicates that the applicant for certification would not qualify to receive a handgun license, the department may not certify the applicant as a qualified handgun instructor. If the background check indicates that the applicant for certification would qualify to receive a handgun license, the department shall provide handgun instructor training to the applicant. The applicant shall pay a fee of \$100 to the department for the training. The applicant must take and successfully complete the training offered by the department and pay the training fee before the department may certify the applicant as a qualified handgun instructor. The department shall issue a license to carry a handgun under the authority of this subchapter to any person who is certified as a qualified handgun instructor ~~[and who pays to the department a fee of \$100 in addition to the training fee]~~. The department by rule may prorate or waive the training fee for an employee of another governmental entity.

No equivalent provision.

No equivalent provision.

SECTION 3. Section 411.190(c), Government Code, is amended to read as follows:

(c) In the manner applicable to a person who applies for a license to carry a handgun, the department shall conduct a background check of a person who applies for certification as a qualified handgun instructor. If the background check indicates that the applicant for certification would not qualify to receive a handgun license, the department may not certify the applicant as a qualified handgun instructor. If the background check indicates that the applicant for certification would qualify to receive a handgun license, the department shall provide handgun instructor training to the applicant. The applicant shall pay a fee of \$100 to the department for the training. The applicant must take and successfully complete the training offered by the department and pay the training fee before the department may certify the applicant as a qualified handgun instructor. The department shall issue a license to carry a handgun under the authority of this subchapter to any person who is certified as a qualified handgun instructor and who pays to the department a fee of \$40 ~~[\$100]~~ in addition to the training fee. The department by rule may prorate or waive the training fee for an employee of another governmental entity.

SECTION 4. The heading to Section 411.194, Government Code, is amended to read as follows:

Sec. 411.194. REDUCTION OF CERTAIN FEES DUE TO INDIGENCY.

SECTION 5. Section 411.194(a), Government Code, is amended to read as follows:

(a) Notwithstanding any other provision of this subchapter, if the department determines that an applicant is indigent, the department shall reduce by:

(1) 50 percent any fee required for the issuance of a [an original,] duplicate or[;] modified[; or renewed] license under this subchapter; and

(2) \$5 any fee required for the issuance of a renewed license under this subchapter ~~[if the department determines that the applicant~~

is indigent].

No equivalent provision.

SECTION 9. Sections 411.201(d) and (h), Government Code, are amended to read as follows:

(d) An applicant for a license who is an active or retired judicial officer must submit to the department:

- (1) a completed application, including all required affidavits, on a form prescribed by the department;
- (2) one or more photographs of the applicant that meet the requirements of the department;
- (3) two complete sets of legible and classifiable fingerprints of the applicant, including one set taken by a person employed by a law enforcement agency who is appropriately trained in recording fingerprints;
- (4) evidence of handgun proficiency, in the form and manner required by the department for an applicant under this section;

~~[(5) a nonrefundable application and license fee set by the department in an amount reasonably designed to cover the administrative costs associated with issuance of a license to carry a handgun under this subchapter;] and~~

(5) ~~[(6)]~~ if the applicant is a retired judicial officer, a form executed by the applicant that authorizes the department to make an inquiry into any noncriminal history records that are necessary to determine the applicant's eligibility for a license under this subchapter.

SECTION 6. Section 411.195, Government Code, is amended to read as follows:

Sec. 411.195. REDUCTION OF CERTAIN FEES FOR SENIOR CITIZENS. Notwithstanding any other provision of this subchapter, if an applicant for the license is 60 years of age or older, the department shall reduce by:

(1) 50 percent any fee required for the issuance of a [an original,] duplicate or[,] modified[, or renewed] license under this subchapter; and

(2) \$5 any fee required for the issuance of a renewed license under this subchapter [if the applicant for the license is 60 years of age or older].

SECTION 7. Section 411.201(d), Government Code, is amended to read as follows:

(d) An applicant for a license who is an active or retired judicial officer must submit to the department:

- (1) a completed application, including all required affidavits, on a form prescribed by the department;
- (2) one or more photographs of the applicant that meet the requirements of the department;
- (3) two complete sets of legible and classifiable fingerprints of the applicant, including one set taken by a person employed by a law enforcement agency who is appropriately trained in recording fingerprints;
- (4) evidence of handgun proficiency, in the form and manner required by the department for an applicant under this section;

(5) a nonrefundable application and license fee of \$25 ~~[set by the department in an amount reasonably designed to cover the administrative costs associated with issuance of a license to carry a handgun under this subchapter]; and~~

(6) if the applicant is a retired judicial officer, a form executed by the applicant that authorizes the department to make an inquiry into any noncriminal history records that are necessary to determine the applicant's eligibility for a license under this subchapter.

(h) The department shall issue a license to carry a handgun under the authority of this subchapter to an elected attorney representing the state in the prosecution of felony cases who meets the requirements of this section for an active judicial officer. ~~[The department shall waive any fee required for the issuance of an original, duplicate, or renewed license under this subchapter for an applicant who is an attorney elected or employed to represent the state in the prosecution of felony cases.]~~

SECTION 10. Section 118.011(b), Local Government Code, as effective until September 1, 2019, is amended to read as follows:

- (b) The county clerk may set and collect the following fee from any person:
- (1) Returned Check (Sec. 118.0215) . . . not less than \$15 or more than \$30
 - (2) Records Management and Preservation Fee (Sec. 118.0216) not more than \$10
 - ~~[(3) Mental Health Background Check for License to Carry a Handgun (Sec. 118.0217) not more than \$2]~~

SECTION 11. (a) Section 118.011(b), Local Government Code, as effective September 1, 2019, is amended to read as follows:

- (b) The county clerk may set and collect the following fee from any person:
- (1) Returned Check (Sec. 118.0215) . . . not less than \$15 or more than \$30
 - (2) Records Management and Preservation Fee (Sec. 118.0216) not more than \$5
 - ~~[(3) Mental Health Background Check for License to Carry a Handgun (Sec. 118.0217) not more than \$2]~~
- (b) This section takes effect September 1, 2019.

SECTION 12. The following provisions are repealed:

- (1) Sections 411.181(d) and (i), 411.186(d), 411.194, 411.195, 411.1951, 411.1952, 411.1953, 411.199(d), 411.1991(c), and 411.1992(d), Government Code; and
- (2) Section 118.0217, Local Government Code.

No equivalent provision.

No equivalent provision.

No equivalent provision.

SECTION 13. The change in law made by this Act applies only to an applicant for an original, duplicate, modified, or renewed license to carry a handgun under Subchapter H, Chapter 411, Government Code, as amended by this Act, who submits the application on or after the effective date of this Act.

SECTION 14. Except as otherwise provided by this Act, this Act takes effect September 1, 2017.

SECTION 8. The change in law made by this Act applies only to an applicant for an original or renewed license to carry a handgun under Subchapter H, Chapter 411, Government Code, as amended by this Act, who submits the application on or after the effective date of this Act.

SECTION 9. This Act takes effect September 1, 2017.