

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

5.30.09

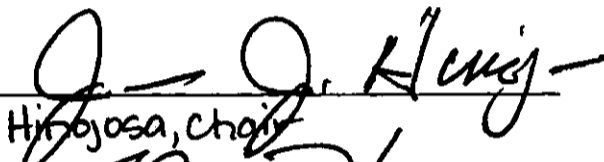
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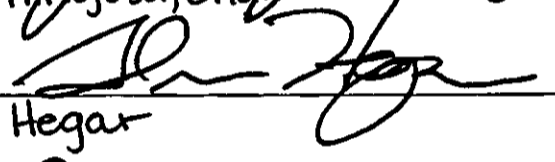
Honorable David Dewhurst
President of the Senate

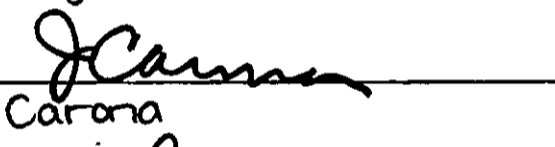
Honorable Joe Straus
Speaker of the House of Representatives

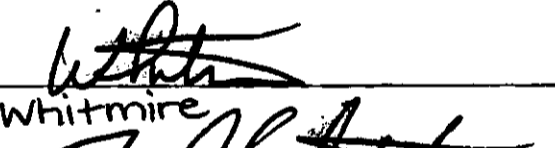
Sirs:

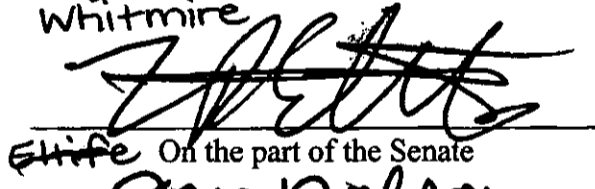
We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on H.B. 2730 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

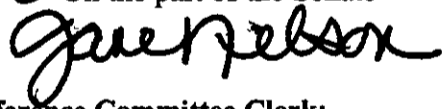

Hinojosa, chair


Hegar

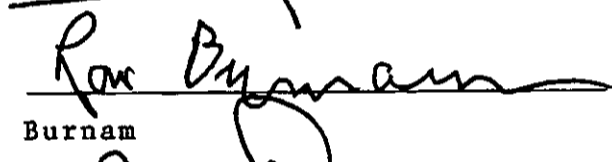

Carona

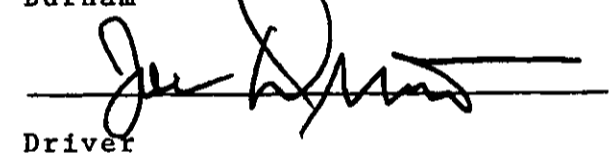

Whitmire

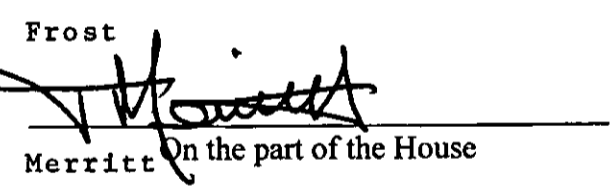

Elife On the part of the Senate


Guenzel


Kolkhorst, Chair


Burnam


Driver


Merritt On the part of the House

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

H.B. No. 2730

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the continuation and functions of the Department of
3 Public Safety of the State of Texas and the Texas Private Security
4 Board; providing a penalty.

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

6 ARTICLE 1. CHANGES TO VEHICLE INSPECTION PROGRAM

7 SECTION 1.01. Section 548.006(i), Transportation Code, is
8 amended to read as follows:

9 (i) The committee shall hold a meeting at least once [~~at~~
10 ~~least two meetings~~] each quarter [~~year~~].

11 SECTION 1.02. Subchapter A, Chapter 548, Transportation
12 Code, is amended by adding Section 548.008 to read as follows:

13 Sec. 548.008. VEHICLE INSPECTION PROGRAM DIRECTOR. (a)
14 The vehicle inspection program is managed by a program director.
15 The program director may not be a commissioned officer.

16 (b) The office of the vehicle inspection program director
17 must be located in Austin, Texas.

18 (c) The duties of the program director include:

19 (1) responsibility for the quality of the vehicle
20 inspection program;

21 (2) coordination of the regional offices;

22 (3) compilation of regional and statewide performance
23 data;

24 (4) the establishment of best practices and

x |

1 distribution of those practices to the regional offices;

2 (5) setting goals for the entire program, in
3 consultation with the public safety director or the public safety
4 director's designee, and setting goals for each regional office in
5 consultation with the regional managers;

6 (6) monitoring the progress toward the goals set in
7 Subdivision (5) and evaluating the program based on that progress;
8 and

9 (7) coordination with the Texas Highway Patrol to
10 enforce provisions related to vehicle inspection.

11 (d) The regional offices shall make reports as requested by
12 the program director.

13 SECTION 1.03. Section 548.501, Transportation Code, is
14 amended by amending Subsection (a) and adding Subsection (c) to
15 read as follows:

16 (a) Except as provided by Sections 548.503 and 548.504, the
17 fee for inspection of a motor vehicle other than a moped is \$14
18 [\$12.50]. The fee for inspection of a moped is \$6.75 [\$5.75]. The
19 fee for a verification form issued as required by Section 548.256 is
20 \$2 [\$1].

21 (c) An inspection station may collect the applicable
22 inspection fee at the time of the original inspection of a vehicle,
23 regardless of whether an inspection certificate is issued at that
24 time. An inspection fee may be included with charges for other
25 products or services but must be shown on a work order for the
26 products or services as a separate item. An inspection fee may be
27 advertised in conjunction with other products or services.

ARTICLE 2. DIVISION OF EMERGENCY MANAGEMENT

PART A. ORGANIZATION OF DIVISION

SECTION 2A.01. Section 418.004, Government Code, is amended by amending Subdivision (2) and adding Subdivision (9) to read as follows:

(2) "Division" means the Texas Division of Emergency Management [~~division of emergency management in the office of the governor~~].

(9) "Department" means the Department of Public Safety of the State of Texas.

SECTION 2A.02. Sections 418.041(a), (b), and (c), Government Code, are amended to read as follows:

(a) The Texas Division of Emergency Management [~~division of emergency management~~] is a division of the department [~~office of the governor~~].

(b) The division is managed by a chief [~~director~~] appointed by the public safety director of the department, with the approval of the governor. The chief [~~director~~] serves at the pleasure of the public safety director [~~governor~~]. The chief must possess professional training and knowledge consisting of not less than five years of managerial or strategic planning experience in matters relating to public safety, security, emergency services, and emergency response.

(c) At least once every two months, the following shall meet to coordinate efforts, prevent overlap of activities, and ensure that the state's approach to emergency management and homeland security is unified:

- 1 (1) a representative of the department;
2 (2) a representative of the division;
3 (3) a representative of the governor's office of
4 homeland security;
5 (4) the presiding officer of the Homeland Security
6 Council; and
7 (5) a state agency representative from the emergency
8 management council, selected by the chair of the emergency
9 management council. [The director shall appoint a state
10 coordinator.]

11 SECTION 2A.03. Section 418.072, Government Code, is amended
12 to read as follows:

13 Sec. 418.072. DISASTER EMERGENCY FUNDING BOARD. The
14 disaster emergency funding board is composed of:

- 15 (1) the governor;
16 (2) the lieutenant governor;
17 (3) the commissioner of insurance;
18 (4) the executive commissioner of the Health and
19 [Department of] Human Services Commission; and
20 (5) the chief [~~director~~] of the division.

21 SECTION 2A.04. Section 418.074(b), Government Code, is
22 amended to read as follows:

23 (b) If a gift, grant, or loan is accepted by the state, the
24 governor, or the emergency management council or chief of the
25 division [~~state coordinator~~] if designated by the governor, may
26 dispense the gift, grant, or loan directly to accomplish the
27 purpose for which it was made or may allocate and transfer to a

1 political subdivision services, equipment, supplies, materials, or
2 funds in the amount the governor or the governor's designee may
3 determine.

4 SECTION 2A.05. Section 431.082, Government Code, is amended
5 by adding Subsection (d) to read as follows:

6 (d) A member of the Texas State Guard called to state active
7 duty in response to a state emergency is a temporary employee of the
8 state while on state active duty.

9 PART B. OTHER AMENDMENTS, INCLUDING CONFORMING AMENDMENTS

10 REFLECTING DIVISION'S NAME CHANGE

11 SECTION 2B.01. Section 12.0012, Agriculture Code, is
12 amended to read as follows:

13 Sec. 12.0012. NOTIFICATION. The department shall, upon
14 submission for publication, notify the Texas Division of Emergency
15 Management [~~division of emergency management in the office of the~~
16 ~~governor~~] of each quarantine it adopts. The department shall
17 thereafter cooperate with the Texas Division of Emergency
18 Management [~~division of emergency management~~] in implementing any
19 necessary safeguards to protect the state's agricultural resources
20 from potential economic, health, or ecological disaster that may
21 result from the quarantined pest or disease.

22 SECTION 2B.02. Sections 88.303(a) and (d), Education Code,
23 are amended to read as follows:

24 (a) Notwithstanding any other law, during any period in
25 which Texas Task Force 1 is activated by the Texas Division of
26 Emergency Management [~~governor's division of emergency~~
27 ~~management~~], or during any training session sponsored or sanctioned

1 by Texas Task Force 1, a participating nongovernment member or
2 local government employee member is included in the coverage
3 provided under Chapter 501, Labor Code, in the same manner as an
4 employee, as defined by Section 501.001, Labor Code.

5 (d) Notwithstanding Section 412.0123, Labor Code, as added
6 by Chapter 1098, Acts of the 75th Legislature, Regular Session,
7 1997, the Texas Division of Emergency Management [~~governor's~~
8 ~~division of emergency management~~] shall reimburse the State Office
9 of Risk Management for the actual medical and indemnity benefits
10 paid on behalf of a covered member of Texas Task Force 1 at the
11 beginning of the next state fiscal year occurring after the date the
12 benefits are paid.

13 SECTION 2B.03. Section 418.014(e), Government Code, is
14 amended to read as follows:

15 (e) An executive order or proclamation shall be
16 disseminated promptly by means intended to bring its contents to
17 the attention of the general public. An order or proclamation shall
18 be filed promptly with the division [~~of emergency management~~], the
19 secretary of state, and the county clerk or city secretary in each
20 area to which it applies unless the circumstances attendant on the
21 disaster prevent or impede the filing.

22 SECTION 2B.04. The heading to Subchapter C, Chapter 418,
23 Government Code, is amended to read as follows:

24 SUBCHAPTER C. TEXAS DIVISION OF EMERGENCY MANAGEMENT

25 SECTION 2B.05. ~~Subchapter C, Chapter 418, Government Code,~~
26 is amended by adding Section 418.050 to read as follows:

27 Sec. 418.050. REENTRY CREDENTIALING PILOT PROGRAM. (a) The

~~1 division shall consider implementing a pilot program for a reentry
 2 credentialing process for reentry into areas previously evacuated
 3 because of a disaster or threat of disaster.~~

~~4 (b) If the division implements a pilot project under this
 5 section, the reentry credentials issued under the project must:~~

~~6 (1) be uniform and commonly constructed;~~

~~7 (2) have common card holder information; and~~

~~8 (3) have security features equivalent to the security
 9 features of a Texas driver's license.~~

~~10 (c) The division may not require residents of an evacuated
 11 area to participate in or comply with a reentry credentialing
 12 process under this section.~~

13 SECTION 2B.06. Section 418.073(d), Government Code, is
 14 amended to read as follows:

15 (d) The [~~governor's~~] division [~~of emergency management~~]
 16 shall administer the disaster contingency fund and shall develop
 17 and implement rules and procedures for providing emergency
 18 assistance from the fund. The division shall annually report to the
 19 speaker of the house of representatives and the lieutenant governor
 20 expenditures from the fund, the overall status of the fund, and any
 21 changes to rules and procedures regarding the fund.

22 SECTION 2B.051. Subchapter C, Chapter 418, Government Code,
 23 is amended by adding Section 418.050 to read as follows:

24 Sec. 418.050. REENTRY CREDENTIALING PILOT PROGRAM. (a) The
 25 division shall consider implementing a pilot program for a reentry
 26 credentialing process for reentry into areas previously evacuated
 27 because of a disaster or threat of disaster.

28 SECTION 2B.07. Section 421.021(a), Government Code, is
 29 amended to read as follows:

30 (a) The Homeland Security Council is composed of the
 31 governor or the governor's designee, the speaker of the house of
 32 representatives or the speaker's designee, the lieutenant governor
 33 or the lieutenant governor's designee, and one representative of

1 each of the following entities, appointed by the single statewide
2 elected or appointed governing officer, administrative head, or
3 chair, as appropriate, of the entity:

- 4 (1) Department of Agriculture;
- 5 (2) office of the attorney general;
- 6 (3) General Land Office;
- 7 (4) Public Utility Commission of Texas;
- 8 (5) Department of State Health Services;
- 9 (6) Department of Information Resources;
- 10 (7) Department of Public Safety of the State of Texas;
- 11 (8) Texas Division of Emergency Management [~~division~~
12 ~~of emergency management of the office of the governor~~];
- 13 (9) adjutant general's department;
- 14 (10) Texas Commission on Environmental Quality;
- 15 (11) Railroad Commission of Texas;
- 16 (12) Texas Strategic Military Planning Commission;
- 17 (13) Texas Department of Transportation;
- 18 (14) Commission on State Emergency Communications;
- 19 (15) Office of State-Federal Relations;
- 20 (16) secretary of state;
- 21 (17) Senate Committee on Transportation and Homeland
22 Security;
- 23 (18) House Committee on Defense and Veterans' Affairs
24 [~~and State-Federal Relations~~];
- 25 (19) Texas Animal Health Commission;
- 26 (20) Texas Association of Regional Councils;
- 27 (21) Texas Commission on Law Enforcement Officer

1 Standards and Education;

2 (22) state fire marshal's office;

3 (23) Texas Education Agency;

4 (24) Texas Commission on Fire Protection;

5 (25) Parks and Wildlife Department;

6 (26) Texas Forest Service; and

7 (27) Texas Water Development Board.

8 SECTION 2B.08⁷. Section 661.907(b), Government Code, is
9 amended to read as follows:

10 (b) The number of certified disaster service volunteers who
11 are eligible for leave under this section may not exceed 350 state
12 employees at any one time during a fiscal year. The Texas Division
13 of Emergency Management [~~division of emergency management in the~~
14 ~~governor's office~~] shall coordinate the establishment and
15 maintenance of the list of eligible employees.

16 SECTION 2B.09⁸. Section 661.919(b), Government Code, is
17 amended to read as follows:

18 (b) The number of amateur radio operators who are eligible
19 for leave under this section may not exceed 350 state employees at
20 any one time during a state fiscal year. The Texas Division of
21 Emergency Management [~~division of emergency management in the~~
22 ~~governor's office~~] shall coordinate the establishment and
23 maintenance of the list of eligible employees.

24 SECTION 2B.10⁰⁹. Section 501.001(5), Labor Code, is amended
25 to read as follows:

26 (5) "Employee" means a person who is:

27 (A) in the service of the state pursuant to an

1 election, appointment, or express oral or written contract of hire;

2 (B) paid from state funds but whose duties
3 require that the person work and frequently receive supervision in
4 a political subdivision of the state;

5 (C) a peace officer employed by a political
6 subdivision, while the peace officer is exercising authority
7 granted under:

8 (i) Article 2.12, Code of Criminal
9 Procedure; or

10 (ii) Articles 14.03(d) and (g), Code of
11 Criminal Procedure;

12 (D) a member of the state military forces, as
13 defined by Section 431.001, Government Code, who is engaged in
14 authorized training or duty; or

15 (E) a Texas Task Force 1 member, as defined by
16 Section 88.301, Education Code, who is activated by the Texas
17 Division of Emergency Management [~~governor's division of emergency~~
18 ~~management~~] or is injured during [~~any~~] training [~~session~~] sponsored
19 or sanctioned by Texas Task Force 1.

20 SECTION 2B.¹⁰ Sections 16.055(a) and (b), Water Code, are
21 amended to read as follows:

22 (a) The chief [~~coordinator~~] of the Texas Division of
23 Emergency Management [~~division of emergency management of the~~
24 ~~office of the governor~~] is the state drought manager. The state
25 drought manager is responsible for managing and coordinating the
26 drought response component of the state water plan.

27 (b) The drought preparedness council is created and shall

1 meet as necessary to carry out the provisions of this section. The
2 council is composed of one representative from each of the
3 following entities, appointed by the administrative head of that
4 entity:

- 5 (1) the Texas Division of Emergency Management
6 [~~division of emergency management of the office of the governor~~];
- 7 (2) the board;
- 8 (3) the commission;
- 9 (4) the Parks and Wildlife Department;
- 10 (5) the Department of Agriculture;
- 11 (6) the Texas AgriLife [~~Agricultural~~] Extension
12 Service;
- 13 (7) the State Soil and Water Conservation Board;
- 14 (8) the Texas Department of Housing and Community
15 Affairs;
- 16 (9) the Texas Forest Service;
- 17 (10) the Texas Department of Transportation;
- 18 (11) the Texas Department of Economic Development; and
- 19 (12) a representative of groundwater management
20 interests who is appointed by the governor.

21 SECTION 2B.¹¹~~42~~. Section 1(3), Chapter 350 (S.B. 1101), Acts
22 of the 71st Legislature, Regular Session, 1989 (Article 6419c,
23 Vernon's Texas Civil Statutes), is amended to read as follows:

24 (3) "Division of emergency management" means the Texas
25 Division of Emergency Management [~~division of emergency management~~
26 ~~of the office of the governor~~].

27 SECTION 2B.¹²~~43~~. A reference in law or a rule to the

1 "governor's division of emergency management" or the "division of
2 emergency management in the office of the governor" means the Texas
3 Division of Emergency Management in the Department of Public Safety
4 of the State of Texas.

5 ARTICLE 3. ADMINISTRATIVE SUSPENSION OF DRIVER'S LICENSE FOR
6 INTOXICATION OFFENSES

7 SECTION 3.01. Section 524.038, Transportation Code, is
8 amended by amending Subsection (d) and adding Subsection (e) to
9 read as follows:

10 (d) An affidavit from an expert witness [~~a person~~] whose
11 presence is timely requested under this section is inadmissible if
12 the expert witness [~~person~~] fails to appear at a hearing without a
13 showing of good cause. Otherwise, an affidavit under this section
14 may be submitted in lieu of an appearance at the hearing by the
15 [~~breath test operator, breath test technical supervisor, or~~] expert
16 witness.

17 (e) An affidavit from a breath test operator or breath test
18 technical supervisor is admissible unless the judge determines that
19 justice requires the breath test operator or breath test technical
20 supervisor to be present.

21 SECTION 3.02⁰¹. Section 524.039, Transportation Code, is
22 amended to read as follows:

23 Sec. 524.039. APPEARANCE OF TECHNICIANS AT HEARING. (a)
24 Not [~~Notwithstanding Section 524.038, if not~~] later than the fifth
25 day before the date of a scheduled hearing, the department
26 receives from the person who requested a hearing may apply to the
27 State Office of Administrative Hearings to issue a subpoena for the

1 attendance [~~written notice, including a facsimile transmission,~~
2 ~~requesting the presence at the hearing]~~ of the breath test operator
3 who took the specimen of the person's breath to determine alcohol
4 concentration or the certified breath test technical supervisor
5 responsible for maintaining and directing the operation of the
6 breath test instrument used to analyze the specimen of the person's
7 breath, or both[, ~~each requested person must appear at the~~
8 ~~hearing~~]. The State Office of Administrative Hearings shall issue
9 the subpoena only on a showing of good cause.

10 (b) The department may reschedule a hearing once not less
11 than 48 hours before the hearing if a [~~the~~] person subpoenaed
12 [~~requested to attend~~] under Subsection (a) is unavailable. The
13 department may also reschedule the hearing on showing good cause
14 that a [~~the~~] person subpoenaed [~~requested~~] under Subsection (a) is
15 not available at the time of the hearing.

16 SECTION 3.⁰²~~03~~. The changes in law made by this article by the
17 amendment of Sections ~~524.038~~ and 524.039, Transportation Code,
18 apply only to a hearing conducted on or after September 1, 2009. A
19 hearing conducted before September 1, 2009, is covered by the law in
20 effect immediately before that date, and the former law is
21 continued in effect for that purpose.

22 SECTION 3.⁰³~~04~~. This article takes effect September 1, 2009.

23 ARTICLE 4. CHANGES TO PRIVATE SECURITY ACT

24 SECTION 4.01. Section 1702.002, Occupations Code, is
25 amended by amending Subdivisions (2), (3), (5), (11), (12), (13),
26 (17), (19), (20), and (21) and adding Subdivision (6-b) to read as
27 follows:

- 1 (11) the Texas Department of Economic Development; and
2 (12) a representative of groundwater management
3 interests who is appointed by the governor.

4 SECTION 2B.11. Section 1(3), Chapter 350 (S.B. 1101), Acts
5 of the 71st Legislature, Regular Session, 1989 (Article 6419c,
6 Vernon's Texas Civil Statutes), is amended to read as follows:

7 (3) "Division of emergency management" means the Texas
8 Division of Emergency Management [~~division of emergency management~~
9 ~~of the office of the governor~~].

10 SECTION 2B.12. A reference in law or a rule to the
11 "governor's division of emergency management" or the "division of
12 emergency management in the office of the governor" means the Texas
13 Division of Emergency Management in the Department of Public Safety
14 of the State of Texas.

15 ARTICLE 3 [blank]

16 ARTICLE 4. CHANGES TO PRIVATE SECURITY ACT

17 SECTION 4.01. Section 1702.002, Occupations Code, is
18 amended by amending Subdivisions (2), (3), (5), (11), (12), (13),
19 (17), (19), (20), and (21) and adding Subdivision (6-b) to read as
20 follows:

21 (2) "Branch office" means an office that is:

22 (A) identified to the public as a place from
23 which business is conducted, solicited, or advertised; and

24 (B) at a place other than the principal place of
25 business as shown in board [~~commission~~] records.

26 (3) "Branch office license" means a permit issued by
27 the board [~~commission~~] that entitles a person to operate at a branch

1 office as a security services contractor or investigations company.

2 (5) "Commissioned security officer" means a security
3 officer to whom a security officer commission has been issued by the
4 board [~~commission~~].

5 (6-b) "Endorsement" means a permit entitling an
6 individual holding a registration to perform a service regulated by
7 this chapter for an appropriately licensed company.

8 (11) "Letter of authority" means a permit issued by
9 the board [~~commission~~] that entitles the security department of a
10 private business or a political subdivision to employ a
11 commissioned security officer.

12 (12) "License" means a permit issued by the board
13 [~~commission~~] that entitles a person to operate as a security
14 services contractor or investigations company.

15 (13) "License holder" means a person to whom the board
16 [~~commission~~] issues a license.

17 (17) "Personal protection officer endorsement
18 [~~authorization~~]" means a permit issued by the board [~~commission~~]
19 that entitles an individual to act as a personal protection
20 officer.

21 (19) "Registrant" means an individual who has
22 registered with the board [~~commission~~] under Section 1702.221.

23 (20) "Registration" means a permit issued by the board
24 [~~commission~~] to an individual described by Section 1702.221.

25 (21) "Security officer commission" means an
26 authorization issued by the board [~~commission~~] that entitles a
27 security officer to carry a firearm.

1 SECTION 4.02. Section 1702.004, Occupations Code, is
2 amended to read as follows:

3 Sec. 1702.004. GENERAL SCOPE OF REGULATION. (a) The board,
4 in addition to performing duties required by other law or
5 exercising powers granted by other law:

6 (1) licenses investigations companies and security
7 services contractors;

8 (2) issues commissions to certain security officers;

9 (3) issues endorsements [~~authorizations~~] to certain
10 security officers engaged in the personal protection of
11 individuals;

12 (4) registers and endorses:

13 (A) certain individuals connected with a license
14 holder; and

15 (B) certain individuals employed in a field
16 connected to private investigation or private security; and

17 (5) regulates license holders, security officers,
18 [~~and~~] registrants, and endorsement holders under this chapter.

