

SUBJECT: Requiring names of concealed handgun licensees to remain confidential

COMMITTEE: Law Enforcement — committee substitute recommended

VOTE: 5 ayes — Driver, Garza, Hupp, Hegar, Keel

0 nays

1 present not voting — Y. Davis

1 absent — Burnam

WITNESSES: For — Alice Tripp, Texas State Rifle Association; Tara Reilly Mica, National Rifle Association

Against — Dennis Baggett, Texas Press Association and Texas Daily Newspaper Association; Bruce Whiteaker, Texas Association of Broadcasters

On — Tommy Davis, Texas Department of Public Safety

BACKGROUND: The 74th Legislature in 1995 enacted SB 60 by Patterson, which permitted Texans to apply for licenses to carry concealed handguns.

Government Code, sec. 411.192, requires that the Department of Public Safety (DPS) disclose to another criminal justice agency whether an individual holds a concealed handgun license. In addition, a person can file a written request, submitted on letterhead or by fax, to DPS to determine whether a certain individual has a concealed handgun license. The law allows DPS to charge a “reasonable fee” to make the search, but currently there is no charge for these requests. DPS releases the name, date of birth, gender, race, and ZIP Code of the concealed handgun license holder.

In addition, Government Code, sec. 411.192, requires that the license holder be notified of the person or agency making the request for the information. Other sections provide for the release of information regarding an applicant or a concealed handgun license holder upon request of that person.

HB 220  
House Research Organization  
page 2

DPS reports that 222,496 Texans hold concealed handgun licenses as of March 3, 2003.

**DIGEST:** CSHB 220 would amend Government Code, sec. 411.192 to delete the requirement that DPS furnish information on concealed handgun licensees to anyone besides a criminal justice agency or the applicant or license holder.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2003.

**SUPPORTERS SAY:** CSHB 220 would help safeguard the privacy of concealed handgun license holders who have legitimate concerns about their personal safety. Personal protection is a paramount concern for concealed handgun license holders, especially the estimated 40,000 female license holders in Texas. The Legislature placed strict requirements that license holders keep their weapons concealed, and it is contrary to that purpose if someone else can force public disclosure through a bureaucratic request. Knowing the license holder's name, date of birth, gender, race, and ZIP Code is sufficient to locate a specific person's address, especially with the search capabilities available on the Internet.

The personal safety of individual concealed handgun license holders outweighs abstract concerns about open information. Stalkers could determine whether a woman held a concealed handgun license and had the legal authority to protect herself. A burglar could file a request about a license holder to discover whether firearms might be kept at a certain address. Such information can be misused in other ways, such as in the case when a Goldthwaite businessman had his insurance canceled after his carrier discovered he held a concealed handgun permit.

Current law allows the release of aggregate data on concealed handgun license holders, and CSHB 220 would not change the availability of that information. Media representatives and academic researchers can reach conclusions about license holders and their behavior without revealing names of individuals. The bill would set a reasonable limit on access to private information by the media. Inquiring whether specific individuals — such as elected

officials or celebrities — are exercising their constitutional right to protect themselves is intrusive and can border on voyeurism by an overly curious press.

**OPPONENTS SAY:**

Government should not collect records that no one has the right to see. Names of those who hold barber's licenses or driver's licenses are public record, and those who carry an instrument of death should be subject to the same degree of scrutiny by the media and other citizens. The free flow of information helps keep both the government and the press responsible and responsive to the people.

Burglars and stalkers are unlikely to make a public record search to target their victims. Criminals tend to be impulsive and would not want to leave a paper trail that could reveal their misdeeds. Current law already requires that the license holder be informed of anyone requesting information about their license.

Many people have legitimate reasons for needing information about concealed handgun licenses. For example, if a person or family members were being stalked or threatened, knowing whether the stalker held a concealed handgun permit would help in making an informed decision about protecting their safety.

A free press, guaranteed by the U.S. and Texas constitutions, provides more protection for the freedom of citizens than any number of concealed handgun holders. The government must operate in the light of day in order for citizens to make informed decisions about public policy. By withholding information that Texans have a right to know, this bill would curtail the liberty of all citizens, including those exercising their Second Amendment right to bear arms.

**OTHER OPPONENTS SAY:**

CSHB 220 may represent an unresolvable clash between those who disagree about whether the First Amendment right to free press or the Second Amendment right to bear arms should guide public policy. Since the DPS processes only 17 to 25 concealed handgun license searches a month, the bill would address an issue that affects relatively few.

HB 220  
House Research Organization  
page 4

NOTES: The committee substitute deleted a provision in the original bill that would have allowed a private investigator to request information on whether a person held a concealed handgun license, while restricting access to information only to criminal justice agencies.