

BILL ANALYSIS

Senate Research Center
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S.B. 1408
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Chapter 411, Government Code, outlines the process and eligibility requirements for obtaining a license to carry (LTC). This statute, alongside Chapter 46, Penal Code, provides for certain professions to enjoy certain privileges with their LTC. These distinctions allow those at-risk individuals to carry in work locations where handguns are typically restricted. First responders are currently prohibited from carrying on duty, even though the nature of their work places them in escalated situations where their well-being is often jeopardized.

The risk of assault for EMS workers is roughly 30 times higher when compared to the average occupational risks in the United States. Most recently, paramedics and firefighters placed themselves in harm's way when they assisted police officers in retrieving downed officers during the July 7, 2016, ambush of Dallas police officers. Similar incidents are reported with regularity, nonetheless these brave men and women are deprived of the liberty to defend themselves.

S.B. 1408 allows for first responders to obtain an LTC that would permit them to carry a concealed handgun while on duty after they complete 20 hours of intensive, handgun-related training.

S.B. 1408 exempts taxpayers and local governments from potential liability costs incurred by first responders carrying and discharging a weapon in accordance with this law.

S.B.1408 establishes that use of a firearm is not within the course of a first responders' duties, but offers first responders a defense to prosecution for discharging their weapon in accordance with this bill.

As proposed, S.B. 1408 amends current law relating to the carrying of a handgun by certain first responders and volunteer emergency services personnel.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the public safety director in SECTION 2 (Section 411.184, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 5, Civil Practice and Remedies Code, by adding Chapter 112, as follows:

CHAPTER 112. LIMITATION OF LIABILITY FOR GOVERNMENTAL UNITS

Sec. 112.001. CERTAIN ACTIONS OF VOLUNTEER EMERGENCY SERVICES PERSONNEL. (a) Defines "governmental unit" and "volunteer emergency services personnel."

(b) Provides that a governmental unit is not liable in a civil action arising from the discharge of a handgun by an individual who is volunteer emergency services personnel and licensed to carry a handgun under Subchapter H (License to Carry

a Handgun), Chapter 411 (Department of Public Safety of the State of Texas), Government Code.

(c) Provides that the discharge of a handgun by an individual who is volunteer emergency services personnel and licensed to carry a handgun under Subchapter H, Chapter 411, Government Code, is outside the course and scope of the individual's duties as volunteer emergency services personnel.

(d) Prohibits this section from being construed to waive the immunity from suit or liability of a governmental unit under Chapter 101 (Tort Claims) or any other law.

SECTION 2. Amends Subchapter H, Chapter 411, Government Code, by adding Section 411.184, as follows:

Sec. 411.184. ON-DUTY FIRST RESPONDER TRAINING COURSE. (a) Defines "first responder."

(b) Requires the public safety director (director) by rule to establish minimum standards for a training course that a first responder who is a license holder must complete before the first responder may carry a concealed handgun while on duty. Sets forth requirements for the training course.

(c) Provides that a first responder is responsible for paying to the course provider the costs of the training course.

(d) Requires the director by rule to approve devices to enable a first responder to secure a handgun if the first responder, while on duty, is required to enter a location where carrying the handgun is prohibited by federal law or otherwise.

(e) Requires the Texas Department of Public Safety (DPS) to issue a certificate of completion to a first responder who completes the training course.

(f) Prohibits a governmental entity that employs or otherwise supervises first responders from adopting a rule or regulation that prohibits a first responder who holds a license to carry a handgun and who has received a certificate of completion from DPS from carrying a concealed handgun while on duty or storing a handgun on the premises of or in a vehicle owned or operated by the governmental entity if the handgun is secured with a device approved by DPS.

(g) Authorizes a first responder to discharge a handgun while on duty only in self-defense.

(h) Provides that this section does not create a cause of action or liability.

(i) Provides that a governmental entity that employs or otherwise supervises first responders is not liable in a civil action arising from the discharge of a handgun by a first responder who is licensed to carry a handgun.

(j) Provides that the discharge of a handgun by a first responder who is licensed to carry a handgun is outside the course and scope of the first responder's duties.

(k) Prohibits this section from being construed to waive the immunity from suit or liability of a governmental entity that employs or otherwise supervises first responders under Chapter 101, Civil Practice and Remedies Code, or any other law.

SECTION 3. Amends Section 46.035(h-1), Penal Code, as added by Chapter 1222 (H.B. 2300), Acts of the 80th Legislature, Regular Session, 2007, as follows:

(h-1) Makes a nonsubstantive change. Provides that it is a defense to prosecution that the actor was:

(1) through (3) makes nonsubstantive changes to these subdivisions; or

(4) a first responder who:

(A) was carrying a concealed handgun and held a license to carry a handgun under Subchapter H, Chapter 411, Government Code;

(B) has received a certificate of completion for a training course under Section 411.184, Government Code; and

(C) was engaged in the actual discharge of the first responder's duties while carrying the handgun.

SECTION 4. Amends Section 46.15(a), Penal Code, as follows:

(a) Provides that Sections 46.02 (Unlawful Carrying Weapons) and 46.03 (Places Weapons Prohibited) do not apply to:

(1) through (9) makes no changes to these subdivisions; or

(10) a first responder who:

(A) is carrying a concealed handgun and holds a license to carry a handgun under Subchapter H, Chapter 411, Government Code;

(B) has received a certificate of completion for a training course under Section 411.184, Government Code; and

(C) is engaged in the actual discharge of the first responder's duties while carrying the handgun.

SECTION 5. Requires the director to adopt the rules necessary to implement Section 411.184, Government Code, as added by this Act, not later than December 1, 2017.

SECTION 6. Prohibits a qualified handgun instructor from offering the training course described by Section 411.184(b), Government Code, as added by this Act, before January 1, 2018.

SECTION 7. Makes application of Chapter 112, Civil Practice and Remedies Code, as added by this Act, prospective.

SECTION 8. Makes application of the change in law made by this Act in amending Sections 46.035 and 46.15, Penal Code, prospective to January 1, 2018.

SECTION 9. Effective date: September 1, 2017.