19 (b) The board shall adopt rules necessary to comply with
20 Chapter 53 [~~does not apply to this chapter or to any licensing,~~
21 ~~regulatory, or disciplinary determinations made under this~~
22 ~~chapter~~]. In its rules under this section, the board shall list the
23 specific offenses for each category of regulated persons for which
24 a conviction would constitute grounds for the board to take action
25 under Section 53.021.

26 SECTION 4.03. The heading to Subchapter B, Chapter 1702,
27 Occupations Code, is amended to read as follows:

1 SUBCHAPTER B. TEXAS [~~COMMISSION ON~~] PRIVATE SECURITY BOARD

2 SECTION 4.04. Section 1702.021, Occupations Code, is
3 amended to read as follows:

4 Sec. 1702.021. BOARD [~~COMMISSION~~] MEMBERSHIP. (a) The
5 Texas Private Security Board consists of seven members appointed by
6 the governor with the advice and consent of the senate as follows:

7 (1) four public members, each of whom is a citizen of
8 the United States;

9 (2) one member who is licensed under this chapter as a
10 private investigator;

11 (3) one member who is licensed under this chapter as an
12 alarm systems company; and

13 (4) one member who is licensed under this chapter as
14 the owner or operator of a guard company.

15 (b) Appointments to the board [~~commission~~] shall be made
16 without regard to the race, color, disability, sex, religion, age,
17 or national origin of the appointee.

18 [~~(c) On presentation by a commission member of the
19 constitutional oath taken by the member, together with the
20 certificate of appointment, the secretary of state shall issue a
21 commission to the member as evidence of the member's authority to
22 act as a commission member.]~~

23 SECTION 4.05. Section 1702.023, Occupations Code, is
24 amended to read as follows:

25 Sec. 1702.023. ELIGIBILITY OF PUBLIC MEMBERS. The board's
26 [~~commission's~~] public members must be representatives of the
27 general public. A person may not be a public member of the board

1 ~~[commission]~~ if the person or the person's spouse:

2 (1) is registered, commissioned, certified, or
3 licensed by a regulatory agency in the field of private
4 investigations or private security;

5 (2) is employed by or participates in the management
6 of a business entity or other organization regulated by or
7 receiving money from the board ~~[commission]~~;

8 (3) owns or controls, directly or indirectly, more
9 than a 10 percent interest in a business entity or other
10 organization regulated by or receiving money from the board
11 ~~[commission]~~; or

12 (4) uses or receives a substantial amount of tangible
13 goods, services, or money from the board ~~[commission]~~ other than
14 compensation or reimbursement authorized by law for board
15 ~~[commission]~~ membership, attendance, or expenses.

16 SECTION 4.06. Sections 1702.024(b) and (c), Occupations
17 Code, are amended to read as follows:

18 (b) A person may not be a board ~~[commission]~~ member, and may
19 not be a department ~~[commission]~~ employee whose primary duties
20 include private security regulation and who is employed in a "bona
21 fide executive, administrative, or professional capacity," as that
22 phrase is used for purposes of establishing an exemption to the
23 overtime provisions of the federal Fair Labor Standards Act of 1938
24 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, if:

25 (1) the person is an officer, employee, or paid
26 consultant of a Texas trade association in the field of private
27 investigation or private security; or

1 (2) the person's spouse is an officer, manager, or paid
2 consultant of a Texas trade association in the field of private
3 investigation or private security.

4 (c) A person may not be a board [~~commission~~] member or act as
5 general counsel to the board [~~commission~~] or agency if the person is
6 required to register as a lobbyist under Chapter 305, Government
7 Code, because of the person's activities for compensation on behalf
8 of a profession related to the operation of the agency.

9 SECTION 4.07. Section 1702.027, Occupations Code, is
10 amended to read as follows:

11 Sec. 1702.027. GROUNDS FOR REMOVAL. (a) It is a ground for
12 removal from the board [~~commission~~] that a member:

13 (1) does not have the qualifications required by
14 Section 1702.021 at the time of taking office;

15 (2) does not maintain the qualifications required by
16 Section 1702.021 during service on the board [~~commission~~];

17 (3) is ineligible for membership under Section
18 1702.023 or 1702.024;

19 (4) cannot, because of illness or disability,
20 discharge the member's duties for a substantial part of the member's
21 term; or

22 (5) is absent from more than half of the regularly
23 scheduled board [~~commission~~] meetings that the member is eligible
24 to attend during a calendar year without an excuse approved by a
25 majority vote of the board [~~commission~~].

26 (b) The validity of an action of the board [~~commission~~] is
27 not affected by the fact that it is taken when a ground for removal

1 of a board [~~commission~~] member exists.

2 (c) If the chief administrator [~~director~~] has knowledge
3 that a potential ground for removal exists, the chief administrator
4 [~~director~~] shall notify the presiding officer of the board
5 [~~commission~~] of the potential ground. The presiding officer shall
6 then notify the governor and the attorney general that a potential
7 ground for removal exists. If the potential ground for removal
8 involves the presiding officer, the chief administrator [~~director~~]
9 shall notify the next highest ranking officer of the board
10 [~~commission~~], who shall then notify the governor and the attorney
11 general that a potential ground for removal exists.

12 SECTION 4.08. Section 1702.028, Occupations Code, is
13 amended to read as follows:

14 Sec. 1702.028. PER DIEM; REIMBURSEMENT. (a) A board
15 [~~commission~~] member is entitled to a per diem as set by legislative
16 appropriation for each day the member engages in the business of the
17 board [~~commission~~].

18 (b) A member is entitled to reimbursement for travel
19 [~~transportation~~] expenses incurred while conducting board
20 business, including expenses for transportation, meals, and
21 lodging, as prescribed by the General Appropriations Act. [A
22 ~~member may not receive compensation for travel expenses, including~~
23 ~~expenses for meals and lodging, other than transportation~~
24 ~~expenses.~~]

25 SECTION 4.09. Section 1702.029, Occupations Code, is
26 amended to read as follows:

27 Sec. 1702.029. MEETINGS. The board [~~commission~~] shall meet

1 at regular intervals to be decided by the board [~~commission~~].

2 SECTION 4.10. Section 1702.030, Occupations Code, is
3 amended to read as follows:

4 Sec. 1702.030. TRAINING. (a) A person who is appointed to
5 and qualifies for office as a board [~~commission~~] member may not
6 vote, deliberate, or be counted as a member in attendance at a board
7 [~~commission~~] meeting until the person completes a training program
8 that complies with this section.

9 (b) The training program must provide the person with
10 information regarding:

11 (1) this chapter;

12 (2) the programs operated by the board [~~commission~~];

13 (3) the role and functions of the board [~~commission~~];

14 (4) the rules of the board [~~commission~~], with an
15 emphasis on the rules that relate to disciplinary and investigatory
16 authority;

17 (5) the current budget for the board [~~commission~~];

18 (6) the results of the most recent formal audit of the
19 board [~~commission~~];

20 (7) the requirements of:

21 (A) the open meetings law, Chapter 551,
22 Government Code;

23 (B) the public information law, Chapter 552,
24 Government Code;

25 (C) the administrative procedure law, Chapter
26 2001, Government Code; and

27 (D) other laws relating to public officials,

1 including conflict of interest laws; and

2 (8) any applicable ethics policies adopted by the
3 board [~~commission~~] or the Texas Ethics Commission.

4 (c) A person appointed to the board [~~commission~~] is entitled
5 to reimbursement, as provided by the General Appropriations Act,
6 for the travel expenses incurred in attending the training program
7 regardless of whether the attendance at the program occurs before
8 or after the person qualifies for office.

9 SECTION 4.11. The heading to Subchapter C, Chapter 1702,
10 Occupations Code, is amended to read as follows:

11 SUBCHAPTER C. CHIEF ADMINISTRATOR [~~DIRECTOR~~] AND PERSONNEL

12 SECTION 4.12. Section 1702.041, Occupations Code, is
13 amended to read as follows:

14 Sec. 1702.041. CHIEF ADMINISTRATOR [~~DIRECTOR~~]. (a) The
15 [~~director is the~~] chief administrator is responsible for the
16 administration of this chapter under the direction of the board
17 [~~commission~~]. The chief administrator [~~director~~] shall perform
18 duties as prescribed by the board and the department [~~commission~~].

19 (b) The chief administrator [~~director~~] is a full-time
20 employee of the department [~~commission~~]. A board [~~commission~~]
21 member may not serve as chief administrator [~~director~~].

22 SECTION 4.13. Section 1702.042, Occupations Code, is
23 amended to read as follows:

24 Sec. 1702.042. PERSONNEL; CONFLICT OF INTEREST. An
25 employee of the department whose primary duties include private
26 security regulation [~~commission~~] may not:

27 (1) have a financial or business interest, contingent

1 or otherwise, in a security services contractor or investigations
2 company; or

3 (2) be licensed under this chapter.

4 SECTION 4.14. Section 1702.043, Occupations Code, is
5 amended to read as follows:

6 Sec. 1702.043. DIVISION OF RESPONSIBILITIES. The board
7 [~~commission~~] shall develop and implement policies that clearly
8 separate the policy-making responsibilities of the board
9 [~~commission~~] and the management responsibilities of the chief
10 administrator [~~director~~] and staff of the department [~~commission~~].

11 SECTION 4.15. Section 1702.044, Occupations Code, is
12 amended to read as follows:

13 Sec. 1702.044. QUALIFICATIONS AND STANDARDS OF CONDUCT
14 INFORMATION. The chief administrator [~~director~~] or the chief
15 administrator's [~~director's~~] designee shall provide to board
16 [~~commission~~] members and to agency employees, as often as
17 necessary, information regarding the requirements for office or
18 employment under this chapter, including information regarding a
19 person's responsibilities under applicable laws relating to
20 standards of conduct for state officers or employees.

21 SECTION 4.16. The heading to Subchapter D, Chapter 1702,
22 Occupations Code, is amended to read as follows:

23 SUBCHAPTER D. POWERS AND DUTIES OF BOARD [~~COMMISSION~~]

24 SECTION 4.17. Section 1702.061, Occupations Code, is
25 amended to read as follows:

26 Sec. 1702.061. GENERAL POWERS AND DUTIES OF BOARD
27 [~~COMMISSION~~]. (a) The board [~~Texas Commission on Private~~

1 ~~Security~~] shall perform the functions and duties provided by this
2 chapter.

3 (b) The board [~~commission~~] shall adopt rules and general
4 policies to guide the agency in the administration of this chapter.

5 (c) The rules and policies adopted by the board [~~commission~~]
6 under Subsection (b) must be consistent with this chapter and other
7 board [~~commission~~] rules adopted under this chapter and with any
8 other applicable law, state rule, or federal regulation.

9 (d) The board [~~commission~~] has the powers and duties to:

10 (1) determine the qualifications of license holders,
11 registrants, endorsement holders, and commissioned security
12 officers;

13 (2) investigate alleged violations of this chapter and
14 of board [~~commission~~] rules;

15 (3) adopt rules necessary to implement this chapter;
16 and

17 (4) establish and enforce standards governing the
18 safety and conduct of each person licensed, registered, or
19 commissioned under this chapter.

20 (e) The board [~~commission~~] shall have a seal in the form
21 prescribed by the board [~~commission~~].

22 [~~(f) The commission may commission investigators who are~~
23 ~~employed full-time by the commission as peace officers for the~~
24 ~~limited purpose of assisting the commission in investigating~~
25 ~~alleged violations of this chapter and of commission rules.]~~

26 SECTION 4.18. Subchapter D, Chapter 1702, Occupations Code,
27 is amended by adding Section 1702.0612 to read as follows:

1 Sec. 1702.0612. NEGOTIATED RULEMAKING AND ALTERNATIVE
2 DISPUTE RESOLUTION. (a) The board shall develop and implement a
3 policy to encourage the use of:

4 (1) negotiated rulemaking procedures under Chapter
5 2008, Government Code, for the adoption of board rules; and

6 (2) appropriate alternative dispute resolution
7 procedures under Chapter 2009, Government Code, to assist in the
8 resolution of internal and external disputes under the board's
9 jurisdiction.

10 (b) The board's procedures relating to alternative dispute
11 resolution must conform, to the extent possible, to any model
12 guidelines issued by the State Office of Administrative Hearings
13 for the use of alternative dispute resolution by state agencies.

14 (c) The board shall designate a trained person to:

15 (1) coordinate the implementation of the policy
16 adopted under Subsection (a);

17 (2) serve as a resource for any training needed to
18 implement the procedures for negotiated rulemaking or alternative
19 dispute resolution; and

20 (3) collect data concerning the effectiveness of those
21 procedures, as implemented by the board.

22 SECTION 4.19. Section 1702.062, Occupations Code, is
23 amended to read as follows:

24 Sec. 1702.062. FEES. (a) The board [~~commission~~] by rule
25 shall establish reasonable and necessary fees that produce
26 sufficient revenue to administer this chapter. The fees may not
27 produce unnecessary fund balances. [~~and may not exceed the~~

1 following amounts:

2	[Class A license	_____	\$350 (original and renewal)
3	[Class B license	_____	\$400 (original and renewal)
4	[Class C license	_____	\$540 (original and renewal)
5	[Class D license	_____	\$400 (original and renewal)
6	[Reinstate suspended license	_____	\$150
7	[Assignment of license	_____	\$150
8	[Change name of license	_____	\$ 75
9	[Delinquency fee	_____	_____
10	[Branch office certificate and renewal	_____	\$300
11	[Registration fee for private investigator, manager, branch		
12	office manager, locksmith, electronic access control device		
13	installer, and alarm systems installer	\$ 30 (original and renewal)	
14	[Registration fee for noncommissioned security officer	\$ 30	
15	(original and renewal)		
16	[Registration fee for security salesperson	_____	\$ 30
17	[Registration fee for alarm systems monitor	_____	\$ 30
18	[Registration fee for dog trainer	_____	\$ 30
19	[Registration fee for owner, officer, partner, or		
20	shareholder of a license holder	_____	\$ 50
21	[Registration fee for security consultant	_____	\$300
22	[Registration fee for employee of license holder	_____	\$ 30
23	[Security officer commission fee	_____	\$ 50
24	(original and renewal)		
25	[School instructor fee	_____	\$100
26	(original and renewal)		
27	[School approval fee	_____	\$350

1 ~~(original and renewal)~~

2 ~~[Letter of authority fee for private business and political~~
3 ~~subdivision] \$400~~

4 ~~[Letter of authority renewal fee for private business and~~
5 ~~political subdivision] \$225~~

6 ~~[Letter of authority fee for commissioned officer,~~
7 ~~noncommissioned officer, or personal protection officer for~~
8 ~~political subdivision] \$ 10~~

9 ~~[FBI fingerprint check] \$ 25~~

10 ~~[Duplicate pocket card] \$ 10~~

11 ~~[Employee information update fee] \$ 15~~

12 ~~[Burglar alarm sellers renewal fee] \$ 30~~

13 ~~[Personal protection officer authorization] \$ 50]~~

14 (b) The board ~~[In addition to other fees established under~~
15 ~~this chapter, the commission]~~ may charge a fee each time the board
16 ~~[commission]~~ requires a person regulated under this chapter to
17 resubmit a set of fingerprints for processing by the board
18 ~~[commission]~~ during the application process for a license,
19 registration, endorsement, or commission. The board ~~[commission]~~
20 shall set the fee in an amount that is reasonable and necessary to
21 cover the ~~[commission's]~~ administrative expenses related to
22 processing the fingerprints.

23 (c) A person whose pocket card has not expired is not
24 eligible to receive from the board ~~[commission]~~ another pocket card
25 in the same classification in which the pocket card is held.

26 SECTION 4.20. The heading to Section 1702.063, Occupations
27 Code, is amended to read as follows:

1 Sec. 1702.063. BOARD [~~COMMISSION~~] USE OF FINES.

2 SECTION 4.21. Section 1702.0635, Occupations Code, is
3 amended to read as follows:

4 Sec. 1702.0635. RESTRICTIONS ON CERTAIN RULES. The board
5 [~~commission~~] may not adopt rules or establish unduly restrictive
6 experience or education requirements that limit a person's ability
7 to be licensed as an electronic access control device company or be
8 registered as an electronic access control device installer.

9 SECTION 4.22. Section 1702.064, Occupations Code, is
10 amended to read as follows:

11 Sec. 1702.064. RULES RESTRICTING ADVERTISING OR
12 COMPETITIVE BIDDING. (a) The board [~~commission~~] may not adopt
13 rules restricting advertising or competitive bidding by a person
14 regulated by the board [~~commission~~] except to prohibit false,
15 misleading, or deceptive practices by the person.

16 (b) The board [~~commission~~] may not include in its rules to
17 prohibit false, misleading, or deceptive practices by a person
18 regulated by the board [~~commission~~] a rule that:

19 (1) restricts the person's use of any medium for
20 advertising;

21 (2) restricts the person's personal appearance or use
22 of the person's personal voice in an advertisement;

23 (3) relates to the size or duration of an
24 advertisement by the person; or

25 (4) restricts the person's advertisement under a trade
26 name.

27 SECTION 4.23. Section 1702.0645, Occupations Code, is

1 amended to read as follows:

2 Sec. 1702.0645. PAYMENT OF FEES AND FINES. (a) The board
3 [~~commission~~] may adopt rules regarding the method of payment of a
4 fee or a fine assessed under this chapter.

5 (b) Rules adopted under this section may:

6 (1) authorize the use of electronic funds transfer or
7 a valid credit card issued by a financial institution chartered by a
8 state or the federal government or by a nationally recognized
9 credit organization approved by the board [~~commission~~]; and

10 (2) require the payment of a discount or a reasonable
11 service charge for a credit card payment in addition to the fee or
12 the fine.

13 SECTION 4.24. Section 1702.066, Occupations Code, is
14 amended to read as follows:

15 Sec. 1702.066. SERVICE OF PROCESS; SERVICE OF DOCUMENTS ON
16 BOARD [~~COMMISSION~~]. Legal process and documents required by law to
17 be served on or filed with the board [~~commission~~] must be served on
18 or filed with the chief administrator [~~director~~] at the designated
19 office of the board [~~commission~~].

20 SECTION 4.25. Section 1702.067, Occupations Code, is
21 amended to read as follows:

22 Sec. 1702.067. BOARD [~~COMMISSION~~] RECORDS; EVIDENCE. An
23 official record of the board [~~commission~~] or an affidavit by the
24 chief administrator [~~director~~] as to the content of the record is
25 prima facie evidence of a matter required to be kept by the board
26 [~~commission~~].

27 SECTION 4.26. Section 1702.068, Occupations Code, is

1 amended to read as follows:

2 Sec. 1702.068. APPEAL BOND NOT REQUIRED. The board
3 [~~commission~~] is not required to give an appeal bond in any cause
4 arising under this chapter.

5 SECTION 4.27. Section 1702.081, Occupations Code, is
6 amended to read as follows:

7 Sec. 1702.081. PUBLIC INTEREST INFORMATION. (a) The board
8 [~~commission~~] shall prepare information of interest to consumers or
9 recipients of services regulated under this chapter describing the
10 board's [~~commission's~~] regulatory functions and the procedures by
11 which complaints are filed with and resolved by the board
12 [~~commission~~].

13 (b) The board [~~commission~~] shall make the information
14 available to the public and appropriate state agencies.

15 SECTION 4.28. Sections 1702.082(a), (b), (c), and (d),
16 Occupations Code, are amended to read as follows:

17 (a) The board [~~commission by rule shall establish methods by~~
18 ~~which consumers and service recipients are notified of the name,~~
19 ~~mailing address, and telephone number of the commission for the~~
20 ~~purpose of directing complaints to the commission. The commission~~
21 ~~may provide for that notice.~~

22 [~~(1) on each registration form, application, or~~
23 ~~written contract for services of a person regulated under this~~
24 ~~chapter,~~

25 [~~(2) on a sign prominently displayed in the place of~~
26 ~~business of each person regulated under this chapter, or~~

27 [~~(3) in a bill for services provided by a person~~

1 ~~regulated under this chapter.~~

2 ~~[(b) The commission]~~ shall maintain a system to promptly and
3 efficiently act on complaints ~~[file on each written complaint]~~
4 filed with the board ~~[commission]~~. The board shall maintain
5 information about parties to the complaint, ~~[file must include:~~

6 ~~[(1) the name of the person who filed the complaint,~~

7 ~~[(2) the date the complaint is received by the~~
8 ~~commission,~~

9 ~~[(3)]~~ the subject matter of the complaint, ~~[+~~

10 ~~[(4) the name of each person contacted in relation to~~
11 ~~the complaint,~~

12 ~~[(5)]~~ a summary of the results of the review or
13 investigation of the complaint, ~~[+~~ and its disposition

14 ~~[(6) an explanation of the reason the file was closed,~~
15 ~~if the agency closed the file without taking action other than to~~
16 ~~investigate the complaint].~~

17 (b) ~~[(a)]~~ The board ~~[commission]~~ shall make information
18 available describing its ~~[provide to the person filing the~~
19 ~~complaint a copy of the commission's policies and]~~ procedures for
20 [relating to] complaint investigation and resolution.

21 (c) The board shall periodically notify the complaint
22 parties of the status of the complaint until final disposition.

23 ~~[(d) Unless it would jeopardize an undercover investigation, the~~
24 ~~commission shall provide to each person who is a subject of the~~
25 ~~complaint a copy of the commission's policies and procedures~~
26 ~~relating to complaint investigation and resolution.]~~

27 SECTION 4.29. Section 1702.083, Occupations Code, is

1 amended to read as follows:

2 Sec. 1702.083. PUBLIC PARTICIPATION. The board
3 [~~commission~~] shall develop and implement policies that provide the
4 public with a reasonable opportunity to appear before the board
5 [~~commission~~] and to speak on any issue under the board's
6 [~~commission's~~] jurisdiction.

7 SECTION 4.30. Section 1702.084, Occupations Code, is
8 amended to read as follows:

9 Sec. 1702.084. PUBLIC ACCESS TO CERTAIN RECORDS OF
10 DISCIPLINARY ACTIONS. (a) The board [~~commission~~] shall make
11 available to the public through a toll-free telephone number,
12 Internet website, or other easily accessible medium determined by
13 the board [~~commission~~] the following information relating to a
14 disciplinary action taken during the preceding three years
15 regarding a person regulated by the board [~~commission~~]:

- 16 (1) the identity of the person;
17 (2) the nature of the complaint that was the basis of
18 the disciplinary action taken against the person; and
19 (3) the disciplinary action taken by the board
20 [~~commission~~].

21 (b) In providing the information, the board [~~commission~~]
22 shall present the information in an impartial manner, use language
23 that is commonly understood, and, if possible, avoid jargon
24 specific to the security industry.

25 (c) The board [~~commission~~] shall update the information on a
26 monthly basis.

27 (d) The board [~~commission~~] shall maintain the

1 confidentiality of information regarding the identification of a
2 complainant.

3 SECTION 4.31. Section 1702.103, Occupations Code, is
4 amended to read as follows:

5 Sec. 1702.103. CLASSIFICATION AND LIMITATION OF LICENSES.

6 (a) The license classifications are:

7 (1) Class A: investigations company license, covering
8 operations of an investigations company;

9 (2) Class B: security services contractor license,
10 covering operations of a security services contractor;

11 (3) Class C: covering the operations included within
12 Class A and Class B; [~~and~~]

13 (4) Class F: level III training school license;

14 (5) Class O: alarm level I training school license;

15 (6) Class P: private business letter of authority
16 license;

17 (7) Class X: government letter of authority license;

18 and

19 (8) Class T: telematics license [~~Class D: electronic~~
20 ~~access control device license, covering operations of an electronic~~
21 ~~access control device company].~~

22 (b) A [~~Class A, B, C, or D~~] license described by this chapter
23 does not authorize the license holder to perform a service for which
24 the license holder has not qualified. A person may not engage in an
25 operation outside the scope of that person's license. The board
26 [~~commission~~] shall indicate on the license the services the license
27 holder is authorized to perform. The license holder may not perform

1 a service unless it is indicated on the license.

2 (c) A license is not assignable unless the assignment is
3 approved in advance by the board [~~commission~~].

4 (d) The board [~~commission~~] shall prescribe by rule the
5 procedure under which a license may be terminated.

6 (e) The board by rule may establish other license
7 classifications for activities expressly regulated by this chapter
8 and may establish qualifications and practice requirements
9 consistent with this chapter for those license classifications.

10 SECTION 4.32. Section 1702.111, Occupations Code, is
11 amended to read as follows:

12 Sec. 1702.111. ISSUANCE OF BRANCH OFFICE LICENSE. (a) A
13 license holder, in accordance with Section 1702.129, shall notify
14 the board [~~commission~~] in writing of the establishment of a branch
15 office and file in writing with the board [~~commission~~] the address
16 of the branch office.

17 (b) On application by a license holder, the board
18 [~~commission~~] shall issue a branch office license.

19 SECTION 4.33. Sections 1702.113(a) and (c), Occupations
20 Code, are amended to read as follows:

21 (a) An applicant for a license, certificate of
22 registration, endorsement, or security officer commission or the
23 applicant's manager must be at least 18 years of age and must not:

24 (1) [~~have been convicted in any jurisdiction of two or~~
25 ~~more felony offenses, unless full pardons have been granted for all~~
26 ~~convictions for reasons relating to wrongful convictions,~~

27 [(2) ~~have been convicted in any jurisdiction of any of~~

ADOPTED

MAY 27 2009

Atty. Gen.
Secretary of the Senate

FLOOR AMENDMENT NO. ~~11~~

BY: *Carona*

1 Amend Floor Amendment No. 10 by _____ to C.S.H.B. No.
2 2730 as follows:

3 (1) On page 1, strike lines 1 and 2 of the amendment and
4 substitute the following:

5 Amend C.S.H.B. No. 2730 (senate committee printing) as
6 follows:

7 (1) Strike Section 4.37 of the bill and substitute the
8 following:

9 (2) On page 1 of the amendment, insert the following
10 immediately after line 17:

11 (2) Add the following appropriately numbered SECTIONS to
12 Article 4 of the bill and renumber subsequent SECTIONS in that
13 article accordingly:

14 SECTION 4.32. Section 1702.104, Occupations Code, is
15 amended to read as follows:

16 Sec. 1702.104. INVESTIGATIONS COMPANY. (a) A person acts
17 as an investigations company for the purposes of this chapter if the
18 person:

19 (1) engages in the business of obtaining or
20 furnishing, or accepts employment to obtain or furnish, information
21 related to:

22 (A) crime or wrongs done or threatened against a
23 person, state, or the United States;

24 (B) the identity, habits, business, occupation,
25 knowledge, efficiency, loyalty, movement, location, affiliations,
26 associations, transactions, acts, reputation, or character of a
27 person;

28 (C) the location, disposition, or recovery of
29 lost or stolen property; or

1 (D) the cause or responsibility for a fire,
2 libel, loss, accident, damage, or injury to a person or to property;

3 (2) engages in the business of securing, or accepts
4 employment to secure, evidence for use before a court, board,
5 officer, or investigating committee;

6 (3) engages in the business of securing, or accepts
7 employment to secure, the electronic tracking of the location of an
8 individual or motor vehicle other than for criminal justice
9 purposes by or on behalf of a governmental entity; or

10 (4) engages in the business of protecting, or accepts
11 employment to protect, an individual from bodily harm through the
12 use of a personal protection officer.

13 (b) For purposes of Subsection (a)(1), obtaining or
14 furnishing information includes information obtained or furnished
15 through the review and analysis of, and the investigation into the
16 content of, computer-based data not available to the public. The
17 repair or maintenance of a computer does not constitute an
18 investigation for purposes of this section and does not require
19 licensing under this chapter if:

20 (1) the review or analysis of computer-based data is
21 performed only to diagnose a computer or software problem;

22 (2) there is no intent to obtain or furnish
23 information described by Subsection (a)(1); and

24 (3) the discovery of any information described by
25 Subsection (a)(1) is inadvertent.

26 SECTION 4. Section 1702.324(b), Occupations Code, is
27 amended to read as follows:

28 (b) This chapter does not apply to:

29 (1) a manufacturer or a manufacturer's authorized
30 distributor while selling equipment intended for resale;

31 (2) a person engaged exclusively in the business of

1 a service unless it is indicated on the license.

2 (c) A license is not assignable unless the assignment is
3 approved in advance by the board [~~commission~~].

4 (d) The board [~~commission~~] shall prescribe by rule the
5 procedure under which a license may be terminated.

6 (e) The board by rule may establish other license
7 classifications for activities expressly regulated by this chapter
8 and may establish qualifications and practice requirements
9 consistent with this chapter for those license classifications.

10 SECTION 4.³³~~92~~. Section 1702.111, Occupations Code, is
11 amended to read as follows:

12 Sec. 1702.111. ISSUANCE OF BRANCH OFFICE LICENSE. (a) A
13 license holder, in accordance with Section 1702.129, shall notify
14 the board [~~commission~~] in writing of the establishment of a branch
15 office and file in writing with the board [~~commission~~] the address
16 of the branch office.

17 (b) On application by a license holder, the board
18 [~~commission~~] shall issue a branch office license.

19 SECTION 4.³⁴~~93~~. Sections 1702.113(a) and (c), Occupations
20 Code, are amended to read as follows:

21 (a) An applicant for a license, certificate of
22 registration, endorsement, or security officer commission or the
23 applicant's manager must be at least 18 years of age and must not:

24 (1) [~~have been convicted in any jurisdiction of two or~~
25 ~~more felony offenses, unless full pardons have been granted for all~~
26 ~~convictions for reasons relating to wrongful convictions,~~

27 [(2) ~~have been convicted in any jurisdiction of any of~~

1 ~~the following:~~

2 ~~[(A) a single felony or equivalent offense for~~
3 ~~which the 20th anniversary of the date of conviction has not~~
4 ~~occurred before the date of application, unless a full pardon has~~
5 ~~been granted for reasons relating to a wrongful conviction, or~~

6 ~~[(B) a Class A misdemeanor or equivalent offense~~
7 ~~for which the 10th anniversary of the date of conviction has not~~
8 ~~occurred before the date of application, unless a full pardon has~~
9 ~~been granted for reasons relating to a wrongful conviction,~~

10 ~~[(3)]~~ at the time of application be charged with the
11 commission of a Class A misdemeanor or felony offense, under an
12 information or indictment;

13 ~~[(4) in the 10 years preceding the date of~~
14 ~~application, have been adjudicated as having engaged in delinquent~~
15 ~~conduct violating a penal law of the grade of felony,]~~

16 (2) ~~[(5)]~~ have been found by a court to be incompetent
17 by reason of a mental defect or disease and not have been restored
18 to competency;

19 (3) ~~[(6)]~~ have been dishonorably discharged from the
20 United States armed services, discharged from the United States
21 armed services under other conditions determined by the board to be
22 prohibitive, or dismissed from the United States armed services if
23 a commissioned officer in the United States armed services; or

24 (4) ~~[(7)]~~ be required to register in this or any other
25 state as a sex offender, unless the applicant is approved by the
26 board under Section 1702.3615.

27 (c) For purposes of this section, an offense under the laws

1 of this state, another state, or the United States is considered [+
2 ~~[(1) a felony if the offense:~~
3 ~~[(A) at the time of conviction was designated by~~
4 ~~a law of this state as a felony, including a state jail felony,~~
5 ~~[(B) contains all the elements of an offense~~
6 ~~designated by a law of this state as a felony, including a state~~
7 ~~jail felony, or~~
8 ~~[(C) is punishable by confinement for one year or~~
9 ~~more in a penitentiary,~~
10 ~~[(2) a Class A misdemeanor if the offense is not a~~
11 ~~felony and the offense:~~
12 ~~[(A) at the time of conviction was designated by~~
13 ~~a law of this state as a Class A misdemeanor,~~
14 ~~[(B) contains all the elements of an offense~~
15 ~~designated by a law of this state as a Class A misdemeanor, or~~
16 ~~[(C) provides as a possible punishment~~
17 ~~confinement in a jail other than a state jail felony facility, or~~
18 ~~[(3)] a Class B misdemeanor if the offense is not a~~
19 ~~felony or Class A misdemeanor and the offense:~~
20 (1) ~~[(A)]~~ at the time of conviction was designated by
21 a law of this state as a Class B misdemeanor;
22 (2) ~~[(B)]~~ contains all the elements of an offense
23 designated by a law of this state as a Class B misdemeanor; or
24 (3) ~~[(C)]~~ provides as a possible punishment
25 confinement in a jail other than a state jail felony facility.
26 ³⁵ SECTION 4.94. Section 1702.114, Occupations Code, is
27 amended to read as follows:

1 Sec. 1702.114. ADDITIONAL QUALIFICATIONS FOR
2 INVESTIGATIONS COMPANY LICENSE. (a) An applicant for a license to
3 engage in the business of an investigations company or the
4 applicant's manager must have, before the date of the application,
5 three consecutive years' experience in the investigative field as
6 an employee, manager, or owner of an investigations company or
7 satisfy other requirements set by the board [~~commission~~].

8 (b) The applicant's experience must be:

9 (1) reviewed by the board [~~commission~~] or the chief
10 administrator [~~director~~]; and

11 (2) determined to be adequate to qualify the applicant
12 to engage in the business of an investigations company.

13 SECTION 4.³⁶~~35~~. Section 1702.115, Occupations Code, is
14 amended to read as follows:

15 Sec. 1702.115. ADDITIONAL QUALIFICATIONS FOR SECURITY
16 SERVICES CONTRACTOR LICENSE. (a) An applicant for a license to
17 engage in the business of a security services contractor or the
18 applicant's manager must have, before the date of the application,
19 two consecutive years' experience in each security services field
20 for which the person applies as an employee, manager, or owner of a
21 security services contractor or satisfy other requirements set by
22 the board [~~commission~~].

23 (b) The applicant's experience must have been obtained
24 legally and must be:

25 (1) reviewed by the board [~~commission~~] or the chief
26 administrator [~~director~~]; and

27 (2) determined to be adequate to qualify the applicant

1 to engage in the business of a security services contractor.

2 SECTION 4.³⁷~~36~~. Section 1702.116, Occupations Code, is
3 amended to read as follows:

4 Sec. 1702.116. QUALIFICATIONS FOR GUARD DOG COMPANY
5 LICENSE; INSPECTIONS. (a) An applicant for a license to engage in
6 the business of a guard dog company must:

7 (1) meet the requirements of Sections 1702.113 and
8 1702.115; and

9 (2) present evidence satisfactory to the board
10 [~~commission~~] that the applicant will comply with the rules adopted
11 under this section.

12 (b) After consulting the [~~Texas~~] Department of State Health
13 Services, the board [~~commission~~] shall adopt rules to ensure that
14 the areas in which a guard dog company houses, exercises, or trains
15 its animals are securely enclosed by a six-foot chain-link fence or
16 made equally secure.

17 (c) The board [~~commission~~] shall conduct regular
18 inspections to ensure compliance with the rules adopted under this
19 section.

20 SECTION 4.37. Sections 1702.117(a), (c), and (d),
21 Occupations Code, are amended to read as follows:

22 (a) The board [~~commission~~] shall require an applicant for a
23 commission, license, registration, or endorsement under this
24 chapter or the applicant's manager to demonstrate qualifications in
25 the person's license classification, including knowledge of
26 applicable state laws and board [~~commission~~] rules, by taking an
27 examination to be determined by the board [~~commission~~].

ADOPTED

FLOOR AMENDMENT NO. 10

MAY 27 2009

BY: *J. J. Hunsinger*

Henry Jones
Secretary of the Senate

1 Amend C.S.H.B. No. 2730 (senate committee printing) by
2 amending SECTION 4.37 as follows:

3 SECTION 4.37. Sections 1702.117(a), (c), and (d),
4 Occupations Code, are amended to read as follows:

5 (a) The board [~~commission~~] shall require an applicant
6 for a license under this chapter or the applicant's manager to
7 demonstrate qualifications in the person's license
8 classification, including knowledge of applicable state laws and
9 board [~~commission~~] rules, by taking an examination to be
10 determined by the board [~~commission~~].

11 (c) The board [~~commission~~] shall set the reexamination
12 fee in an amount not to exceed the amount of the renewal fee for
13 the license classification for which application was made.

14 (d) The board [~~commission~~] shall develop and provide
15 to a person who applies to take the examination under Subsection
16 (a) material containing all applicable state laws and board
17 [~~commission~~] rules.

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1 (c) The board [~~commission~~] shall set the reexamination fee
2 in an amount not to exceed the amount of the renewal fee for the
3 license classification for which application was made.

4 (d) The board [~~commission~~] shall develop and provide to a
5 person who applies to take the examination under Subsection (a)
6 material containing all applicable state laws and board
7 [~~commission~~] rules.

8 SECTION 4.98. Section 1702.118, Occupations Code, is
9 amended to read as follows:

10 Sec. 1702.118. EXAMINATION RESULTS. (a) Not later than the
11 30th day after the date a person takes a licensing examination under
12 this chapter, the board [~~commission~~] shall notify the person of the
13 examination results.

14 (b) If an examination is graded or reviewed by a testing
15 service:

16 (1) the board [~~commission~~] shall notify the person of
17 the examination results not later than the 14th day after the date
18 the board [~~commission~~] receives the results from the testing
19 service; and

20 (2) if notice of the examination results will be
21 delayed for longer than 90 days after the examination date, the
22 board [~~commission~~] shall notify the person of the reason for the
23 delay before the 90th day.

24 (c) The board [~~commission~~] may require a testing service to
25 notify a person of the results of the person's examination.

26 (d) If requested in writing by a person who fails a
27 licensing examination administered under this chapter, the board

1 [~~commission~~] shall furnish the person with an analysis of the
2 person's performance on the examination.

3 SECTION 4.⁴⁰~~99~~. Section 1702.1183, Occupations Code, is
4 amended to read as follows:

5 Sec. 1702.1183. RECIPROCAL LICENSE FOR CERTAIN FOREIGN
6 APPLICANTS. (a) The board [~~commission~~] may waive any prerequisite
7 to obtaining a license for an applicant who holds a license issued
8 by another jurisdiction with which this state has a reciprocity
9 agreement.

10 (b) The board [~~commission~~] may make an agreement, subject to
11 the approval of the governor, with another state to allow for
12 licensing by reciprocity.

13 SECTION 4.⁴¹~~40~~. Section 1702.1186, Occupations Code, is
14 amended to read as follows:

15 Sec. 1702.1186. PROVISIONAL LICENSE. (a) The board
16 [~~commission~~] may issue a provisional license to an applicant
17 currently licensed in another jurisdiction who seeks an equivalent
18 license in this state and who:

19 (1) has been licensed in good standing as an
20 investigations company or security services contractor for at least
21 two years in another jurisdiction, including a foreign country,
22 that has licensing requirements substantially equivalent to the
23 requirements of this chapter;

24 (2) has passed a national or other examination
25 recognized by the board [~~commission~~] relating to the practice of
26 private investigations or security services contracting; and

27 (3) is sponsored by a person licensed by the board

1 [~~commission~~] under this chapter with whom the provisional license
2 holder will practice during the time the person holds a provisional
3 license.

4 (b) A provisional license is valid until the date the board
5 [~~commission~~] approves or denies the provisional license holder's
6 application for a license. The board [~~commission~~] shall issue a
7 license under this chapter to the provisional license holder if:

8 (1) the provisional license holder is eligible to be
9 licensed under Section 1702.1183; or

10 (2) the provisional license holder:

11 (A) passes the part of the examination under
12 Section 1702.117(a) that relates to the applicant's knowledge and
13 understanding of the laws and rules relating to the practice of an
14 investigations company or security services contractor in this
15 state;

16 (B) is verified by the board [~~commission~~] as
17 meeting the academic and experience requirements for a license
18 under this chapter; and

19 (C) satisfies any other licensing requirements
20 under this chapter.

21 (c) The board [~~commission~~] must approve or deny a
22 provisional license holder's application for a license not later
23 than the 180th day after the date the provisional license is issued.
24 The board [~~commission~~] may extend the 180-day period if the results
25 of an examination have not been received by the board [~~commission~~]
26 before the end of that period.

27 (d) The board [~~commission~~] may establish a fee for

1 provisional licenses in an amount reasonable and necessary to cover
2 the cost of issuing the license.

3 SECTION 4.⁴²~~41~~. Section 1702.120(b), Occupations Code, is
4 amended to read as follows:

5 (b) An individual may not apply to the board [~~commission~~] to
6 serve as manager of an investigations company, guard company, alarm
7 systems company, armored car company, courier company, or guard dog
8 company without the intent to maintain that supervisory position on
9 a daily basis for that company.

10 SECTION 4.⁴³~~42~~. Section 1702.122, Occupations Code, is
11 amended to read as follows:

12 Sec. 1702.122. TEMPORARY CONTINUATION OF LICENSE HOLDER'S
13 BUSINESS. Under the terms provided by board [~~commission~~] rule, a
14 license holder's business may continue for a temporary period if
15 the individual on the basis of whose qualifications a license under
16 this chapter has been obtained ceases to be connected with the
17 license holder.

18 SECTION 4.⁴⁴~~43~~. Section 1702.123, Occupations Code, is
19 amended to read as follows:

20 Sec. 1702.123. INSURANCE; BOND. (a) A license holder shall
21 maintain on file with the board [~~commission~~] at all times the surety
22 bond and certificate of insurance required by this chapter.

23 (b) The board [~~commission~~] shall immediately suspend the
24 license of a license holder who violates Subsection (a).

25 (c) The board [~~commission~~] may rescind the license
26 suspension if the license holder provides proof to the board
27 [~~commission~~] that the bond or the insurance coverage is still in

1 effect. The license holder must provide the proof in a form
2 satisfactory to the board [~~commission~~] not later than the 10th day
3 after the date the license is suspended.

4 (d) After suspension of the license, the board [~~commission~~]
5 may not reinstate the license until an application, in the form
6 prescribed by the board [~~commission~~], is filed accompanied by a
7 proper bond, insurance certificate, or both. The board
8 [~~commission~~] may deny the application notwithstanding the
9 applicant's compliance with this section:

10 (1) for a reason that would justify suspending,
11 revoking, or denying a license; or

12 (2) if, during the suspension, the applicant performs
13 a practice for which a license is required.

14 SECTION 4.⁴⁵~~44~~. Section 1702.125, Occupations Code, is
15 amended to read as follows:

16 Sec. 1702.125. BOND REQUIREMENT. A bond executed and filed
17 with the board [~~commission~~] under this chapter remains in effect
18 until the surety terminates future liability by providing to the
19 board [~~commission~~] at least 30 days' notice of the intent to
20 terminate liability.

21 SECTION 4.⁴⁶~~45~~. Section 1702.129, Occupations Code, is
22 amended to read as follows:

23 Sec. 1702.129. NOTICE OF CERTAIN CHANGES; BRANCH OFFICES.

24 (a) A license holder shall notify the board [~~commission~~] not later
25 than the 14th day after the date of:

26 (1) a change of address for the license holder's
27 principal place of business;

1 (2) a change of a name under which the license holder
2 does business; or

3 (3) a change in the license holder's officers or
4 partners.

5 (b) A license holder shall notify the board [~~commission~~] in
6 writing not later than the 14th day after the date a branch office:

7 (1) is established;

8 (2) is closed; or

9 (3) changes address or location.

10 SECTION 4.⁴⁷~~46~~. Section 1702.131, Occupations Code, is
11 amended to read as follows:

12 Sec. 1702.131. ADVERTISING. An advertisement by a license
13 holder soliciting or advertising business must contain the license
14 holder's company name and address as stated in board [~~commission~~]
15 records.

16 SECTION 4.⁴⁹~~47~~. Section 1702.161(b), Occupations Code, is
17 amended to read as follows:

18 (b) An individual employed as a security officer may not
19 knowingly carry a firearm during the course of performing duties as
20 a security officer unless the board [~~commission~~] has issued a
21 security officer commission to the individual.

22 SECTION 4.⁴⁹~~48~~. Section 1702.162, Occupations Code, is
23 amended to read as follows:

24 Sec. 1702.162. EMPLOYER'S APPLICATION FOR SECURITY OFFICER
25 COMMISSION. The employer of a security officer who applies for a
26 security officer commission for the officer must submit an
27 application to the board [~~commission~~] on a form provided by the

1 board [~~commission~~].

2 SECTION 4.⁵⁰~~49~~. Section 1702.165, Occupations Code, is
3 amended to read as follows:

4 Sec. 1702.165. ISSUANCE OF SECURITY OFFICER COMMISSION;
5 POCKET CARD. (a) The board [~~commission~~], with the concurrence of
6 the department [~~Texas Department of Public Safety~~]:

7 (1) may issue a security officer commission to an
8 individual employed as a uniformed security officer; and

9 (2) shall issue a security officer commission to a
10 qualified employee of an armored car company that is a carrier
11 conducting the armored car business under a federal or state permit
12 or certificate.

13 (b) A security officer commission issued under this section
14 must be in the form of a pocket card designed by the board
15 [~~commission~~] that identifies the security officer.

16 SECTION 4.⁵¹~~50~~. Section 1702.167, Occupations Code, is
17 amended to read as follows:

18 Sec. 1702.167. TERMINATION OF EMPLOYMENT AS COMMISSIONED
19 SECURITY OFFICER; TRANSFER OF COMMISSION. The holder of a security
20 officer commission who terminates employment with one employer may
21 transfer the individual's commission to a new employer if, not
22 later than the 14th day after the date the individual begins the new
23 employment, the new employer notifies the board [~~commission~~] of the
24 transfer of employment on a form prescribed by the board
25 [~~commission~~], accompanied by payment of the employee information
26 update fee.

27 SECTION 4.⁵²~~51~~. Sections 1702.1675(a), (b), (c), (d), (e),

1 (f), and (i), Occupations Code, are amended to read as follows:

2 (a) The board [~~commission~~] shall establish a basic training
3 course for commissioned security officers. The course must
4 include, at a minimum:

- 5 (1) general security officer training issues;
- 6 (2) classroom instruction on handgun proficiency; and
- 7 (3) range instruction on handgun proficiency.

8 (b) The course must be offered and taught by schools and
9 instructors approved by the board [~~commission~~]. To receive board
10 [~~commission~~] approval, a school or an instructor must submit an
11 application to the board [~~commission~~] on a form provided by the
12 board [~~commission~~].

13 (c) The basic training course approved by the board
14 [~~commission~~] must consist of a minimum of 30 hours.

15 (d) The general security officer training portion of the
16 course must include instruction on:

- 17 (1) board [~~commission~~] rules and applicable state
18 laws;
- 19 (2) field note taking and report writing; and
- 20 (3) any other topics of security officer training
21 curriculum the board [~~commission~~] considers necessary.

22 (e) The board [~~commission~~] shall develop a commissioned
23 security officer training manual that contains applicable state
24 laws and board [~~commission~~] rules to be used in the instruction and
25 training of commissioned security officers.

26 (f) The board [~~commission~~] shall adopt rules necessary to
27 administer the provisions of this section concerning the training

1 requirements of this chapter.

2 (i) The board [~~commission~~] by rule shall establish minimum
3 standards for handgun proficiency that are at least as stringent as
4 the standards for handgun proficiency developed by the public
5 safety director under Section 411.188, Government Code.

6 SECTION 4.⁵³~~52~~. Section 1702.168, Occupations Code, is
7 amended to read as follows:

8 Sec. 1702.168. FIREARM REQUIREMENTS. (a) In addition to
9 the requirements of Section 1702.163(a), the board [~~commission~~] by
10 rule shall establish other qualifications for individuals who are
11 employed in positions requiring the carrying of firearms. The
12 qualifications may include:

- 13 (1) physical and mental standards;
14 (2) standards of good moral character; and
15 (3) other requirements that relate to the competency
16 and reliability of individuals to carry firearms.

17 (b) The board [~~commission~~] shall prescribe appropriate
18 forms and adopt rules by which evidence is presented that the
19 requirements are fulfilled.

20 SECTION 4.⁵⁴~~53~~. Sections 1702.1685(b) and (d), Occupations
21 Code, are amended to read as follows:

22 (b) Only a board-approved [~~commission-approved~~] instructor
23 may administer the handgun proficiency examination.

24 (d) The school shall maintain the records of the required
25 proficiency and make the records available for inspection by the
26 board [~~commission~~].

27 SECTION 4.⁵⁵~~54~~. Section 1702.171, Occupations Code, is

1 amended to read as follows:

2 Sec. 1702.171. SECURITY OFFICER COMMISSION RECORDS. The
3 board [~~commission~~] shall adopt rules for the maintenance of records
4 relating to an individual to whom the board [~~commission~~] has issued
5 a security officer commission.

6 SECTION 4.⁵⁶~~55~~. Section 1702.183, Occupations Code, is
7 amended to read as follows:

8 Sec. 1702.183. APPLICATION FOR LETTER OF AUTHORITY. A
9 security department of a private business or of a political
10 subdivision that applies for a security officer commission for an
11 individual employed by the security department must submit an
12 application to the board [~~commission~~] for a letter of authority on a
13 form provided by the board [~~commission~~].

14 SECTION 4.⁵⁷~~56~~. The heading to Subchapter I, Chapter 1702,
15 Occupations Code, is amended to read as follows:

16 SUBCHAPTER I. PERSONAL PROTECTION OFFICER ENDORSEMENT

17 [~~AUTHORIZATION~~] REQUIREMENTS

18 SECTION 4.⁵⁸~~57~~. Section 1702.203, Occupations Code, is
19 amended to read as follows:

20 Sec. 1702.203. APPLICATION FOR PERSONAL PROTECTION OFFICER
21 ENDORSEMENT [~~AUTHORIZATION~~]. An applicant for a personal
22 protection officer endorsement [~~authorization~~] must submit a
23 written application on a form prescribed by the board [~~commission~~].

24 SECTION 4.⁵⁹~~58~~. Section 1702.204, Occupations Code, is
25 amended to read as follows:

26 Sec. 1702.204. PERSONAL PROTECTION OFFICER ENDORSEMENT
27 [~~AUTHORIZATION~~]; QUALIFICATIONS. (a) An applicant for a personal

1 protection officer endorsement [~~authorization~~] must be at least 21
2 years of age and must provide:

3 (1) a certificate of completion of the basic security
4 officer training course;

5 (2) proof that the applicant:

6 (A) has been issued a security officer
7 commission;

8 (B) is employed at the time of application by an
9 investigations company or guard company licensed by the board
10 [~~commission~~]; and

11 (C) has completed the required training in
12 nonlethal self-defense or defense of a third person; and

13 (3) proof of completion and the results of the
14 Minnesota Multiphasic Personality Inventory psychological testing.

15 (b) The board [~~commission~~] by rule shall require an
16 applicant for a personal protection officer endorsement
17 [~~authorization~~] to complete the Minnesota Multiphasic Personality
18 Inventory test. The board [~~commission~~] may use the results of the
19 test to evaluate the applicant's psychological fitness.

20 SECTION 4.⁶⁰~~59~~. Section 1702.205(a), Occupations Code, is
21 amended to read as follows:

22 (a) The board [~~commission~~] shall establish a 15-hour course
23 for a personal protection officer consisting of training in
24 nonlethal self-defense or defense of a third person.

25 SECTION 4.⁶¹~~60~~. Section 1702.221, Occupations Code, is
26 amended to read as follows:

27 Sec. 1702.221. REGISTRATION AND ENDORSEMENT REQUIRED. (a)

1 To perform any activity regulated by this chapter, the individual
2 must:

3 (1) register in accordance with the requirements of
4 this chapter and related administrative rules;

5 (2) obtain the proper endorsement under Subsection
6 (b); and

7 (3) be employed by a company licensed under this
8 chapter.

9 (b) An individual must obtain the appropriate endorsement
10 ~~register~~ in accordance with the requirements of this chapter and
11 related administrative rules if the individual:

12 (1) is employed as:

13 (A) an alarm instructor;

14 (B) an alarm systems installer;

15 (C) an [7] alarm systems monitor;

16 (D) an [7] electronic access control device
17 installer;

18 (E) a level 3 classroom or firearm instructor;

19 (F) a [7] locksmith;

20 (G) a [7] dog trainer;

21 (H) a [7] manager or branch office manager;

22 (I) a [7] noncommissioned security officer;

23 (J) a level 4 personal protection instructor;

24 (K) a [7] private investigator;

25 (L) a [7] private security consultant;

26 (M) a [7-0x] security salesperson; or

27 (N) an individual whose duties include

1 performing another activity for which an endorsement is required
2 under Subsection (e); or

3 (2) is an owner who oversees the security-related
4 aspects of the business, officer, partner, or shareholder of a
5 license holder.

6 (c) [~~b~~] Registration and endorsement under this chapter
7 does not preclude an individual from performing additional duties
8 or services authorized by the individual's employer that are not
9 regulated by this chapter. An individual who performs more than one
10 of the services that require an endorsement under this section must
11 obtain an endorsement for each service.

12 (d) In addition to the services listed in Subsection ^b(~~v~~), a
13 person holding a security officer commission must also obtain an
14 endorsement for personal protection if the individual performs the
15 services described by Section 1702.202.

16 (e) The board by rule may require a person to hold an
17 endorsement for performing other activity expressly regulated by
18 this chapter.

19 SECTION 4.⁶²~~61~~. Section 1702.2226(b), Occupations Code, is
20 amended to read as follows:

21 (b) A person registered as an electronic access control
22 device installer may not install alarm systems unless the person
23 holds an endorsement [~~is registered~~] under this chapter as an alarm
24 systems installer.

25 SECTION 4.⁶³~~62~~. The heading to Subchapter J, Chapter 1702,
26 Occupations Code, is amended to read as follows:

27 SUBCHAPTER J. REGISTRATION AND ENDORSEMENT REQUIREMENTS;

1 [REGISTRANT] DUTIES OF REGISTRANT AND ENDORSEMENT HOLDER

2 SECTION 4.⁶⁴~~63~~. Section 1702.228, Occupations Code, is
3 amended to read as follows:

4 Sec. 1702.228. EMPLOYEE OF LICENSE HOLDER; REGISTRATION
5 PERMITTED. An employee of a license holder who is employed in a
6 capacity that is not subject to mandatory registration under this
7 subchapter may register with the board [~~commission~~].

8 SECTION 4.⁶⁵~~64~~. The heading to Section 1702.230, Occupations
9 Code, is amended to read as follows:

10 Sec. 1702.230. APPLICATION FOR REGISTRATION OR
11 ENDORSEMENT.

12 SECTION 4.⁶⁶~~65~~. Section 1702.230(a), Occupations Code, is
13 amended to read as follows:

14 (a) An application for registration or endorsement must be
15 verified and include:

16 (1) the applicant's full name, residence address,
17 residence telephone number, date and place of birth, and social
18 security number;

19 (2) a statement that:

20 (A) lists each name used by the applicant, other
21 than the name by which the applicant is known at the time of
22 application, and an explanation stating each place where each name
23 was used, the date of each use, and a full explanation of the
24 reasons the name was used; or

25 (B) states that the applicant has never used a
26 name other than the name by which the applicant is known at the time
27 of application;

- 1 (3) the name and address of the applicant's employer
2 and, if applicable, the applicant's consulting firm;
3 (4) the date the employment commenced;
4 (5) a letter from the license holder requesting that
5 the applicant be registered or endorsed;
6 (6) the title of the position occupied by the
7 applicant and a description of the applicant's duties; and
8 (7) any other information, evidence, statement, or
9 document required by the board [~~commission~~].

10 SECTION 4.⁶⁷~~66~~. Section 1702.2305, Occupations Code, is
11 amended to read as follows:

12 Sec. 1702.2305. PROVISIONAL REGISTRATION. (a) The board
13 [~~commission~~] may issue a provisional registration to an applicant
14 currently registered in another jurisdiction who seeks an
15 equivalent registration in this state and who:

16 (1) has been registered in good standing in the field
17 in which the registration is sought for at least two years in
18 another jurisdiction, including a foreign country, that has
19 registration requirements substantially equivalent to the
20 requirements of this chapter;

21 (2) has passed a national or other examination
22 recognized by the board [~~commission~~] relating to practice in the
23 field in which the registration is sought; and

24 (3) is employed by a person licensed by the board
25 [~~commission~~] under this chapter with whom the provisional
26 registration holder will practice during the time the person holds
27 a provisional registration.

1 (b) A provisional registration is valid until the date the
2 board [~~commission~~] approves or denies the provisional registration
3 holder's application for a registration. The board [~~commission~~]
4 shall issue a registration under this chapter to the provisional
5 registration holder if the provisional registration holder is
6 eligible to be registered under this chapter.

7 (c) The board [~~commission~~] must approve or deny a
8 provisional registration holder's application for a registration
9 not later than the 180th day after the date the provisional
10 registration is issued. The board [~~commission~~] may extend the
11 180-day period if the results of an examination have not been
12 received by the board [~~commission~~] before the end of that period.

13 (d) The board [~~commission~~] may establish a fee for
14 provisional registration in an amount reasonable and necessary to
15 cover the cost of issuing the registration.

16 SECTION 4.⁶⁸~~67~~. Section 1702.232, Occupations Code, is
17 amended to read as follows:

18 Sec. 1702.232. POCKET CARDS. (a) The board [~~commission~~]
19 shall issue a pocket card for each registrant under this chapter. A
20 pocket card for an owner, officer, partner, or shareholder of a
21 license holder shall be issued to the license holder.

22 (b) The board [~~commission~~] shall determine the size,
23 design, and content of the pocket card.

24 (c) The pocket card must:

25 (1) state the name of the registrant;

26 (2) contain a color photograph, affixed to the pocket
27 card by the board at the time the card is issued, and the signature

1 of the registrant; ~~and~~

2 (3) state the date the card was issued and the card's
3 expiration date; and

4 (4) state each endorsement held by the registrant and
5 the date the endorsement expires.

6 SECTION 4.⁶⁹~~68~~. Section 1702.234, Occupations Code, is
7 amended to read as follows:

8 Sec. 1702.234. REGISTRATION AND ENDORSEMENT TRANSFER. A
9 registrant may transfer the registrant's registration and
10 endorsements from one employer to another employer if, not later
11 than the 14th day after the date the registrant begins the new
12 employment, the new employer notifies the board [~~commission~~] of the
13 transfer of employment on a form prescribed by the board
14 [~~commission~~] accompanied by payment of the employee information
15 update fee.

16 SECTION 4.⁷⁰~~69~~. Section 1702.235, Occupations Code, is
17 amended to read as follows:

18 Sec. 1702.235. PREEMPLOYMENT CHECK FOR NONCOMMISSIONED
19 SECURITY OFFICERS. A person may not hire a noncommissioned
20 security officer unless the person conducts a preemployment check
21 as required by board [~~commission~~] rule.

22 SECTION 4.⁷¹~~70~~. Section 1702.236, Occupations Code, is
23 amended to read as follows:

24 Sec. 1702.236. EXAMINATION AND TRAINING REQUIREMENTS FOR
25 ELECTRONIC ACCESS CONTROL DEVICE INSTALLERS. (a) The board
26 [~~commission~~] shall require an individual who applies for an
27 endorsement [~~registration~~] as an electronic access control device

1 installer to pass an examination given by the board [~~commission~~] or
2 a person approved by the board [~~commission~~]. The examination must
3 cover material related to access control.

4 (b) [~~(c)~~] On and after September 1, 2005, the board
5 [~~commission~~] by rule may allow an electronic access control device
6 installer to obtain or renew an endorsement [~~a certificate of~~
7 ~~registration~~] by fulfilling the requirements of a board-approved
8 [~~commission-approved~~], industry-based educational training
9 program.

10 SECTION 4.7¹². Sections 1702.239(a), (b), and (d),
11 Occupations Code, are amended to read as follows:

12 (a) The board [~~commission~~] may require that an individual
13 employed as an alarm systems installer or security salesperson hold
14 a certification by a board-approved [~~commission-approved~~] training
15 program to renew an endorsement [~~an initial registration~~]. The
16 board [~~commission~~] may approve only nationally recognized training
17 programs that consist of at least 16 hours of classroom study in the
18 areas of work allowed by the endorsement [~~registration~~]. To be
19 approved, a training program must offer at least two certification
20 programs each year, sufficient to complete the requirements of this
21 subsection, within 100 miles of each county in the state that has a
22 population of more than 500,000.

23 (b) The board [~~commission~~] may require an individual who has
24 completed a training program under Subsection (a) to pass an
25 examination given by the board [~~commission~~] or by a person approved
26 by the board [~~commission~~]. The board [~~commission~~] may approve
27 examinations in conjunction with training programs approved under

1 Subsection (a). The individual's performance on the examination
2 must demonstrate the individual's qualifications to perform the
3 duties allowed by the individual's endorsement [~~registration~~].

4 (d) If the board [~~commission~~] requires certification or
5 examination under this section, the board [~~commission~~] shall
6 implement rules to require that to renew an endorsement [~~a~~
7 ~~registration~~], an individual who is employed as an alarm systems
8 installer or a security salesperson and who has already once
9 renewed the endorsement [~~registration~~] must obtain continuing
10 education credits related to the line of work for which the
11 individual is licensed. If the board [~~commission~~] requires the
12 continuing education, the chief administrator [~~director~~] must
13 approve classes offered by nationally recognized organizations,
14 and participants in the classes must qualify according to board
15 [~~commission~~] rules.

16 SECTION 4.⁷³~~72~~. Section 1702.240(b), Occupations Code, is
17 amended to read as follows:

18 (b) An employee of a license holder who is employed
19 exclusively as an undercover agent is not required to register with
20 the board [~~commission~~].

21 SECTION 4.⁷⁴~~73~~. Subchapter J, Chapter 1702, Occupations Code,
22 is amended by adding Section 1702.241 to read as follows:

23 Sec. 1702.241. JURISPRUDENCE EXAMINATION. (a) The board
24 may develop and administer at least twice each calendar year a
25 jurisprudence examination to determine the knowledge that an
26 applicant for an endorsement has of this chapter, board rules, and
27 any other applicable laws of this state affecting the applicant's

1 activities regulated under this chapter.

2 (b) Before the board may administer a jurisprudence
3 examination under this section, the board shall adopt rules to
4 implement this section, including rules related to the development
5 and administration of the examination, examination fees,
6 guidelines for reexamination, grading the examination, and
7 providing notice of examination results. The board may design
8 different examinations for different types of endorsements.

9 SECTION 4.¹⁵~~4~~. Sections 1702.282(c) and (e), Occupations
10 Code, are amended to read as follows:

11 (c) A license, registration, security officer commission,
12 letter of approval, permit, endorsement, or certification issued by
13 the board is conditional on the board's receipt of criminal history
14 record information.

15 (e) On receipt of notice that a check of the applicant's
16 criminal record has uncovered an unresolved and potentially
17 disqualifying arrest that occurred before the 10th anniversary of
18 the date the application is filed, the applicant must provide a
19 letter of reference from the county sheriff, prosecuting attorney,
20 or judge of the county in which the applicant was arrested stating
21 that a record of a disposition related to the arrest does not exist,
22 and to the best of the county sheriff's, prosecuting attorney's, or
23 judge's knowledge the applicant is free of any disqualifying
24 convictions. If the applicant fails to provide either the letter of
25 reference or documentary proof of the final disposition of the
26 arrest, the application is considered incomplete and the applicant
27 may not be issued a license, commission, endorsement, or

1 certificate of registration under this chapter.

2 SECTION 4.⁷⁶~~93~~. Section 1702.283, Occupations Code, is
3 amended to read as follows:

4 Sec. 1702.283. CRUELTY TO ANIMALS. A person who has been
5 convicted of cruelty to animals under Section 42.09 or 42.092,
6 Penal Code:

7 (1) is ineligible for a license as a guard dog company
8 or for endorsement [~~registration~~] as a dog trainer; and

9 (2) may not be employed to work with dogs as a security
10 officer by a security services contractor or security department of
11 a private business that uses dogs to protect individuals or
12 property or to conduct investigations.

13 SECTION 4.⁷⁷~~94~~. Section 1702.285, Occupations Code, is
14 amended to read as follows:

15 Sec. 1702.285. FALSE REPRESENTATION. A person may not
16 represent falsely that the person:

17 (1) is employed by a license holder; or

18 (2) is licensed, registered, endorsed, or
19 commissioned under this chapter.

20 SECTION 4.⁷⁸~~97~~. Sections 1702.301(c), (d), (e), (f), (g), and
21 (h), Occupations Code, are amended to read as follows:

22 (c) A personal protection officer endorsement
23 [~~authorization~~] expires on the expiration date of the security
24 officer commission under which the individual's endorsement
25 [~~authorization~~] is issued.

26 (d) Endorsement [~~Registration~~] as a private investigator,
27 manager, branch office manager, alarm systems installer, security

1 consultant, security salesperson, alarm systems monitor, or dog
2 trainer expires on the second anniversary of the date of
3 endorsement [~~registration~~].

4 (e) Endorsement [~~Registration~~] as an owner, officer,
5 partner, or shareholder of a license holder expires on the second
6 anniversary of the date of endorsement [~~registration~~].

7 (f) Endorsement [~~Registration~~] as a noncommissioned
8 security officer expires on the second anniversary of the date of
9 endorsement [~~registration~~].

10 (g) A letter of authority, or a school approval or school
11 instructor approval letter issued by the board [~~commission~~],
12 expires on the first anniversary of the date of issuance.

13 (h) A license, ~~or~~ registration, or endorsement issued
14 under this chapter, other than one specified in this section,
15 expires on the date specified by this chapter or by board
16 [~~commission~~] rule.

17 SECTION 4.⁷⁹~~48~~. Section 1702.302, Occupations Code, is
18 amended to read as follows:

19 Sec. 1702.302. LICENSE RENEWAL. (a) A person who is
20 otherwise eligible to renew a license may renew an unexpired
21 license by paying the required renewal fee to the board
22 [~~commission~~] before the expiration date of the license. A person
23 whose license has expired may not engage in activities that require
24 a license until the license has been renewed.

25 (b) A person whose license has been expired for 90 days or
26 less may renew the license by paying to the board [~~commission~~] a
27 renewal fee that is equal to 1-1/2 times the normally required

1 renewal fee.

2 (c) A person whose license has been expired for longer than
3 90 days but less than one year may renew the license by paying to the
4 board [~~commission~~] a renewal fee that is equal to two times the
5 normally required renewal fee.

6 (d) A person whose license has been expired for one year or
7 more may not renew the license. The person may obtain a new license
8 by complying with the requirements and procedures, including the
9 examination requirements, for obtaining an original license.

10 (e) Not later than the 30th day before the date a person's
11 license is scheduled to expire, the board [~~commission~~] shall send
12 written notice of the impending expiration to the person at the
13 person's last known address according to the board's [~~commission's~~]
14 records.

15 SECTION 4.⁸⁰~~79~~. Section 1702.303, Occupations Code, is
16 amended to read as follows:

17 Sec. 1702.303. RENEWAL OF EXPIRED LICENSE BY OUT-OF-STATE
18 PRACTITIONER. A person who was licensed in this state, moved to
19 another state, and is currently licensed and has been in practice in
20 the other state for the two years preceding the date the person
21 applies for renewal may obtain a new license without reexamination.
22 The person must pay to the board [~~commission~~] a fee that is equal to
23 two times the normally required renewal fee for the license.

24 SECTION 4.⁸¹~~80~~. Section 1702.304, Occupations Code, is
25 amended to read as follows:

26 Sec. 1702.304. STAGGERED RENEWAL; PRORATION OF LICENSE FEE.
27 The board [~~commission~~] by rule may adopt a system under which

1 licenses expire on various dates during the year. For the year in
2 which the expiration date of a license is changed, the board
3 [~~commission~~] shall prorate license fees on a monthly basis so that
4 each license holder pays only that portion of the license fee that
5 is allocable to the number of months during which the license is
6 valid. On renewal of the license on the new expiration date, the
7 total license renewal fee is payable.

8 SECTION 4.⁸²~~01~~. Section 1702.307, Occupations Code, is
9 amended to read as follows:

10 Sec. 1702.307. REGISTRATION RENEWAL. (a) An individual
11 who is otherwise eligible to renew a registration may renew an
12 unexpired registration by paying the required renewal fee to the
13 board [~~commission~~] before the expiration date of the registration.
14 An individual whose registration has expired may not engage in
15 activities that require a registration until the registration has
16 been renewed.

17 (b) An individual whose registration has been expired for 90
18 days or less may renew the registration by paying to the board
19 [~~commission~~] a renewal fee that is equal to 1-1/2 times the normally
20 required renewal fee.

21 (c) An individual whose registration has been expired for
22 more than 90 days but less than one year may renew the registration
23 by paying to the board [~~commission~~] a renewal fee that is equal to
24 two times the normally required renewal fee.

25 (d) An individual whose registration has been expired for
26 one year or more may not renew the registration. The individual may
27 obtain a new registration by complying with the requirements and

1 procedures, including any examination required by the board
2 [~~commission~~], for obtaining an original registration.

3 (e) An individual who was registered in this state, moved to
4 another state, and is currently registered and has been in practice
5 in the other state for the two years preceding the date of
6 application may obtain a new registration without reexamination.
7 The individual must pay to the board [~~commission~~] a fee that is
8 equal to two times the normally required renewal fee for the
9 registration.

10 (f) Not later than the 30th day before the expiration date
11 of an individual's registration, the board [~~commission~~] shall send
12 written notice of the impending expiration to the individual at the
13 individual's last known address according to board [~~commission~~]
14 records.

15 SECTION 4.⁸³~~02~~. Sections 1702.308(b) and (c), Occupations
16 Code, are amended to read as follows:

17 (b) The board [~~commission~~] shall recognize, prepare, or
18 administer continuing education programs for license holders,
19 commissioned security officers, and endorsement holders
20 [~~registrants~~]. The board [~~commission~~] shall set the minimum number
21 of hours that must be completed and the types of programs that may
22 be offered.

23 (c) A license holder, commissioned security officer, or
24 endorsement holder [~~registrant~~] must participate in the programs to
25 the extent required by the board [~~commission~~] to keep the person's
26 license, commission, or endorsement [~~registration~~]. A license
27 holder, commissioned security officer, or endorsement holder

1 [~~registrant~~] shall submit evidence of compliance with the board's
2 [~~commission's~~] continuing education requirements in a manner
3 prescribed by the board [~~commission~~].

4 SECTION 4.⁸³ Section 1702.309(a), Occupations Code, is
5 amended to read as follows:

6 (a) The board [~~commission~~] by rule shall develop a
7 continuing education course required for renewal of a security
8 officer commission. Only a board-approved [~~commission-approved~~]
9 instructor may administer the continuing education course. The
10 course must include at least six hours of instruction determined by
11 the chief administrator [~~director~~] of the board [~~commission~~].

12 SECTION 4.⁸⁴ Sections 1702.321(b), (c), and (e),
13 Occupations Code, are amended to read as follows:

14 (b) The provisions of this chapter relating to security
15 officer commissions apply to a person employed by a political
16 subdivision whose duties include serving as a security guard,
17 security watchman, or security patrolman on property owned or
18 operated by the political subdivision if the governing body of the
19 political subdivision files a written request with the board
20 [~~commission~~] for the board [~~commission~~] to issue a commission to
21 the political subdivision's employees with those duties.

22 (c) The board [~~commission~~] may not charge a fee for issuing
23 a commission to an officer under Subsection (b). The board
24 [~~commission~~] shall issue to the officer a pocket card designating
25 the political subdivision that employs the officer.

26 (e) The board [~~commission~~] may approve a security officer
27 training program conducted by the political subdivision in

1 accordance with Sections 1702.1675 and 1702.168.

2 SECTION 4.85. Section 1702.361(b), Occupations Code, is
3 amended to read as follows:

4 (b) The department shall take disciplinary action described
5 by Subsection (a) on proof:

6 (1) that the applicant, license holder, registrant,
7 endorsement holder, or commissioned security officer has:

8 (A) violated this chapter or a rule adopted under
9 this chapter;

10 (B) become ineligible for licensure, [ex]
11 registration, or endorsement under Section 1702.113, or a
12 commission under Section 1702.163, if applicable, other than an
13 action for which the department has taken summary action under
14 Section 1702.364;

15 (C) engaged in fraud, deceit, or
16 misrepresentation;

17 (D) made a material misstatement in an
18 application for or renewal of a license, registration, endorsement,
19 or commission; [ex]

20 (E) failed to pay in full an administrative
21 penalty assessed under Subchapter Q, for which the board has issued
22 a final order; or

3 (F) performed any service for which an
24 endorsement is required under this chapter and either:

25 (i) was not employed with a company
26 licensed under this chapter at the time the service was performed;

27 or

1 (D) the cause or responsibility for a fire,
2 libel, loss, accident, damage, or injury to a person or to property;

3 (2) engages in the business of securing, or accepts
4 employment to secure, evidence for use before a court, board,
5 officer, or investigating committee;

6 (3) engages in the business of securing, or accepts
7 employment to secure, the electronic tracking of the location of an
8 individual or motor vehicle other than for criminal justice
9 purposes by or on behalf of a governmental entity; or

10 (4) engages in the business of protecting, or accepts
11 employment to protect, an individual from bodily harm through the
12 use of a personal protection officer.

13 (b) For purposes of Subsection (a)(1), obtaining or
14 furnishing information includes information obtained or furnished
15 through the review and analysis of, and the investigation into the
16 content of, computer-based data not available to the public. The
17 repair or maintenance of a computer does not constitute an
18 investigation for purposes of this section and does not require
19 licensing under this chapter if:

20 (1) the review or analysis of computer-based data is
21 performed only to diagnose a computer or software problem;

22 (2) there is no intent to obtain or furnish
23 information described by Subsection (a)(1); and

24 (3) the discovery of any information described by
25 Subsection (a)(1) is inadvertent.

26 SECTION 4. 86. Section 1702.324(b), Occupations Code, is
27 amended to read as follows:

28 (b) This chapter does not apply to:

29 (1) a manufacturer or a manufacturer's authorized
30 distributor while selling equipment intended for resale;

31 (2) a person engaged exclusively in the business of

1 obtaining and providing information to:

2 (A) determine creditworthiness;

3 (B) collect debts; or

4 (C) ascertain the reliability of information
5 provided by an applicant for property, life, or disability
6 insurance or an indemnity or surety bond;

7 (3) a person engaged exclusively in the business of
8 repossessing property that is secured by a mortgage or other
9 security interest;

10 (4) a person who is engaged in the business of
11 psychological testing or other testing and interviewing services,
12 including services to determine attitudes, honesty, intelligence,
13 personality, and skills, for preemployment purposes;

14 (5) a person who:

15 (A) is engaged in obtaining information that is a
16 public record under Chapter 552, Government Code, regardless of
17 whether the person receives compensation;

18 (B) is not a full-time employee, as defined by
19 Section 61.001, Labor Code, of a person licensed under this
20 chapter; and

21 (C) does not perform any other act that requires
22 a license under this chapter;

23 (6) a licensed engineer practicing engineering or
24 directly supervising engineering practice under Chapter 1001,
25 including forensic analysis, burglar alarm system engineering, and
26 necessary data collection;

27 (7) an employee of a cattle association who inspects
28 livestock brands under the authority granted to the cattle
29 association by the Grain Inspection, Packers and Stockyards
30 Administration of the United States Department of Agriculture;

31 (8) a landman performing activities in the course and

1 scope of the landman's business;

2 (9) an attorney while engaged in the practice of law;

3 (10) a person who obtains a document for use in
4 litigation under an authorization or subpoena issued for a written
5 or oral deposition;

6 (11) an admitted insurer, insurance adjuster, agent,
7 or insurance broker licensed by the state, performing duties in
8 connection with insurance transacted by that person;

9 (12) a person who on the person's own property or on
10 property owned or managed by the person's employer:

11 (A) installs, changes, or repairs a mechanical
12 security device;

13 (B) repairs an electronic security device; or
14 (C) cuts or makes a key for a security device;

15 (13) security personnel, including security contract
16 personnel, working at a commercial nuclear power plant licensed by
17 the United States Nuclear Regulatory Commission;

18 (14) a person or firm licensed as an accountant or
19 accounting firm under Chapter 901, an owner of an accounting firm,
20 or an employee of an accountant or accounting firm while performing
21 services regulated under Chapter 901; [~~or~~]

22 (15) a retailer, wholesaler, or other person who sells
23 mechanical security devices, including locks and deadbolts, but who
24 does not:

25 (A) service mechanical security devices for the
26 public outside of the person's premises; or

27 (B) claim to act as a locksmith; or

28 (16) an employee while performing investigative
29 services that would otherwise be subject to this chapter for an
30 entity regulated by the:

31 (A) Texas Department of Insurance;

- 1 (B) Office of Thrift Supervision;
2 (C) Securities and Exchange Commission;
3 (D) Federal Deposit Insurance Corporation;
4 (E) National Association of Securities Dealers;
5 or
6 (F) Financial Industry Regulatory Authority.

1 ~~accordance with Sections 1702.1675 and 1702.168.~~⁹

2 SECTION 4.⁸⁷~~85~~. Section 1702.361(b), Occupations Code, is
3 amended to read as follows:

4 (b) The department shall take disciplinary action described
5 by Subsection (a) on proof:

6 (1) that the applicant, license holder, registrant,
7 endorsement holder, or commissioned security officer has:

8 (A) violated this chapter or a rule adopted under
9 this chapter;

10 (B) become ineligible for licensure, [~~or~~]
11 registration, or endorsement under Section 1702.113, or a
12 commission under Section 1702.163, if applicable, other than an
13 action for which the department has taken summary action under
14 Section 1702.364;

15 (C) engaged in fraud, deceit, or
16 misrepresentation;

17 (D) made a material misstatement in an
18 application for or renewal of a license, registration, endorsement,
19 or commission; [~~or~~]

20 (E) failed to pay in full an administrative
21 penalty assessed under Subchapter Q, for which the board has issued
22 a final order; or

23 (F) performed any service for which an
24 endorsement is required under this chapter and either:

25 (i) was not employed with a company
26 licensed under this chapter at the time the service was performed;
27 or

1 (ii) performed the service for a company
2 licensed under this chapter that was not listed on the individual's
3 registration without informing the board of the individual's
4 employment with the company within a reasonable period; or

5 (2) that the license holder of a registrant or
6 commissioned security officer has submitted to the department
7 sufficient evidence that the registrant or commissioned security
8 officer:

9 (A) engaged in fraud or deceit, while employed by
10 the license holder; or

11 (B) committed theft while performing work as a
12 registrant or commissioned security officer.

13 ⁸⁶SECTION 4.86. Section 1702.362, Occupations Code, is
14 amended to read as follows:

15 Sec. 1702.362. FAILURE TO FILE REQUIRED NOTICE. The board
16 [~~commission~~] may suspend or revoke a license if the license holder
17 fails to notify the board [~~commission~~] as required by Section
18 1702.121 that a manager has ceased to be the manager of the license
19 holder.

20 ⁸⁷SECTION 4.87. Section 1702.363, Occupations Code, is
21 amended to read as follows:

22 Sec. 1702.363. APPLICATION OF ADMINISTRATIVE PROCEDURE
23 ACT. Except as provided by Sections 1702.3615(b) and 1702.364, a
24 person regulated under this chapter against whom the board
25 [~~commission~~] has taken action is entitled to a hearing before the
26 State Office of Administrative Hearings. A proceeding under this
27 section is a contested case that is governed by Chapter 2001,

1 Government Code.

2 SECTION 4.⁹⁰~~98~~. Sections 1702.364(a), (d), (f), and (h),
3 Occupations Code, are amended to read as follows:

4 (a) On receiving written notice from a law enforcement
5 agency that a person has been charged with or convicted of an
6 offense that would make the person ineligible for a license,
7 certificate of registration, endorsement, or security officer
8 commission under Section 1702.113 or 1702.163, the department
9 shall:

10 (1) summarily deny the person's application for a
11 license, registration, endorsement, or security officer
12 commission;

13 (2) in the event of pending charges, summarily suspend
14 the person's license, certificate of registration, endorsement, or
15 security officer commission; or

16 (3) in the event of a conviction, summarily revoke the
17 person's license, certificate of registration, endorsement, or
18 security officer commission.

19 (d) At a preliminary hearing, the person must show cause
20 why:

21 (1) the application should not have been denied;

22 (2) the registration, license, endorsement, or
23 security officer commission should not have been suspended; or

24 (3) the registration, license, endorsement, or
25 commission should not have been revoked.

26 (f) The dismissal of a complaint, information, or
27 indictment or an acquittal releases the person from automatic

1 grounds for a summary denial of an application or summary
2 suspension of a registration, endorsement, or security officer
3 commission under this section. A conviction for the offense giving
4 rise to a summary suspension is automatic grounds for immediate,
5 summary revocation.

6 (h) The administrative law judge shall make findings of fact
7 and conclusions of law regarding the person's eligibility for a
8 license, registration, or endorsement under this section and
9 promptly issue to the board a proposal for a decision.

10 SECTION 4.⁹¹~~99~~. Section 1702.365, Occupations Code, is
11 amended to read as follows:

12 Sec. 1702.365. ABDUCTION OF CHILD. The board [~~commission~~]
13 shall revoke a person's license, registration, endorsement, or
14 security officer commission or deny a person's application for, or
15 renewal of, a license, registration, endorsement, or security
16 officer commission on proof that the person or an agent of the
17 person has, after the date of application for a license,
18 registration, endorsement, or security officer commission,
19 abducted or attempted to abduct by force or the threat of force or
20 by misrepresentation, stealth, or unlawful entry a child who at the
21 time of the abduction or attempt is under the care and control of a
22 person who:

23 (1) has custody or physical possession of the child
24 under a court order; or

25 (2) is exercising the care and control with the
26 consent of a person who has custody or physical possession of the
27 child under a court order.

1 ⁹²
SECTION 4.90. Sections 1702.367(c), (d), and (e),
2 Occupations Code, are amended to read as follows:

3 (c) A person required to testify or to produce a record or
4 document on any matter properly under inquiry by the board
5 [~~commission~~] who refuses to testify or to produce the record or
6 document on the ground that the testimony or the production of the
7 record or document would incriminate or tend to incriminate the
8 person is nonetheless required to testify or to produce the record
9 or document. A person who is required to testify or to produce a
10 record or document under this subsection is not subject to
11 indictment or prosecution for a transaction, matter, or thing
12 concerning which the person truthfully testifies or produces
13 evidence.

14 (d) If a witness refuses to obey a subpoena or to give
15 evidence relevant to proper inquiry by the board [~~commission~~], the
16 board [~~commission~~] may petition a district court of the county in
17 which the hearing is held to compel the witness to obey the subpoena
18 or to give the evidence. The court shall immediately issue process
19 to the witness and shall hold a hearing on the petition as soon as
20 possible.

21 (e) An investigator employed by the board [~~commission~~] may
22 take statements under oath in an investigation of a matter covered
23 by this chapter.

24 ⁹³
SECTION 4.91. Section 1702.368, Occupations Code, is
25 amended to read as follows:

26 Sec. 1702.368. NOTIFICATION OF CONVICTION FOR CERTAIN
27 OFFENSES. The department [~~Texas Department of Public Safety~~] shall

1 notify the board [~~commission~~] and the police department of the
2 municipality and the sheriff's department of the county in which a
3 person licensed, registered, or commissioned under this chapter
4 resides of the conviction of the person for a Class B misdemeanor or
5 equivalent offense or a greater offense.

6 SECTION 4.⁹⁴~~92~~. Subchapter O, Chapter 1702, Occupations Code,
7 is amended by adding Section 1702.372 to read as follows:

8 Sec. 1702.372. RECUSAL OF BOARD MEMBER. (a) A board member
9 who participated in the investigation of a complaint or in informal
10 settlement negotiations regarding the complaint:

11 (1) may not vote on the matter at a board meeting
12 related to the complaint; and

13 (2) shall state at the meeting the reason for which the
14 member is prohibited from voting on the matter.

15 (b) A statement under Subsection (a)(2) shall be entered
16 into the minutes of the meeting.

17 SECTION 4.⁹⁵~~93~~. Section 1702.381(b), Occupations Code, is
18 amended to read as follows:

19 (b) A person who contracts with or employs a person who is
20 required to hold a license, [~~certificate of~~] registration,
21 endorsement, or security officer commission under this chapter
22 knowing that the person does not hold the required license,
23 registration, endorsement [~~certificate~~], or commission or who
24 otherwise, at the time of contract or employment, is in violation of
25 this chapter may be assessed a civil penalty to be paid to the state
26 in an amount not to exceed \$10,000 for each violation.

27 SECTION 4.⁹⁶~~94~~. Section 1702.386(a), Occupations Code, is

1 amended to read as follows:

2 (a) A person commits an offense if the person contracts with
3 or employs a person who is required to hold a license, registration,
4 endorsement [~~certificate~~], or commission under this chapter
5 knowing that the person does not hold the required license,
6 registration, endorsement [~~certificate~~], or commission or who
7 otherwise, at the time of contract or employment, is in violation of
8 this chapter.

9 SECTION 4.⁹⁷~~95~~. Section 1702.3863(a), Occupations Code, is
10 amended to read as follows:

11 (a) A person commits an offense if the person contracts with
12 or is employed by a bail bond surety as defined by Chapter 1704 to
13 secure the appearance of a person who has violated Section 38.10,
14 Penal Code, unless the person is:

15 (1) a peace officer;

16 (2) an individual endorsed or licensed as a private
17 investigator or the manager of a licensed investigations company;
18 or

19 (3) a commissioned security officer employed by a
20 licensed guard company.

21 SECTION 4.⁹⁸~~96~~. Section 1702.387(a), Occupations Code, is
22 amended to read as follows:

23 (a) A person commits an offense if the person fails to
24 surrender or immediately return to the board [~~commission~~] the
25 person's registration, commission, pocket card, or other
26 identification issued to the person by the board [~~commission~~] on
27 notification of a summary suspension or summary denial under

1 Section 1702.364.

2 SECTION 4.⁹⁹~~97~~. Section 1702.388(b), Occupations Code, is
3 amended to read as follows:

4 (b) An offense under this section is a Class A misdemeanor,
5 except that the offense is a felony of the third degree if the
6 person has previously been convicted under this chapter of failing
7 to hold a license, registration, endorsement, certificate, or
8 commission that the person is required to hold under this chapter.

9 SECTION 4.¹⁰⁰~~98~~. Section 1702.402, Occupations Code, is
10 amended by amending Subsection (a) and adding Subsection (c) to
11 read as follows:

12 (a) Each day a violation continues or occurs is a separate
13 violation for purposes of imposing a penalty. The amount of each
14 separate violation may not exceed \$5,000 [~~\$500~~].

15 (c) The board by rule shall develop a standardized penalty
16 schedule based on the criteria listed in Subsection (b).

17 SECTION 4.¹⁰¹~~99~~. Section 1702.406(b), Occupations Code, is
18 amended to read as follows:

19 (b) The notice of the board's order given to the person must
20 include a statement of the right of the person to judicial review of
21 the order. Judicial review is under the substantial evidence rule
22 as provided by Subchapter G, Chapter 2001, Government Code.

23 SECTION 4.¹⁰²~~100~~. The following provisions of the Occupations
24 Code are repealed:

- 25 (1) Section 1702.002(4);
26 (2) Section 1702.003;
27 (3) Section 1702.045;

- 1 (4) Section 1702.046;
- 2 (5) Section 1702.065;
- 3 (6) Section 1702.069;
- 4 (7) Section 1702.113(e);
- 5 (8) Section 1702.364(j); and
- 6 (9) Subchapter K.

7 SECTION 4.¹⁰³~~101~~. (a) Not later than January 1, 2010, the
8 Texas Private Security Board and the Department of Public Safety
9 shall adopt the rules required by or under Section 1702.062,
10 Occupations Code, as amended by this article. The fee schedule in
11 effect under Section 1702.062, Occupations Code, before the
12 effective date of this article is continued in effect until new fees
13 are adopted under Section 1702.062, Occupations Code, as amended by
14 this article.

15 (b) The requirement to pass a jurisprudence examination
16 under Section 1702.241, Occupations Code, as added by this article,
17 applies only to an individual who applies for a registration or
18 endorsement under Chapter 1702, Occupations Code, on or after the
19 date specified by the Texas Private Security Board in the event the
20 board begins requiring applicants to pass a jurisprudence
21 examination, but not earlier than September 1, 2010.

22 (c) The changes in law made by this article related to the
23 filing, investigation, or resolution of a complaint under Chapter
24 1702, Occupations Code, as amended by this article, apply only to a
25 complaint filed with the Texas Private Security Board on or after
26 the effective date of this article. A complaint filed before the
27 effective date of this article is governed by the law as it existed

1 immediately before that date, and the former law is continued in
2 effect for that purpose.

3 (d) The changes in law made by this article governing the
4 authority of the Texas Private Security Board and the Department of
5 Public Safety to issue, renew, or revoke a license, registration,
6 endorsement, or commission under Chapter 1702, Occupations Code,
7 apply only to an application for an original or renewal license,
8 registration, endorsement, or commission filed with the Texas
9 Private Security Board under Chapter 1702, Occupations Code, as
10 amended by this article, on or after the effective date of this
11 article. An application filed before the effective date of this
12 article is governed by the law in effect at the time the application
13 was filed, and the former law is continued in effect for that
14 purpose.

15 (e) The change in law made by this article with respect to
16 conduct that is grounds for imposition of a disciplinary sanction
17 applies only to conduct that occurs on or after the effective date
18 of this article. Conduct that occurs before the effective date of
19 this article is governed by the law in effect on the date the
20 conduct occurred, and the former law is continued in effect for that
21 purpose.

22 (f) Section 1702.372, Occupations Code, as added by this
23 article, applies only to a hearing conducted on or after the
24 effective date of this article, regardless of the date on which the
25 complaint was filed. A complaint on which a hearing is conducted
26 before the effective date of this article is governed by the law in
27 effect on the date the hearing was conducted, and the former law is

1 continued in effect for that purpose.

2 (g) The holder of a Class D license under Chapter 1702,
3 Occupations Code, as amended by this article, shall be considered
4 to hold a Class B license on the effective date of this article. On
5 the expiration of the Class D license, the license holder may renew
6 the license as a Class B license.

7 SECTION 4.¹⁰⁴~~402~~. This article takes effect September 1, 2009.

8 ARTICLE 4A [Blank]

9 ARTICLE 4B. REGULATION OF THE BUSINESS OF PRIVATE SECURITY

10 SECTION 4B.01. Section 1702.002, Occupations Code, is
11 amended by amending Subdivision (1-a) and adding Subdivisions
12 (16-a) and (20-a) to read as follows:

13 (1-a) For purposes of Subdivision (1), the term "alarm
14 system" does not include a telephone entry system, an operator for
15 opening or closing a residential or commercial gate or door, or an
16 accessory used only to activate a gate or door, if the system,
17 operator, or accessory is not connected to a computer or data
18 processor that records or archives the voice, visual image, or
19 identifying information of the user [~~an alarm system~~].

20 (16-a) "Personal protection officer" means a person
21 who performs the activities described by Section 1702.202.

22 (20-a) "Security officer" means a person who performs
23 the activities described by Section 1702.222.

24 SECTION 4B.02. Section 1702.047, Occupations Code, is
25 amended to read as follows:

26 Sec. 1702.047. ADMINISTRATIVE STAFF. The department shall
27 designate a department employee who shall report directly to the

1 board. The employee designated under this section shall provide
2 administrative assistance to [~~assist~~] the board in the performance
3 [~~administration~~] of the board's duties. [~~The salary for an~~
4 ~~employee designated under this section may not exceed the salary~~
5 ~~specified in the General Appropriations Act for an employee subject~~
6 ~~to salary group A10.~~]

7 SECTION 4B.03. Subsection (e), Section 1702.082,
8 Occupations Code, is amended to read as follows:

9 (e) On written request, the department [~~The commission, at~~
10 ~~least quarterly until final disposition of the complaint,~~] shall
11 inform [~~notify~~] the person filing the complaint and each person who
12 is a subject of the complaint of the status of the investigation
13 unless the information [~~notice~~] would jeopardize an ongoing
14 [~~undereover~~] investigation.

15 SECTION 4B.04. Subchapter A, Chapter 1702, Occupations
16 Code, is amended by adding Section 1702.006 to read as follows:

17 Sec. 1702.006. FOREIGN ENTITY REGISTRATION. Licensure
18 under this chapter does not exempt a foreign entity from the
19 registration requirements of Chapter 9, Business Organizations
20 Code.

21 SECTION 4B.05. Subsection (a), Section 1702.1056,
22 Occupations Code, is amended to read as follows:

23 (a) A person acts as a locksmith company for the purposes of
24 this chapter if the person:

25 (1) sells, installs, services, or maintains, or offers
26 to sell, install, service, or maintain, mechanical security
27 devices, including deadbolts and locks;

1 (2) advertises services offered by the company using
2 the term "locksmith"; or

3 (3) includes the term "locksmith" in the company's
4 name.

5 SECTION 4B.06. Section 1702.110, Occupations Code, is
6 amended to read as follows:

7 Sec. 1702.110. APPLICATION FOR LICENSE. (a) An
8 application for a license under this chapter must be in the form
9 prescribed by the board [~~commission~~] and include:

10 (1) the full name and business address of the
11 applicant;

12 (2) the name under which the applicant intends to do
13 business;

14 (3) a statement as to the general nature of the
15 business in which the applicant intends to engage;

16 (4) a statement as to the classification for which the
17 applicant requests qualification;

18 (5) if the applicant is an entity other than an
19 individual, the full name and residence address of each partner,
20 officer who oversees the security-related aspects of the business,
21 and director of the applicant, and of the applicant's manager;

22 (6) if the applicant is an individual, two
23 classifiable sets of fingerprints of the applicant or, if the
24 applicant is an entity other than an individual, of each officer who
25 oversees the security-related aspects of the business and of each
26 partner or shareholder who owns at least a 25 percent interest in
27 the applicant;

1 (7) a verified statement of the applicant's experience
2 qualifications in the particular classification in which the
3 applicant is applying;

4 (8) a report from the department [~~Texas Department of~~
5 ~~Public Safety~~] stating the applicant's record of any convictions
6 for a Class B misdemeanor or equivalent offense or a greater
7 offense;

8 (9) the social security number of the individual
9 making the application; and

10 (10) other information, evidence, statements, or
11 documents required by the board [~~commission~~].

12 (b) An applicant for a license as a security services
13 contractor shall maintain a physical address within this state and
14 provide that address to the board. The board shall adopt rules to
15 enable an out-of-state license holder to comply with this
16 subsection.

17 SECTION 4B.07. Section 1702.112, Occupations Code, is
18 amended to read as follows:

19 Sec. 1702.112. FORM OF LICENSE. The board [~~commission~~]
20 shall prescribe the form of a license, including a branch office
21 license. The license must include:

22 (1) the name of the license holder;

23 (2) the name under which the license holder is to
24 operate; ~~and~~

25 (3) the license number and the date the license was
26 issued; and

27 (4) a photograph of the license holder, affixed to the

1 license at the time the license is issued by the board.

2 SECTION 4B.08. Section 1702.121, Occupations Code, is
3 amended to read as follows:

4 Sec. 1702.121. TERMINATION OF MANAGER. (a) A license
5 holder shall notify the board [~~commission~~] in writing not later
6 than the 14th day after the date a manager ceases to be manager of
7 the license holder's business. The license remains in effect for a
8 reasonable period after notice is given as provided by board
9 [~~commission~~] rule pending the board's [~~commission's~~] determination
10 of the qualification of another manager under this subchapter.

11 (b) A manager shall be immediately terminated on the
12 effective date of any summary action taken against the manager. Any
13 period of temporary operation authorized under this section or
14 Section 1702.122 starts on the date of termination.

15 SECTION 4B.09. Section 1702.127, Occupations Code, is
16 amended by amending Subsections (b) and (c) and adding Subsection
17 (d) to read as follows:

18 (b) A license holder shall maintain a record containing
19 information related to the license holder's employees as required
20 by the board [~~commission~~].

21 (c) A license holder shall maintain for [~~commission~~]
22 inspection by the department at the license holder's principal
23 place of business or branch office two recent color photographs, of
24 a type required by the board [~~commission~~], of each applicant,
25 registrant, commissioned security officer, and employee of the
26 license holder.

27 (d) A license holder shall maintain records required under

1 this chapter at a physical address within this state and provide
2 that address to the board.

3 SECTION 4B.10. Section 1702.163, Occupations Code, is
4 amended by adding Subsection (d-1) to read as follows:

5 (d-1) For the purposes of determining eligibility under
6 Subsection (b)(2), the department may require the applicant to
7 authorize the release to the department of any relevant medical
8 records.

9 SECTION 4B.11. Section 1702.201, Occupations Code, is
10 amended to read as follows:

11 Sec. 1702.201. PERSONAL PROTECTION OFFICER ENDORSEMENT
12 [AUTHORIZATION] REQUIRED. An individual [A commissioned security
13 officer] may not act as a personal protection officer unless the
14 individual [officer] holds a personal protection officer
15 endorsement [authorization].

16 SECTION 4B.12. Section 1702.202, Occupations Code, is
17 amended to read as follows:

18 Sec. 1702.202. PERSONAL PROTECTION OFFICER. An individual
19 acts as a personal protection officer if the individual, while
20 carrying a firearm, [+]

21 [~~(1)~~ has been issued a security officer commission to
22 carry a concealed firearm, and

23 [~~(2)~~] provides to another [an] individual personal
24 protection from bodily harm.

25 SECTION 4B.13. Section 1702.206, Occupations Code, is
26 amended to read as follows:

27 Sec. 1702.206. LIMITED AUTHORITY TO CARRY [CONCEALED]

1 FIREARMS. (a) An individual acting as a personal protection
2 officer may not carry a ~~[concealed]~~ firearm unless the officer:

3 (1) is either:

4 (A) engaged in the exclusive performance of the
5 officer's duties as a personal protection officer for the employer
6 under whom the officer's personal protection officer endorsement
7 ~~[authorization]~~ is issued; or

8 (B) traveling to or from the officer's place of
9 assignment; and

10 (2) carries the officer's security officer commission
11 and personal protection officer endorsement ~~[authorization]~~ on the
12 officer's person while performing the officer's duties or traveling
13 as described by Subdivision (1) and presents the commission and
14 endorsement ~~[authorization]~~ on request.

15 (b) An individual who is acting as a personal protection
16 officer and is wearing the uniform of a security officer, including
17 any uniform or apparel described by Section 1702.323(d), may not
18 conceal any firearm the individual is carrying and shall carry the
19 firearm in plain view. An individual who is acting as a personal
20 protection officer and is not wearing the uniform of a security
21 officer shall conceal the firearm.

22 SECTION 4B.14. Section 1702.230, Occupations Code, is
23 amended by amending Subsection (b) and adding Subsection (c) to
24 read as follows:

25 (b) The employer of the applicant shall make a reasonable
26 attempt to verify the information required under Subsection (a)(1)
27 before the earlier of:

- 1 (1) the date the application is submitted; or
2 (2) the date the applicant begins to perform the
3 duties of employment that require registration.

4 (c) An applicant must submit an application that
5 substantially meets the requirements of this section before
6 employment in a capacity for which registration is required.

7 SECTION 4B.15. Subsection (a), Section 1702.282,
8 Occupations Code, is amended to read as follows:

9 (a) The board shall conduct a criminal history check,
10 including a check of any criminal history record information
11 maintained by the Federal Bureau of Investigation, in the manner
12 provided by Subchapter F, Chapter 411, Government Code, on each
13 applicant for a license, registration, security officer
14 commission, letter of approval, permit, endorsement, or
15 certification. As part of its criminal history check, the board may
16 request that the applicant provide certified copies of relevant
17 court documents or other records. The failure to provide the
18 requested records within a reasonable time as determined by the
19 board may result in the application being considered incomplete.
20 An applicant is not eligible for a license, registration,
21 commission, letter of approval, permit, endorsement, or
22 certification if the check reveals that the applicant has committed
23 an act that constitutes grounds for the denial of the license,
24 registration, commission, letter of approval, permit, endorsement,
25 or certification. Except as provided by Subsection (d), each
26 applicant shall include in the application two complete sets of
27 fingerprints on forms prescribed by the board accompanied by the

1 fee set by the board.

2 SECTION 4B.16. Section 1702.286, Occupations Code, as added
3 by Chapter 1102 (H.B. 2243), Acts of the 79th Legislature, Regular
4 Session, 2005, is renumbered as Section 1702.2865, Occupations
5 Code, to read as follows:

6 Sec. 1702.2865 [~~1702.286~~]. CUSTOMER AUTHORIZATION REQUIRED
7 FOR CERTAIN LOCKSMITH SERVICES. (a) A locksmith company or
8 locksmith may not perform services for a customer who seeks entry to
9 a structure, motor vehicle, or other property unless the customer,
10 in the course of the transaction:

11 (1) shows the locksmith company or locksmith a
12 government-issued identification; and

13 (2) provides a signed authorization stating that the
14 customer owns or is otherwise entitled to legal access to the
15 structure, motor vehicle, or other property.

16 (b) A locksmith company or locksmith is exempt from
17 Subsection (a) if the locksmith is requested to perform services in
18 a case of imminent threat to a person or property.

19 SECTION 4B.17. Section 1702.322, Occupations Code, is
20 amended to read as follows:

21 Sec. 1702.322. LAW ENFORCEMENT PERSONNEL. This chapter
22 does not apply to:

23 (1) a person who has full-time employment as a peace
24 officer and who receives compensation for private employment on an
25 individual or an independent contractor basis as a patrolman,
26 guard, extra job coordinator, or watchman if the officer:

27 (A) is employed in an employee-employer

1 relationship or employed on an individual contractual basis
2 directly by the recipient of the services;

3 (B) is not in the employ of another peace
4 officer;

5 (C) is not a reserve peace officer; and

6 (D) works as a peace officer on the average of at
7 least 32 hours a week, is compensated by the state or a political
8 subdivision of the state at least at the minimum wage, and is
9 entitled to all employee benefits offered to a peace officer by the
10 state or political subdivision;

11 (2) a reserve peace officer while the reserve officer
12 is performing guard, patrolman, or watchman duties for a county and
13 is being compensated solely by that county;

14 (3) a peace officer acting in an official capacity in
15 responding to a burglar alarm or detection device; or

16 (4) a person engaged in the business of electronic
17 monitoring of an individual as a condition of that individual's
18 community supervision, parole, mandatory supervision, or release
19 on bail, if the person does not perform any other service that
20 requires a license under this chapter.

21 SECTION 4B.18. Subsection (a), Section 1702.361,
22 Occupations Code, is amended to read as follows:

23 (a) The [~~Subject to the board's final order under the~~
24 ~~hearing provisions of this subchapter, the~~] department, for conduct
25 described by Subsection (b), may:

26 (1) deny an application or revoke, suspend, or refuse
27 to renew a license, registration, endorsement, or security officer

1 commission;

2 (2) reprimand a license holder, registrant, or
3 commissioned security officer; or

4 (3) place on probation a person whose license,
5 registration, endorsement, or security officer commission has been
6 suspended.

7 SECTION 4B.19. Section 1702.367, Occupations Code, is
8 amended by amending Subsection (a) and adding Subsections (f) and
9 (g) to read as follows:

10 (a) For an investigation conducted under this chapter, if
11 necessary to enforce this chapter or the board's rules, the
12 department [commission] may issue an administrative [a] subpoena to
13 any person in this state compelling:

14 (1) the production of information or documents; or

15 (2) the attendance and testimony of a witness [compel
16 ~~the attendance of a witness or the production of a pertinent record~~
17 ~~or document. The hearings officer may administer oaths and require~~
18 ~~testimony or evidence to be given under oath].~~

19 (f) A person licensed or otherwise regulated under this
20 chapter who fails without good cause to comply with a subpoena
21 issued under this section may be subject to suspension of a license
22 under Section 1702.361.

23 (g) If a subpoena issued under this section relates to an
24 ongoing criminal investigation by the department and the department
25 determines that disclosure could significantly impede the
26 investigation, the subpoena may provide that the person to whom the
27 subpoena is directed may not:

- 1 (1) disclose that the subpoena has been issued;
2 (2) identify or describe any records requested by the
3 subpoena; or
4 (3) disclose whether records have been furnished in
5 response to the subpoena.

6 SECTION 4B.20. Subchapter P, Chapter 1702, Occupations
7 Code, is amended by adding Section 1702.3835 to read as follows:

8 Sec. 1702.3835. DECEPTIVE TRADE PRACTICE. (a) A person who
9 performs or offers to perform an activity regulated under this
10 chapter, but who is not licensed or otherwise authorized under this
11 chapter to perform the activity, commits a false, misleading, or
12 deceptive act or practice within the meaning of Section 17.46,
13 Business & Commerce Code.

14 (b) A public or private right or remedy under Chapter 17,
15 Business & Commerce Code, may be used to enforce this chapter.

16 SECTION 4B.21. Subsection (d), Section 46.03, Penal Code,
17 is amended to read as follows:

18 (d) It is a defense to prosecution under Subsection (a)(5)
19 that the actor possessed a firearm or club while traveling to or
20 from the actor's place of assignment or in the actual discharge of
21 duties as:

- 22 (1) a member of the armed forces or national guard;
23 (2) a guard employed by a penal institution; or
24 (3) a security officer commissioned by the Texas
25 [~~Board of Private Investigators and~~] Private Security Board
26 [~~Agencies~~] if:

27 (A) the actor is wearing a distinctive uniform;

1 and

2 (B) the firearm or club is in plain view; or

3 (4) [~~5~~] a security officer who holds a personal
4 protection authorization under Chapter 1702, Occupations Code,
5 provided that the officer is either:

6 (A) wearing the uniform of a security officer,
7 including any uniform or apparel described by Section 1702.323(d),
8 Occupations Code, and carrying the officer's firearm in plain view;
9 or

10 (B) not wearing the uniform of a security officer
11 and carrying the officer's firearm in a concealed manner [~~the~~
12 ~~Private Investigators and Private Security Agencies Act (Article~~
13 ~~4413(29bb), Vernon's Texas Civil Statutes)~~].

14 SECTION 4B.22. Subsection (b), Section 46.15, Penal Code,
15 as amended by Chapters 647 (H.B. 964), 693 (H.B. 1815), and 1048
16 (H.B. 2101), Acts of the 80th Legislature, Regular Session, 2007,
17 is reenacted and amended to read as follows:

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

19 (1) is in the actual discharge of official duties as a
20 member of the armed forces or state military forces as defined by
21 Section 431.001, Government Code, or as a guard employed by a penal
22 institution;

23 (2) is traveling;

24 (3) is engaging in lawful hunting, fishing, or other
25 sporting activity on the immediate premises where the activity is
26 conducted, or is en route between the premises and the actor's
27 residence or motor vehicle, if the weapon is a type commonly used in

1 the activity;

2 (4) holds a security officer commission issued by the
3 Texas Private Security Board, if the person[+]

4 [~~(A)~~] is engaged in the performance of the
5 person's duties as an officer commissioned under Chapter 1702,
6 Occupations Code, or is traveling to or from the person's place of
7 assignment[+] and

8 [~~(B)~~] is [~~either~~+

9 [~~(i)~~] wearing the officer's uniform and
10 carrying the officer's weapon in plain view; [~~or~~]

11 (5) acts [~~(ii) acting~~] as a personal protection
12 officer and carries [~~carrying~~] the person's security officer
13 commission and personal protection officer authorization, if the
14 person:

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

19 (B) is either:

20 (i) wearing the uniform of a security
21 officer, including any uniform or apparel described by Section
22 1702.323(d), Occupations Code, and carrying the officer's weapon in
23 plain view; or

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

26 (6) [~~(5)~~] is carrying a concealed handgun and a valid
27 license issued under Subchapter H, Chapter 411, Government Code, to

1 carry a concealed handgun of the same category as the handgun the
2 person is carrying;

3 (7) [~~6~~] holds an alcoholic beverage permit or
4 license or is an employee of a holder of an alcoholic beverage
5 permit or license if the person is supervising the operation of the
6 permitted or licensed premises; or

7 (8) [~~7~~] is a student in a law enforcement class
8 engaging in an activity required as part of the class, if the weapon
9 is a type commonly used in the activity and the person is:

10 (A) on the immediate premises where the activity
11 is conducted; or

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

14 SECTION 4B.23. The changes in law made by this article to
15 Section 1702.110 and Subsection (a), Section 1702.282, Occupations
16 Code, and the change in law made by Article 4 of this Act to
17 Subsection (a), Section 1702.221, Occupations Code, apply to an
18 application under Chapter 1702, Occupations Code, submitted on or
19 after the effective date of this article. An application submitted
20 before the effective date of this article is governed by the law in
21 effect on the date the application was submitted, and the former law
22 is continued in effect for that purpose.

23 SECTION 4B.24. To the extent of any conflict, this article
24 prevails over another Act of the 81st Legislature, Regular Session,
25 2009, relating to nonsubstantive additions to and corrections in
26 enacted codes.

27 SECTION 4B.25. This article takes effect September 1, 2009.

1 amended by this article, on or after the effective date of this
2 article. An application filed before the effective date of this
3 article is governed by the law in effect at the time the application
4 was filed, and the former law is continued in effect for that
5 purpose.

6 (e) The change in law made by this article with respect to
7 conduct that is grounds for imposition of a disciplinary sanction
8 applies only to conduct that occurs on or after the effective date
9 of this article. Conduct that occurs before the effective date of
10 this article is governed by the law in effect on the date the
11 conduct occurred, and the former law is continued in effect for that
12 purpose.

13 (f) Section 1702.372, Occupations Code, as added by this
14 article, applies only to a hearing conducted on or after the
15 effective date of this article, regardless of the date on which the
16 complaint was filed. A complaint on which a hearing is conducted
17 before the effective date of this article is governed by the law in
18 effect on the date the hearing was conducted, and the former law is
19 continued in effect for that purpose.

20 (g) The holder of a Class D license under Chapter 1702,
21 Occupations Code, as amended by this article, shall be considered
22 to hold a Class B license on the effective date of this article. On
23 the expiration of the Class D license, the license holder may renew
24 the license as a Class B license.

25 SECTION 4.107. This article takes effect September 1, 2009.

26 ARTICLE 5. GENERAL PROVISIONS

27 SECTION 5.01. Section 411.002, Government Code, is amended

1 by amending Subsection (c) and adding Subsections (d) and (e) to
2 read as follows:

3 (c) The Department of Public Safety of the State of Texas is
4 subject to Chapter 325 (Texas Sunset Act). Unless continued in
5 existence as provided by that chapter, the department is abolished
6 and Subsections (a) and (b) expire September 1, 2015 [~~2009~~].

7 (d) Not later than December 1, 2010, the Sunset Advisory
8 Commission shall review and prepare a written report for submission
9 to the legislature on the department's implementation of:

10 (1) the recommendations in the 2008 audit of the
11 department's information technology system; and

12 (2) a civilian business model for the operation of the
13 driver's license division that focuses on improving customer
14 service by:

15 (A) using best practices in call center
16 technology and monitoring customer service calls;

17 (B) expanding operating hours at driver's
18 license offices; and

19 (C) decreasing the time the department takes to
20 send a replacement driver's license.

21 (e) The Sunset Advisory Commission shall submit the report
22 required by Subsection (d) not later than February 15, 2011. This
23 subsection and Subsection (d) expire August 31, 2011.

24 SECTION 5.02. Section 411.0035, Government Code, is amended
25 to read as follows:

26 Sec. 411.0035. MEMBER AND GENERAL COUNSEL RESTRICTION. (a)
27 In this section, "Texas trade association" means a cooperative and

1 voluntarily joined statewide association of business or
2 professional competitors in this state designed to assist its
3 members and its industry or profession in dealing with mutual
4 business or professional problems and in promoting their common
5 interest.

6 (b) A person may not be [~~serve as~~] a member of the commission
7 and may not be a department employee employed in a "bona fide
8 executive, administrative, or professional capacity," as that
9 phrase is used for purposes of establishing an exemption to the
10 overtime provisions of the federal Fair Labor Standards Act of 1938
11 (29 U.S.C. Section 201 et seq.), if:

12 (1) the person is an officer, employee, or paid
13 consultant of a Texas trade association in the field of law
14 enforcement or private security; or

15 (2) the person's spouse is an officer, manager, or paid
16 consultant of a Texas trade association in the field of law
17 enforcement or private security.

18 (c) A person may not be a member of the commission or act as
19 the general counsel to the commission if the person is required to
20 register as a lobbyist under Chapter 305 because of the person's
21 activities for compensation on behalf of a profession related to
22 the operation of the commission.

23 SECTION 5.03. Subchapter A, Chapter 411, Government Code,
24 is amended by adding Section 411.0042 to read as follows:

25 Sec. 411.0042. DIVISION OF RESPONSIBILITIES. The
26 commission shall develop and implement policies that clearly
27 separate the policymaking responsibilities of the commission and

1 the management responsibilities of the director and the staff of
2 the department.

3 SECTION 5.04. Subchapter A, Chapter 411, Government Code,
4 is amended by adding Section 411.0043 to read as follows:

5 Sec. 411.0043. TECHNOLOGY POLICY. The commission shall
6 implement a policy requiring the department to use appropriate
7 technological solutions to improve the department's ability to
8 perform its functions. The policy must ensure that the public is
9 able to interact with the department on the Internet.

10 SECTION 5.05. Subchapter A, Chapter 411, Government Code,
11 is amended by adding Section 411.0044 to read as follows:

12 Sec. 411.0044. NEGOTIATED RULEMAKING AND ALTERNATIVE
13 DISPUTE RESOLUTION. (a) The commission shall develop and
14 implement a policy to encourage the use of:

15 (1) negotiated rulemaking procedures under Chapter
16 2008 for the adoption of department rules; and

17 (2) appropriate alternative dispute resolution
18 procedures under Chapter 2009 to assist in the resolution of
19 internal and external disputes under the department's
20 jurisdiction.

21 (b) The department's procedures relating to alternative
22 dispute resolution must conform, to the extent possible, to any
23 model guidelines issued by the State Office of Administrative
24 Hearings for the use of alternative dispute resolution by state
25 agencies.

26 (c) The commission shall designate a trained person to:

27 (1) coordinate the implementation of the policy

SECTION 5.06. The heading to Section 411.005, Government Code, is amended to read as follows:

Sec. 411.005. DIRECTOR, DEPUTY DIRECTORS,
AND ASSISTANT DIRECTORS ~~[DIRECTOR]~~.

H.B. No. 2730

1 adopted under Subsection (a);

2 (2) serve as a resource for any training needed to
3 implement the procedures for negotiated rulemaking or alternative
4 dispute resolution; and

5 (3) collect data concerning the effectiveness of those
6 procedures, as implemented by the department.

7 SECTION 5.06⁰⁷. Section 411.005, Government Code, is amended
8 by amending Subsections (a), ^(b) and (c) ~~and adding Subsection (d)~~ to
9 read as follows:

10 (a) The commission shall appoint a citizen of the United
11 States ~~[this state]~~ as public safety director. The director serves
12 until removed by the commission.

13 (c) The commission shall select the director, and the
14 director shall select an assistant director, on the basis of the
15 person's training, experience, and qualifications for the
16 position. The director and each ~~[an]~~ assistant director must,
17 during the six-year period before appointment to the department as
18 the director or as an assistant director, have been serving for a
19 period of not less than five consecutive years as:

20 (1) a full-time peace officer commissioned by a state,
21 federal, local, or tribal law enforcement agency; and

22 (2) the head of or a senior manager in a state,
23 federal, local, or tribal law enforcement agency ~~[five years'~~
24 ~~experience, preferably in police or public administration]~~.

25 (d) The director and an assistant director are entitled to
26 annual salaries as provided by the legislature.

27 ~~SECTION 5.07. Section 411.015(b), Government Code, is~~

ADOPTED

MAY 27 2009

FLOOR AMENDMENT NO. 5

Acting Clerk
Secretary of the Senate

BY *J. J. Amij*

1 Amend CSHB 2730 (Senate Committee Printing) in Article 5 of the bill
2 by adding the following SECTION to that article, appropriately
3 numbered, and renumbering subsequent SECTIONS accordingly:

4 SECTION _____. Subchapter A, Chapter 411, Government Code, is
5 amended by amending Section 411.005 to read as follows:

6 Sec. 411.005. [~~DIRECTOR AND ASSISTANT DIRECTOR~~] DIRECTOR, DEPUTY
7 DIRECTORS, AND ASSISTANT DIRECTORS.

8 (b) The director may appoint, with advice and consent of the
9 commission, deputy directors and assistant directors who shall perform
10 the duties the director designates. [~~As~~] Deputy directors and
11 assistant directors serve until removed by the director.

12 (c) The commission shall select the director, and the
13 director shall select [~~an assistant director~~] deputy directors and
14 assistant directors, on the basis of the person's training,
15 experience, and qualifications for the position. [~~The director and an~~
16 ~~assistant director must have five years' experience, preferably in~~
17 ~~police or public administration.~~] The director, [an assistant
18 director] deputy directors, and assistant directors are entitled to
19 annual salaries as provided by the legislature.

1 adopted under Subsection (a);

2 (2) serve as a resource for any training needed to
3 implement the procedures for negotiated rulemaking or alternative
4 dispute resolution; and

5 (3) collect data concerning the effectiveness of those
6 procedures, as implemented by the department.

7 SECTION 5.05. Section 411.005, Government Code, is amended
8 by amending Subsections (a) and (c) and adding Subsection (d) to
9 read as follows:

10 (a) The commission shall appoint a citizen of the United
11 States [~~this state~~] as public safety director. The director serves
12 until removed by the commission.

13 (c) The commission shall select the director, and the
14 director shall select an assistant director, on the basis of the
15 person's training, experience, and qualifications for the
16 position. The director and each [~~an~~] assistant director must,
17 during the six-year period before appointment to the department as
18 the director or as an assistant director, have been serving for a
19 period of not less than five consecutive years as:

20 (1) a full-time peace officer commissioned by a state,
21 federal, local, or tribal law enforcement agency; and

22 (2) the head of or a senior manager in a state,
23 federal, local, or tribal law enforcement agency [~~five years'~~
24 ~~experience, preferably in police or public administration~~].

25 (d) The director and an assistant director are entitled to
26 annual salaries as provided by the legislature.

27 SECTION 5.07. Section 411.015(b), Government Code, is

1 amended to read as follows:

2 (b) ~~[The number of divisions may not exceed the number of~~
3 ~~divisions existing on August 22, 1957.]~~ The division relating to
4 the Texas Rangers may not be abolished.

5 SECTION 5.⁰⁹~~00~~. Sections 411.0195(a), (b), and (c),
6 Government Code, are amended to read as follows:

7 (a) The department shall maintain a system to promptly and
8 efficiently act on ~~[prepare information of public interest~~
9 ~~describing the functions of the department and the department's~~
10 ~~procedures by which]~~ complaints ~~[are]~~ filed with ~~[and resolved by]~~
11 the department. The department shall maintain ~~[make the]~~
12 information about parties to the complaint, the subject matter of
13 the complaint, a summary of the results of the review or
14 investigation of the complaint, and its disposition ~~[available to~~
15 ~~the public and appropriate state agencies].~~

16 (b) The department shall make information available
17 describing its procedures for complaint investigation and
18 resolution ~~[director by rule shall establish methods by which~~
19 ~~consumers and service recipients are notified of the name, mailing~~
20 ~~address, and telephone number of the department for the purpose of~~
21 ~~directing complaints to the department].~~

22 (c) The department shall periodically notify the complaint
23 parties of the status of the complaint until final disposition
24 ~~[maintain a file on each written complaint filed with the~~
25 ~~department. The file must include:~~

26 ~~(1) the name of the person who filed the complaint,~~

27 ~~(2) the date the complaint is received by the~~

1 ~~department,~~

2 ~~[(3) the subject matter of the complaint,~~

3 ~~[(4) the name of each person contacted in relation to~~
4 ~~the complaint,~~

5 ~~[(5) a summary of the results of the review or~~
6 ~~investigation of the complaint, and~~

7 ~~[(6) an explanation of the reason the file was closed,~~
8 ~~if the agency closed the file without taking action other than to~~
9 ~~investigate the complaint].~~

10 SECTION 5.¹⁰~~09~~. Section 411.188, Government Code, is amended
11 by adding Subsection (j) to read as follows:

12 (j) The department may offer online, or allow a qualified
13 handgun instructor to offer online, the continuing education
14 instruction course and written section of the proficiency
15 examination required to renew a license.

16 SECTION 5.¹¹~~10~~. Section 411.190, Government Code, is amended
17 by adding Subsection (d-1) to read as follows:

18 (d-1) The department shall ensure that an applicant may
19 renew certification under Subsection (d) from any county in this
20 state by using an online format to complete the required retraining
21 courses if:

22 (1) the applicant is renewing certification for the
23 first time; or

24 (2) the applicant completed the required retraining
25 courses in person the previous time the applicant renewed the
26 certificate.

27 ~~SECTION 5.11. The heading to Section 411.244, Government~~

ADOPTED

FLOOR AMENDMENT NO. 8

MAY 27 2009

BY: J. J. Amij

Atty. Gen.
Secretary of the Senate

1 Amend C.S.H.B. 2730 (senate committee printing) by amending
2 SECTIONS 5.09 and 5.10 as follows:

3 SECTION 5.¹²~~09~~. The heading to Section 411.244, Government
4 Code, is amended to read as follows:

5 Sec. 411.244. OFFICE OF INSPECTOR GENERAL [~~INTERNAL~~
6 ~~AFFAIRS~~].

7 SECTION 5.¹³~~09~~. Section 411.244, Government Code is amended
8 by amending Subsections (a), (b), (d), (e), and (f), and by
9 adding Subsection (g) to read as follows:

10 (a) The commission [~~director~~] shall establish the office
11 of inspector general, which is responsible for:

12 (1) acting to prevent and detect serious breaches of
13 departmental policy, fraud, and abuse of office, including any
14 acts of criminal conduct within the department; and

15 (2) independently and objectively reviewing,
16 investigating, delegating an investigation, and overseeing the
17 investigation of administrative and all other allegations of
18 conduct referred to in (a)(1) above and the following:

19 (A) criminal activity occurring in all divisions
20 of the department;

21 (B) allegations of wrongdoing by department
22 employees;

23 (C) crimes committed on department property; and

24 (D) serious breaches of department policy
25 [~~internal affairs~~].

26 (b) The office of inspector general [~~internal affairs~~] has
27 [~~original~~] departmental jurisdiction for oversight and
28 coordination over all investigations occurring on department
29 property or involving department employees. The office shall

1 coordinate and provide oversight, but need not conduct, all
2 investigations under this section. The inspector general shall
3 delegate criminal allegations arising under this section to the
4 Texas Ranger division or the Criminal Law Enforcement division
5 of the department for investigation or referral back to the
6 inspector general for further action. However the inspector
7 general shall continually monitor referred matters and report to
8 the commission along with any other division investigating a
9 matter on its status while pending.

10 (d) The commission has direct oversight over the office of
11 inspector general, including decisions regarding budget and
12 staffing. The commission [director] shall appoint the inspector
13 general [head of the office of internal affairs]. The inspector
14 general [head of the office of internal affairs] serves until
15 removed by the commission [director]. The commission shall
16 establish policies to ensure that the commission continues to
17 oversee the office of inspector general as required by this
18 subsection and to ensure that the office of inspector general
19 retains and exercises its original jurisdiction under Subsection
20 (b).

21 (e) The inspector general [head of the office of internal
22 affairs] shall report directly to the commission [director]
23 regarding performance of and activities related to
24 investigations, report to the director for administrative
25 purposes, and provide the director with information regarding
26 investigations as appropriate.

27 (f) The inspector general [head of the office of internal
28 affairs] shall present at each regularly scheduled commission
29 meeting and at other appropriate times:

30 (1) reports of investigations; and

31 (2) a summary of information relating to

1 investigations conducted under this section that includes
2 analysis of the number, type, and outcome of investigations,
3 trends in the investigations, and recommendations to avoid
4 future complaints.

5 (g) This chapter or other law related to the operation of
6 the department's office of inspector general does not preempt
7 the authority of the state auditor to conduct an audit or
8 investigation under Chapter 321 or other law.

~~1-319~~

ADOPTED

FLOOR AMENDMENT NO. 6

MAY 27 2009

BY:

J. J. Hennig

John D. ...
Secretary of the Senate

1 Amend C.S.H.B. 2730 (senate committee printing) by adding
2 the following appropriately numbered SECTION to the bill and
3 renumbering subsequent SECTIONS accordingly:

4 SECTION 5.14. Section 662.005(b), Government Code, is
5 amended to read as follows:

6 (b) Except as provided by Section 662.010, and
7 notwithstanding Section 659.015 or another law, a state employee
8 who is a peace officer commissioned by a state officer or state
9 agency listed under Article 2.12, Code of Criminal Procedure, or
10 who is employed by the Department of Public Safety either to
11 perform communications or dispatch services related to traffic
12 law enforcement or as a public security officer, as that term is
13 defined by Section 1701.001, Occupations Code, and who is
14 required to work on a national or state holiday that falls on a
15 Saturday or Sunday is entitled to compensatory time off at the
16 rate of one hour for each hour worked on the holiday.

4-4

1 removed by the commission [~~director~~]. The commission shall
2 establish policies to ensure that the commission continues to
3 oversee the office of inspector general as required by this
4 subsection and to ensure that the office of inspector general
5 retains and exercises its original jurisdiction under Subsection
6 (b).

7 (e) The inspector general [~~head of the office of internal~~
8 ~~affairs~~] shall report directly to the commission [~~director~~]
9 regarding performance of and activities related to investigations,
10 report to the director for administrative purposes, and provide the
11 director with information regarding investigations as appropriate.

12 (f) The inspector general [~~head of the office of internal~~
13 ~~affairs~~] shall present at each regularly scheduled commission
14 meeting and at other appropriate times:

15 (1) reports of investigations; and

16 (2) a summary of information relating to
17 investigations conducted under this section that includes analysis
18 of the number, type, and outcome of investigations, trends in the
19 investigations, and recommendations to avoid future complaints.

20 SECTION 5.¹⁵~~14~~. Sections 411.0195(d) and (e), Government
21 Code, are repealed.

22 SECTION 5.¹⁶~~14~~. The changes in law made by this article by the
23 amendment of Section 411.0035, Government Code, apply only to a
24 person first appointed to the Public Safety Commission or employed
25 by the Department of Public Safety of the State of Texas on or after
26 the effective date of this Act. A person first appointed or
27 employed before the effective date of this Act is governed by the

1 law in effect immediately before that date, and the former law is
2 continued in effect for that purpose.

3 SECTION 5.¹⁷~~15~~. The changes in law made by this article by the
4 amendment of Section 411.0195, Government Code, apply only to a
5 complaint filed on or after the effective date of this Act. A
6 complaint filed before the effective date of this Act is governed by
7 the law in effect when the complaint was filed, and the former law
8 is continued in effect for that purpose.

9 SECTION 5.¹⁸~~16~~. The Department of Public Safety of the State
10 of Texas shall take action as necessary to ensure that an applicant
11 may renew a qualified handgun instructor certification from any
12 county in this state, as required by Section 411.190(d-1),
13 Government Code, as added by this Act, not later than March 1, 2010.

14 SECTION 5.¹⁹~~17~~. The Department of Public Safety shall develop
15 customer service training requirements that at a minimum must be
16 completed by the staff of the driver license division that interact
17 with the public. Each new employee of the division that is required
18 to complete this training, as a condition of employment, must do so
19 by the end of the third month of employment. Thereafter, each
20 employee that the training applies to shall participate annually in
21 this training.

22 SECTION 5.²⁰~~18~~. The Department of Public Safety shall develop
23 cultural diversity training requirements to be completed by all
24 staff of the drivers license division. Each new employee of the
25 division, as a condition of employment, must complete the training
26 by the end of the third month of employment. Thereafter, each
27 employee in the division shall participate annually in the

1 diversity training.

2 SECTION 5.²¹~~49~~. The Department of Public Safety shall develop
3 training requirements regarding proof of citizenship documents. At
4 a minimum, this training must be completed by all staff in the
5 drivers license division. Each new employee of this division, as a
6 condition of employment, must complete the training by the end of
7 the third month of employment. Thereafter, each employee of the
8 division shall participate annually in this training.

9 ARTICLE 6. ADDITIONAL PROVISIONS

10 SECTION 6.01. Section 411.00755(b), Government Code, is
11 amended to read as follows:

12 (b) The [~~Notwithstanding Chapter 552, the~~] personnel
13 records of a commissioned officer of the department may not be
14 disclosed or otherwise made available to the public, except the
15 department shall release in accordance with Chapter 552:

16 (1) any letter, memorandum, or document relating to:

17 (A) a commendation, congratulation, or honor
18 bestowed on the officer for an action, duty, or activity that
19 relates to the officer's official duties; and

20 (B) misconduct by the officer, if the letter,
21 memorandum, or document resulted in disciplinary action;

22 (2) the state application for employment submitted by
23 the officer, but not including any attachments to the application;

24 (3) any reference letter submitted by the officer;

25 (4) any letter of recommendation for the officer;

26 (5) any employment contract with the officer;

27 (6) any periodic evaluation of the officer by a

1 supervisor;

2 (7) any document recording a promotion or demotion of
3 the officer;

4 (8) any request for leave by the officer;

5 (9) any request by the officer for transfers of shift
6 or duty assignments;

7 (10) any documents presented to the commission in
8 connection with a public hearing under Section 411.007(f);

9 (11) the officer's:

10 (A) name;

11 (B) age;

12 (C) dates of employment;

13 (D) positions held; and

14 (E) gross salary; and

15 (12) information about the location of the officer's
16 department duty assignments.

17 SECTION 6.02. Section 411.192, Government Code, is amended
18 by amending Subsections (a) and (d) and adding Subsection (e) to
19 read as follows:

20 (a) The department shall disclose to a criminal justice
21 agency information contained in its files and records regarding
22 whether a named individual or any individual named in a specified
23 list is licensed under this subchapter. Information on an
24 individual subject to disclosure under this section includes the
25 individual's name, date of birth, gender, race, [and] zip code,
26 telephone number, e-mail address, and Internet website address.

27 Except as otherwise provided by this section and by Section

ADOPTED

FLOOR AMENDMENT NO. 116

MAY 27 2009

BY: Whitmore

John DeWitt
Secretary of State

1 Amend CSHB 2730 by adding a new SECTION _____ to read as
2 follows:

3 SECTION 6.02. Subchapter A, Chapter 411, Government Code,
4 is amended by adding a new Section 411.0161 to read as follows:

5 ~~Section 411.0161~~ Sec. 411.0161.
6 DONATION OF ACCRUED COMPENSATORY TIME OR ACCRUED ANNUAL
7 LEAVE FOR LEGISLATIVE PURPOSES. Section 411.0161 (a) The
8 director shall allow a department employee to voluntarily
9 transfer to a legislative leave pool up to eight hours of
10 compensatory time or annual leave per year earned by the
11 employee.

12 (b) The director or designee shall administer the
13 legislative leave pool.

14 (c) The Public Safety Commission shall adopt rules and
15 prescribe procedures relating to the operation of the
16 legislative leave pool.

17 (d) The director or designee shall credit the legislative
18 leave pool with the amount of time contributed by an employee
19 and deduct a corresponding amount of time from the employee's
20 earned compensatory time or annual leave as if the employee had
21 used the time for personal purposes.

22 (e) An employee is entitled to use time contributed to the
23 legislative leave pool if the employee uses the time for
24 legislative leave on behalf of a law enforcement association of
25 at least 2000 active or retired members governed by a board of
26 directors elected directly by department employees.

27 (f) The director of the pool administrator shall transfer
28 time from the pool to the employee and credit the time to the
29 employee.

30 (g) An employee may only withdraw time from the

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FLOOR AMENDMENT NO. ~~17~~

BY: Jackson

Amends F.A.# 16.

1 On page 1, strike lines 21-25 and substitute the following:

2 (e) An employee is entitled to use time contributed to the
3 legislative leave pool if the employee uses the time for
4 legislative leave on behalf of a law enforcement association of
5 at least 1,000 active or retired members governed by a board of
6 directors.

~~ADOPTED~~

~~MAY 27 2009~~

~~*Ashley D. Dwyer*
Secretary of the Senate~~

ADOPTED

FLOOR AMENDMENT NO. 16

MAY 27 2009

BY:

Whitmore

Debra Drew
Secretary of the Senate

1 Amend CSHB 2730 by adding a new SECTION _____ to read as
2 follows:

3 SECTION _____. Subchapter A, Chapter 411, Government Code,
4 is amended by adding a new Section 411.0161 to read as follows:

5 DONATION OF ACCRUED COMPENSATORY TIME OR ACCRUED ANNUAL
6 LEAVE FOR LEGISLATIVE PURPOSES. Section 411.0161 (a) The
7 director shall allow a department employee to voluntarily
8 transfer to a legislative leave pool up to eight hours of
9 compensatory time or annual leave per year earned by the
10 employee.

11 (b) The director or designee shall administer the
12 legislative leave pool.

13 (c) The Public Safety Commission shall adopt rules and
14 prescribe procedures relating to the operation of the
15 legislative leave pool.

16 (d) The director or designee shall credit the legislative
17 leave pool with the amount of time contributed by an employee
18 and deduct a corresponding amount of time from the employee's
19 earned compensatory time or annual leave as if the employee had
20 used the time for personal purposes.

21 (e) An employee is entitled to use time contributed to the
22 legislative leave pool if the employee uses the time for
23 legislative leave on behalf of a law enforcement association of
24 at least 2000 active or retired members governed by a board of
25 directors elected directly by department employees.

26 (f) The director of the pool administrator shall transfer
27 time from the pool to the employee and credit the time to the
28 employee.

29 (g) An employee may only withdraw time from the

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1 legislative leave pool in coordination and with the consent of
2 the president or designee of the law enforcement association
3 described in subsection(e), and may not draw more than 80 hours
4 of time from the pool in a 160-hours work cycle with the maximum
5 time taken not to exceed 480 hours per fiscal year.

6 (h) In addition to subsection (g), the use of any time
7 from the legislative leave pool must also be in accordance with
8 rules adopted by the Public Safety Commission.

~~2-24-9~~

SECTION 6.03, Subchapter F, Chapter 411,
Government Code, is amended by adding Section
411.0852 to read as follows:

ADOPTED

MAY 27 2009

Patricia Spaw
Secretary of the Senate

FLOOR AMENDMENT NO. 25

BY: *J. J. H. [Signature]*

1 Amend Floor Amendment No. 18 by Hegar to H.B. No. 2730 (senate
2 committee printing) by striking the text of the amendment and
3 substituting the following:

Sec. 411.0852. STUDY REGARDING PRIVATE VENDORS PROVIDING

5 CRIMINAL HISTORY RECORD INFORMATION. (a) Not later than
6 December 31, 2010, the department shall conduct a study and
7 report to the governor, lieutenant governor, speaker of the
8 house, and the House and Senate standing committees with
9 jurisdiction over this issue regarding allowing an entity
10 authorized or required under the laws of this state to obtain
11 criminal history record information, including national criminal
12 history record information, regarding whether a person may
13 elect, as an alternative, to contract with a private vendor to
14 obtain both the criminal history record information and identity
15 verification through electronic-based data records.

16

17

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- 1 supervisor;
- 2 (7) any document recording a promotion or demotion of
- 3 the officer;
- 4 (8) any request for leave by the officer;
- 5 (9) any request by the officer for transfers of shift
- 6 or duty assignments;
- 7 (10) any documents presented to the commission in
- 8 connection with a public hearing under Section 411.007(f);
- 9 (11) the officer's:
- 10 (A) name;
- 11 (B) age;
- 12 (C) dates of employment;
- 13 (D) positions held; and
- 14 (E) gross salary; and
- 15 (12) information about the location of the officer's
- 16 department duty assignments.

17 SECTION 6.02⁸⁴. Section 411.192, Government Code, is amended

18 by amending Subsections (a) and (d) and adding Subsection (e) to

19 read as follows:

20 (a) The department shall disclose to a criminal justice

21 agency information contained in its files and records regarding

22 whether a named individual or any individual named in a specified

23 list is licensed under this subchapter. Information on an

24 individual subject to disclosure under this section includes the

25 individual's name, date of birth, gender, race, ~~and~~ zip code,

26 telephone number, e-mail address, and Internet website address.

27 Except as otherwise provided by this section and by Section

1 411.193, all other records maintained under this subchapter are
2 confidential and are not subject to mandatory disclosure under the
3 open records law, Chapter 552.

4 ~~(d) Except as provided by Subsection (c),~~ ^{The} ~~This section~~
5 ~~does not prohibit the~~ department shall make ~~[from making]~~ public
6 and distribute ~~[distributing]~~ to the public at no cost lists of
7 individuals who are certified as qualified handgun instructors by
8 and who request to be included as provided by Subsection (c)
9 the department. The department shall include on the lists each
10 individual's name, telephone number, e-mail address, and Internet
11 website address. The department shall make the list available on
12 the department's Internet website.

13 (e) An individual who is certified as a qualified handgun
14 instructor may request in writing that the department not disclose
15 all or part of the information described by Subsection (d)
16 regarding the individual. The department shall ^{include} ~~remove~~ all or part
17 of the individual's information ^{on} ~~from~~ the list as requested.

18 SECTION 6.03. The heading to Section 418.005, Government
19 Code, is amended to read as follows:

20 Sec. 418.005. EMERGENCY MANAGEMENT TRAINING FOR APPOINTED
21 OFFICERS.

22 SECTION 6.04. Subchapter A, Chapter 418, Government Code,
23 is amended by adding Section 418.0051 to read as follows:

24 Sec. 418.0051. EMERGENCY MANAGEMENT TRAINING FOR ELECTED
25 PUBLIC OFFICERS. An elected public officer of the state or of a
26 political subdivision whose duties include emergency management
27 responsibilities or who plays a role in emergency preparedness,
response, or recovery may attend the training provided under

1 ~~Section 418.005 appropriate to the individual's position.~~

2 SECTION 6.05. Section 614.151(2), Government Code, as added
3 by Chapter 1159 (H.B. 12), Acts of the 80th Legislature, Regular
4 Session, 2007, is amended to read as follows:

5 (2) "Law enforcement officer" means a person who [+
6 [(A)] is a commissioned peace officer [+
7 [(B) ~~is~~] employed by a law enforcement agency [+
8 and

9 [(C) ~~is compensated according to~~
10 [(i) ~~Schedule C of the position~~
11 ~~classification salary schedule prescribed by the General~~
12 ~~Appropriations Act if the person is employed by a law enforcement~~
13 ~~agency other than the Parks and Wildlife Department, or~~
14 [(ii) ~~Schedule B or C of the position~~
15 ~~classification salary schedule prescribed by the General~~
16 ~~Appropriations Act if the person is employed by the Parks and~~
17 ~~Wildlife Department].~~

18 SECTION 6.06. Section 614.152, Government Code, as added by
19 Chapter 1159 (H.B. 12), Acts of the 80th Legislature, Regular
20 Session, 2007, is amended ^{to} to read as follows:

21 Sec. 614.152. PHYSICAL FITNESS PROGRAMS AND STANDARDS. (a)
22 Each [~~Out of appropriated funds, each~~] law enforcement agency shall
23 adopt physical fitness programs that a law enforcement officer must
24 participate in and physical fitness standards that a law
25 enforcement officer must meet [~~to continue employment with the~~
26 ~~agency as a law enforcement officer~~]. The standards as applied to
27 an officer must directly relate to the officer's job duties and

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123 ^{or} by amending the section heading and subsections (a) and (c) and by adding Subsections (a-1) and (a-2)

1 shall include individual fitness goals specific to the officer's
2 age, ~~weight~~ and gender. A law enforcement agency shall use the
3 services of a consultant to aid the agency in developing the
4 standards.

5 (a-1) Each law enforcement agency shall adopt a reward
6 policy that provides for reward incentives to officers who
7 participate in the program and meet the standards adopted under
8 Subsection (a). The reward incentives under the policy must be an
9 amount of administrative leave of not more than four days per year.

10 (a-2) An agency may adopt physical readiness standards
11 independent of other law enforcement agencies.

12 ~~(b) Except as provided by Subsection (c), the inability of~~
13 ~~an officer to participate in a program or meet [a violation of] a~~
14 ~~standard adopted under Subsection (a) is just cause to [discharge~~
15 ~~an officer or~~

16 ~~[(1)] transfer an officer to a position that is not~~
17 ~~compensated according to Schedule C of the position classification~~
18 ~~salary schedule prescribed by the General Appropriations Act [or~~

19 ~~[(2) for a law enforcement officer employed by the~~
20 ~~Parks and Wildlife Department and compensated according to Schedule~~
21 ~~B of the position classification salary schedule prescribed by the~~
22 ~~General Appropriations Act, transfer the officer to a position that~~
23 ~~does not require the employee to be a commissioned peace officer].~~

24 (c) A law enforcement agency may exempt a law enforcement
25 officer from participating in a program or meeting a standard under
26 Subsection (a) based on the facts and circumstances of the
27 individual case, including whether an officer was injured in the

1 line of duty.

2 SECTION 6.07. Section 411.171(4), Government Code, is
3 amended to read as follows:

4 (4) "Convicted" means an adjudication of guilt or,
5 except as provided in Section 411.1711, an order of deferred
6 adjudication entered against a person by a court of competent
7 jurisdiction whether or not the imposition of the sentence is
8 subsequently probated and the person is discharged from community
9 supervision. The term does not include an adjudication of guilt or
10 an order of deferred adjudication that has been subsequently:

11 (A) expunged; [~~ex~~]

12 (B) pardoned under the authority of a state or
13 federal official; or

14 (C) otherwise vacated, set aside, annulled,
15 invalidated, voided, or sealed under any state or federal law.

16 SECTION 6.08. Section 521.005, Transportation Code, is
17 amended to read as follows:

18 Sec. 521.005. RULEMAKING AUTHORITY. (a) The department
19 may adopt rules necessary to administer this chapter.

20 (b) The department may not adopt or implement a new rule or
21 directive that is consistent with the REAL ID Act of 2005 (49 U.S.C.
22 Section 30301 et seq.), unless otherwise authorized by this
23 chapter.

24 SECTION 6.09. Subchapter C, Chapter 522, Transportation
25 Code, is amended by adding Section 522.034 to read as follows:

26 Sec. 522.034. HEALTH MANAGEMENT AND WELLNESS PROGRAM. (a)
27 The department shall establish a health management and wellness

ADOPTED

MAY 27 2009

Aditya Ghosh
Secretary of the Senate

FLOOR AMENDMENT NO. 19

BY: Caron

Amend C.S.H.B. No. 2730 by adding the following SECTION to the bill, appropriately numbered, and renumbering existing SECTIONS accordingly:

SECTION 6.08. Subchapter C, Chapter 521, Transportation Code, is amended by adding Section 521.060 to read as follows:

Sec. 521.060. DRIVER RECORD MONITORING PILOT PROGRAM.

(a) The department by rule may establish a driver record monitoring pilot program. The term of the pilot program may not exceed one year.

(b) Under the pilot program, the department may enter into a contract with a person to provide driver record monitoring services, as described by Subsection (c), and certain information from the department's driver's license records to the person, if the person:

(1) is an employer, an insurer, an insurance support organization, an employer support organization, or an entity that self-insures its motor vehicles; and

(2) is eligible to receive the information under Chapter 730.

(c) A contract entered into by the department must require:

(1) the department, during the term of the contract, to:

(A) monitor the driver record of each holder of a driver's license issued by the department that is requested by the person with whom the department has contracted;

(B) identify any change in the status of a driver's license or any conviction for a traffic offense reported to the department during the monitoring period; and

(C) periodically, as specified in the contract, provide reports of those individuals identified as having a change in status or convictions to the person with whom the department has contracted; and

(2) the person with whom the department has contracted:

(A) to purchase under Section 521.046 a copy of the driver record of each individual identified in a report provided under Subdivision (1)(C);

(B) to warrant that:

(i) the person will not directly or indirectly disclose information received from the department under the contract to a third party without the express written consent of the department, except as required by law or legal process; and

(ii) if a disclosure is required by law or legal process, the person will immediately notify the department so that the department may seek to oppose, limit, or restrict the required disclosure; and

(C) if the person is an insurance support organization, to warrant that the person will not seek to obtain information about a holder of a driver's license under the contract unless the license holder is insured by a client of the organization, and that the person will provide the department with the name of each client to whom the insurance support organization provides information received from the department under the contract.

(d) The attorney general may file a suit against a person with whom the department has contracted under this section for:

(1) injunctive relief to prevent or restrain the person from violating a term of the contract or from directly or

indirectly disclosing information received from the department under the contract in a manner that violates the terms of the contract; or

(2) a civil penalty in an amount not to exceed \$2,000 for each disclosure in violation of those terms.

(e) If the attorney general brings an action against a person under Subsection (d) and an injunction is granted against the person or the person is found liable for a civil penalty, the attorney general may recover reasonable expenses, court costs, investigative costs, and attorney's fees. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty under Subsection (d).

(f) A violation of the terms of a contract entered into with the department by the person with whom the department has contracted is a false, misleading, or deceptive act or practice under Subchapter E, Chapter 17, Business & Commerce Code.

(g) A civil action brought under this section shall be filed in a district court:

(1) in Travis County; or

(2) in any county in which the violation occurred.

(h) A person with whom the department has contracted under this section commits an offense if the person directly or indirectly discloses information received from the department under the contract in a manner that violates the terms of the contract. An offense under this subsection is a Class B misdemeanor. If conduct constituting an offense under this subsection also constitutes an offense under another law, the actor may be prosecuted under this subsection, the other law, or both.

(i) The department shall impose a fee on each person with

whom the department contracts under this section for the services provided by the department under the contract. The fee must be reasonable and be not less than the amount necessary to allow the department to recover all reasonable costs to the department associated with entering into the contract and providing services to the person under the contract, including direct, indirect, and administrative costs and costs related to the development and deployment of the pilot program.

(j) The department may establish a reasonable deadline by which a person must apply to enter into a contract with the department under this section and may not enter into a contract with a person who fails to apply before that deadline.

(k) To the fullest extent practicable, the services of the department under a contract entered into under this section shall be provided by, through, or in conjunction with the interactive system established under Section 521.055.

(l) At the conclusion of the term of the pilot program, and on the recommendation of the department, the commission may authorize the department to implement the pilot program as a permanent program.

(m) Before the department recommends that the pilot program be implemented as a permanent program, the department shall submit to the lieutenant governor, the speaker of the house of representatives, and each member of the legislature a report that contains an analysis of the scope, effectiveness, and cost benefits of the pilot program. The report must include:

(1) a list of each insurance support organization with which the department has contracted under this section; and

(2) a list of each client to whom the insurance support

~~1 program to educate each applicant for a commercial driver's license
2 or commercial driver learner's permit on health risks that may
3 increase the risk that an operator may cause an accident while
4 driving a commercial motor vehicle. At a minimum, the program must
5 include information on:~~

- ~~6 (1) high blood pressure;
7 (2) high cholesterol; and
8 (3) diabetes.~~

~~9 (b) The department shall make the health management and
10 wellness information required by Subsection (a) available to each
11 applicant:~~

- ~~12 (1) in person, at the time the applicant submits an
13 application for a commercial driver's license or commercial driver
14 learner's permit; and
15 (2) on the department's Internet website.~~

16 SECTION 6.40⁸². Subchapter S, Chapter 521, Transportation
17 Code, is amended by adding Section 521.4565 to read as follows:

18 Sec. 521.4565. CONSPIRING TO MANUFACTURE COUNTERFEIT
19 LICENSE OR CERTIFICATE. (a) In this section:

20 (1) "Combination," "conspires to commit," "profits,"
21 and "criminal street gang" have the meanings assigned by Section
22 71.01, Penal Code.

23 (2) "Conspires to manufacture or produce" means that:

24 (A) a person agrees with one or more other
25 persons to engage in the manufacture or production of a forged or
26 counterfeit instrument; and

27 (B) the person and one or more of the other

1 persons perform an overt act in pursuance of the agreement.

2 (3) "Instrument" means a driver's license, commercial
3 driver's license, or personal identification certificate.

4 (4) "Public servant" has the meaning assigned by
5 Section 1.07, Penal Code.

6 (b) A person commits an offense if the person establishes,
7 maintains, or participates in or conspires to establish, maintain,
8 or participate in a combination or criminal street gang, or
9 participates in the profits of a combination or criminal street
10 gang, with the intent to manufacture or produce a forged or
11 counterfeit instrument for the purpose of selling, distributing, or
12 delivering the instrument. An agreement that constitutes
13 conspiring to manufacture or produce may be inferred from the acts
14 of the parties.

15 (c) An offense under this section is a state jail felony,
16 except that an offense committed by a public servant is a felony of
17 the third degree.

18 ~~SECTION 6.11. Section 708.151, Transportation Code, is~~
19 ~~amended to read as follows:~~

20 ~~Sec. 708.151. NOTICE OF SURCHARGE. (a) The department~~
21 ~~shall send notices as required by Subsection (b) to [notify] the~~
22 ~~holder of a driver's license when [of the assessment of] a surcharge~~
23 ~~is assessed on that license. Each notice must:~~

24 ~~(1) be sent by first class mail [sent] to the person's~~
25 ~~most recent address as shown on the records of the department or to~~
26 ~~the person's most recent forwarding address on record with the~~
27 ~~United States Postal Service if it is different;~~

ADOPTED

FLOOR AMENDMENT NO. 22

MAY 27 2009

BY: Robley Ellis

Atty. Gen.
Secretary of the Senate

Amend H.B. No. 2790 (Senate committee printing) by adding the following SECTION to the bill, appropriately numbered, and renumbering subsequent SECTIONS accordingly:

SECTION 6.10. Section 548.005, Transportation Code, is amended to read as follows:

Sec. 548.005. INSPECTION ONLY BY STATE-CERTIFIED AND SUPERVISED INSPECTION STATION. A compulsory inspection under this chapter may be made only by an inspection station, except that the department may:

(1) permit inspection to be made by an inspector under terms and conditions the department prescribes; [end]

(2) authorize the acceptance in this state of a certificate of inspection and approval issued in another state having a similar inspection law; and

(3) authorize the acceptance in this state of a certificate of inspection and approval issued in compliance with 49 C.F.R. Part 396 to a motor bus, as defined by Section 502.001, that is registered in this state but is not domiciled in this state.

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1 persons perform an overt act in pursuance of the agreement.

2 (3) "Instrument" means a driver's license, commercial
3 driver's license, or personal identification certificate.

4 (4) "Public servant" has the meaning assigned by
5 Section 1.07, Penal Code.

6 (b) A person commits an offense if the person establishes,
7 maintains, or participates in or conspires to establish, maintain,
8 or participate in a combination or criminal street gang, or
9 participates in the profits of a combination or criminal street
10 gang, with the intent to manufacture or produce a forged or
11 counterfeit instrument for the purpose of selling, distributing, or
12 delivering the instrument. An agreement that constitutes
13 conspiring to manufacture or produce may be inferred from the acts
14 of the parties.

15 (c) An offense under this section is a state jail felony,
16 except that an offense committed by a public servant is a felony of
17 the third degree.

18 SECTION 6.11. Section 708.151, Transportation Code, is
19 amended to read as follows:

20 Sec. 708.151. NOTICE OF SURCHARGE. (a) The department
21 shall send notices as required by Subsection (b) to [notify] the
22 holder of a driver's license when [of the assessment of] a surcharge
23 is assessed on that license. Each notice must:

24 (1) be sent by first class mail [sent] to the person's
25 most recent address as shown on the records of the department or to
26 the person's most recent forwarding address on record with the
27 United States Postal Service if it is different;

1 (2) [~~The notice must~~] specify the date by which the
2 surcharge must be paid;

3 (3) state the total dollar amount of the surcharge
4 which must be paid, the number of monthly payments required under an
5 installment payment plan, and the minimum monthly payment required
6 for a person to enter and maintain an installment payment plan with
7 the department; and

8 (4) state the consequences of a failure to pay the
9 surcharge.

10 (b) The department shall send a first notice not later than
11 the fifth day after the date the surcharge is assessed. Any notice
12 under this section shall also include a conspicuous notice
13 regarding the ability of a person to qualify as indigent under
14 Section 708.158 and the procedures to establish with the department
15 their indigent status so that they may qualify for the reduced
16 surcharges as set forth in Section 708.158.

17 (c) Once a person is recognized as an indigent under Section
18 708.158, the department shall send a new notification to that
19 person which accurately reflects the reduced surcharges owed.

20 (d) If on or before the 45th day after the date the first
21 notice was sent the person fails to pay the amount of the surcharge
22 or fails to enter into an installment payment agreement with the
23 department, the department shall send a second notice. If on or
24 before the 60th day after the date the second notice was sent the
25 person fails to pay the amount of the surcharge or fails to enter
26 into an installment payment agreement with the department, the
27 department shall send a third notice which advises the person that

1 his/her driving privileges are suspended.

2 SECTION 6.12. Section 708.152(a), Transportation Code, is
3 amended to read as follows:

4 (a) If on ~~[before]~~ the 60th ~~[30th]~~ day after the date the
5 department sends a second notice under Section 708.151 the person
6 fails to pay the amount of a surcharge on the person's license or
7 fails to enter into an installment payment agreement with the
8 department, the license of the person is automatically suspended.
9 The person's license may not be suspended under this section before
10 the 105th day after the surcharge was assessed by the department.

11 SECTION 6.13. Section 708.153(b), Transportation Code, is
12 amended to read as follows:

13 (b) A rule under this section:

14 (1) may not require ~~[permit]~~ a person to pay a
15 surcharge over a period of less ~~[more]~~ than 36 consecutive months
16 for surcharges in the amount of \$500 or more; may not require a
17 person to pay a surcharge over a period of less than 24 consecutive
18 months for surcharges of \$250 to \$499; and may not require a person
19 to pay a surcharge over a period of less than 12 consecutive months
20 for surcharges of \$249 or less; and

21 (2) may provide that if the person fails to make any
22 ~~[a]~~ required monthly installment payment, the department may
23 reestablish the installment plan upon receipt of a payment in the
24 amount at least equal to a required monthly installment payment ~~[or~~
25 ~~declare the amount of the unpaid surcharge immediately due and~~
26 ~~payable].~~

27 SECTION 6.14. Section 708.157(c), Transportation Code, is

1 amended to read as follows:

2 (c) The department by rule shall [~~may~~] establish an
3 indigency program for holders of a driver's license on which a
4 surcharge has been assessed for certain offenses, as determined by
5 the department.

6 SECTION 6.15. Subchapter D, Chapter 708, Transportation
7 Code, is amended by adding Section 708.158 to read as follows:

8 Sec. 708.158. INDIGENT STATUS AND REDUCTION OF SURCHARGES.

9 (a) The department shall waive 75 percent of all surcharges
10 assessed under Chapter 708 for a person meeting the criteria set
11 forth in Subsections (b) and (c) hereof.

12 (b) The department shall waive 80 percent of all surcharges
13 against a person who is indigent. For the purposes of this
14 subsection, a person is indigent if the person provides evidence
15 described by Subsection (c) to the department.

16 (c) A person must provide the following information to the
17 department that the person's income or the person's household
18 income does not exceed 125 percent of the applicable income level
19 established by the federal poverty guidelines, and the following
20 documentation may be used as such proof:

21 (1) a copy of the person's most recent federal income
22 tax return;

23 (2) a copy of the person's most recent statement of
24 wages; or

25 (3) documentation from a federal agency, state agency,
26 or school district that indicates that the person or, if the person,
27 is a dependent as defined by Section 152 of the Internal Revenue

1 Code, the taxpayer claiming the person as a dependent, receives
2 assistance from:

3 (A) the food stamp program or the financial
4 assistance program established under Chapter 31, Human Resources
5 Code;

6 (B) the federal special supplemental nutrition
7 program for women, infants, and children authorized by 42 U.S.C.
8 Section 1786;

9 (C) the medical assistance program under Chapter
10 32, Human Resources Code;

11 (D) the child health plan program under Chapter
12 62, Health and Safety Code; or

13 (E) the national free or reduced-price lunch
14 program established under 42 U.S.C. Section 1751 et seq.

15 SECTION 6.16. Article 2.131, Code of Criminal Procedure, is
16 amended to read as follows:

17 Art. 2.131. RACIAL PROFILING PROHIBITED. (a) A peace
18 officer may not engage in racial profiling.

19 (b) A civilian employee of the Department of Public Safety
20 assigned to a driver's license facility of that department may not
21 engage in racial profiling in issuing an original, renewal, or
22 duplicate driver's license, commercial driver's license, or
23 personal identification certificate.

24 SECTION 6.¹⁵~~17~~. Article 2.132, Code of Criminal Procedure, is
25 amended by adding Subsection (g) to read as follows:

26 (g) To the extent that they can be made applicable, the
27 provisions of Subsections (b)(1), (2), (3), (4), and (5) also apply

1 to civilian employees of the Department of Public Safety who are
2 assigned to the driver's license facilities of the department.

3 SECTION 6.18. Section 22.0834, Education Code, is amended
4 by adding Subsection (k) to read as follows:

5 (k) The requirements of this section apply to an entity that
6 contracts directly with a school district, open-enrollment charter
7 school, or shared services arrangement and any subcontractor of the
8 entity. For purposes of this subsection, "subcontractor" means an
9 entity that contracts with another entity that is not a school
10 district, open-enrollment charter school, or shared services
11 arrangement to provide services to a school district,
12 open-enrollment charter school, or shared services arrangement.

13 SECTION 6.19. (a) In this section:

14 (1) "Authorized employee" means an officer of the
15 Texas Highway Patrol or other law enforcement officer commissioned
16 by the director of the department.

17 (2) "Department" means the Department of Public
18 Safety.

19 (3) "Pilot program" means the pilot fingerprint
20 identification program established under this section.

21 (b) If sufficient funds are available, the department shall
22 develop and implement a program in one or more counties of this
23 state to pilot the use by authorized employees of a mobile
24 fingerprint identification system to perform fingerprint checks in
25 the field as an aid to law enforcement.

26 (c) In implementing the pilot program, the department shall
27 use a portable, lightweight mobile fingerprint scanner developed

ADOPTED

MAY 27 2009

Henry Spaul
Secretary of the Senate

FLOOR AMENDMENT NO. H

BY: *J. J. Amis*

1 Amend C.S.H.B. No. 2730 (senate committee printing) by adding
2 the following appropriately numbered SECTION to the bill and
3 renumbering subsequent SECTIONS accordingly:

4 SECTION 6.16. Section 22.0834, Education Code, is amended
5 by adding Subsections (k), (l), (m), (n), (o), and (p) to read as
6 follows:

7 (k) The requirements of this section apply to an entity that
8 contracts directly with a school district, open-enrollment charter
9 school, or shared services arrangement and any subcontractor of the
10 entity.

11 (l) A contracting entity shall require that a
12 subcontracting entity obtain all criminal history record
13 information that relates to an employee to whom Subsection (a)
14 applies. If a contracting or subcontracting entity determines that
15 Subsection (a) does not apply to an employee, the contracting or
16 subcontracting entity shall make a reasonable effort to ensure that
17 the conditions or precautions that resulted in the determination
18 that Subsection (a) did not apply to the employee continue to exist
19 throughout the time that the contracted services are provided.

20 (m) A contracting entity complies with the requirements of
21 this section if the contracting entity obtains a written statement
22 from each subcontracting entity certifying that the subcontracting
23 entity has obtained the required criminal history record
24 information for employees of the subcontracting entity and the
25 subcontracting entity has obtained certification from each of the
26 subcontracting entity's subcontractors.

27 (n) A subcontracting entity must certify to the school
28 district, open-enrollment charter school, or shared services
29 arrangement and the contracting entity that the subcontracting

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1 entity has obtained all criminal history record information that
2 relates to an employee to whom Subsection (a) applies and has
3 obtained similar written certifications from the subcontracting
4 entity's subcontractors.

5 (o) A contracting or subcontracting entity may not permit an
6 employee to whom Subsection (a) applies to provide services at a
7 school if the employee has been convicted of a felony or misdemeanor
8 offense that would prevent a person from obtaining certification as
9 an educator under Section 21.060.

10 (p) In this section:

11 (1) "Contracting entity" means an entity that
12 contracts directly with a school district, open-enrollment charter
13 school, or shared services arrangement to provide services to the
14 school district, open-enrollment charter school, or shared
15 services arrangement.

16 (2) "Subcontracting entity" means an entity that
17 contracts with another entity that is not a school district,
18 open-enrollment charter school, or shared services arrangement to
19 provide services to a school district, open-enrollment charter
20 school, or shared services arrangement.

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x 2, 3

- 1 (4) any letter of recommendation for the officer;
2 (5) any employment contract with the officer;
3 (6) any periodic evaluation of the officer by a
4 supervisor;
5 (7) any document recording a promotion or demotion of
6 the officer;
7 (8) any request for leave by the officer;
8 (9) any request by the officer for transfers of shift
9 or duty assignments;
10 (10) any documents presented to the commission in
11 connection with a public hearing under Section 411.007(f);
12 (11) the officer's:
13 (A) name;
14 (B) age;
15 (C) dates of employment;
16 (D) positions held; and
17 (E) gross salary; and
18 (12) information about the location of the officer's
19 department duty assignments.

20 ARTICLE 7. TEXAS RANGERS' UNSOLVED CRIMES INVESTIGATION TEAM

21 SECTION 7.01. The heading to Subchapter J, Chapter 411,
22 Government Code, is amended to read as follows:

23 SUBCHAPTER J. UNSOLVED CRIMES INVESTIGATION PROGRAM [~~TEAM~~]

24 SECTION 7.02. Section 411.262, Government Code, is amended
25 to read as follows:

26 Sec. 411.262. UNSOLVED CRIMES INVESTIGATION PROGRAM
27 [~~TEAM~~]. (a) The unsolved crimes investigation program [~~team~~] is

1 an investigative program [~~investigatory unit~~] within the
2 department.

3 (b) The program is a function [~~team will be located at the~~
4 ~~headquarters~~] of the Texas Rangers [~~in Austin, Texas,~~] and will be
5 commanded by the chief of the Texas Rangers.

6 (c) The director may employ commissioned peace officers and
7 noncommissioned employees to perform duties required of the program
8 [~~team~~].

9 (d) To be eligible for employment under this section, a
10 peace officer must be a sergeant or higher-ranked officer of the
11 Texas Rangers and must have [~~not less than four years of experience~~
12 ~~as a peace officer and~~

13 [~~(1) a degree from an accredited institution of higher~~
14 ~~education in law, accounting, or computer science, or~~

15 [~~(2)~~] two or more years of experience in the
16 investigation of homicides or other major felonies.

17 (e) To be eligible for employment under this section, a
18 noncommissioned employee must meet the experience, training, and
19 educational qualifications set by the director as requirements for
20 investigating or assisting in the investigation of an unsolved
21 crime.

22 SECTION 7.03. Section 411.263, Government Code, is amended
23 to read as follows:

24 Sec. 411.263. ASSISTANCE ON REQUEST. On the request of an
25 attorney representing the state and with the approval of the
26 director, employees of the unsolved crimes investigation program
27 [~~team~~] of the department may assist local law enforcement in the

1 investigation of crime.

2 SECTION 7.04. This article takes effect immediately if this
3 Act receives a vote of two-thirds of all the members elected to each
4 house, as provided by Section 39, Article III, Texas Constitution.
5 If this Act does not receive the vote necessary for immediate
6 effect, this article takes effect September 1, 2009.

7 ARTICLE 8. DISSEMINATION OF EMERGENCY PUBLIC SERVICE MESSAGES

8 SECTION 8.01. Section 418.047, Government Code, is amended
9 by adding Subsection (a-1) to read as follows:

10 (a-1) The division shall coordinate with the Texas
11 Department of Transportation to establish additional methods for
12 disseminating emergency public service messages to motorists,
13 including:

- 14 (1) severe weather advisories;
15 (2) AMBER alerts under Subchapter L, Chapter 411; and
16 (3) silver alerts under Subchapter M, Chapter 411; and
17 ~~(4) information regarding the availability of fuel,~~
18 ~~food, lodging, and pharmacy services during an evacuation order~~
19 ~~under this chapter or a disaster declared under this chapter.~~

20 ARTICLE 9. AUTHORITY OF DEPARTMENT TO OBTAIN AND USE CRIMINAL
21 HISTORY RECORD INFORMATION FOR CERTAIN DEPARTMENTAL AUTHORIZATIONS

22 SECTION 9.01. Subchapter F, Chapter 411, Government Code,
23 is amended by adding Section 411.0891 to read as follows:

24 Sec. 411.0891. DEPARTMENT ACCESS TO CRIMINAL HISTORY RECORD
25 INFORMATION: CERTAIN DEPARTMENTAL AUTHORIZATIONS. (a) Subject to
26 Section 411.087, the department is authorized to obtain and use
27 criminal history record information maintained by the Federal

1 Bureau of Investigation or the department that relates to a person
2 who:

3 (1) is an applicant for or holds a registration issued
4 by the director under Subchapter C, Chapter 481, Health and Safety
5 Code, that authorizes the person to manufacture, distribute,
6 analyze, or conduct research with a controlled substance;

7 (2) is an applicant for or holds a chemical precursor
8 transfer permit issued by the director under Section 481.078,
9 Health and Safety Code;

10 (3) is an applicant for or holds a chemical laboratory
11 apparatus transfer permit issued by the director under Section
12 481.081, Health and Safety Code;

13 (4) is an applicant for certification by the
14 department as an inspection station or an inspector under
15 Subchapter G, Chapter 548, Transportation Code, holds an inspection
16 station or inspector certificate issued under that subchapter, or
17 is the owner of an inspection station operating under that chapter;
18 or

19 (5) is an applicant for approval or has been approved
20 as a program sponsor by the department under Chapter 662,
21 Transportation Code, is an applicant for certification by the
22 department as an instructor under that chapter, or holds an
23 instructor certificate issued under that chapter.

24 (b) The department may release or disclose criminal history
25 record information obtained or used by the department for a purpose
26 described by Subsection (a) to another person or agency only:

27 (1) in a criminal proceeding;

1 school district in a participating county shall participate in the
2 pilot program.

3 (c) The director shall administer the pilot program and
4 adopt rules to implement and administer the program. In adopting
5 rules, the director shall ensure that the pilot program addresses
6 law enforcement issues that affect school districts, including the
7 prevention of and intervention in juvenile delinquency and
8 substance abuse.

9 (d) This section expires August 31, 2011.

10 SECTION 9.02. As soon as practicable after the effective
11 date of this Act, the public safety director shall adopt rules as
12 necessary to implement Section 411.0203, Government Code, as added
13 by this Act.

14 ARTICLE 9A. DISCLOSURE OF CRIMINAL HISTORY RECORD INFORMATION
15 REGARDING PUBLIC SCHOOL EMPLOYEES

16 SECTION 9A.01. Section 411.084, Government Code, is amended
17 by amending Subsection (a) and adding Subsections (a-1) and (c) to
18 read as follows:

19 (a) Criminal history record information obtained from the
20 department under this subchapter, including any identification
21 information that could reveal the identity of a person about whom
22 criminal history record information is requested and information
23 that directly or indirectly indicates or implies involvement of a
24 person in the criminal justice system:

25 (1) is for the exclusive use of the authorized
26 recipient of the information; and

27 (2) may be disclosed or used by the recipient only if,

1 and only to the extent that, disclosure or use is authorized or
2 directed by:

- 3 (A) this subchapter;
4 (B) another statute;
5 (C) a rule adopted under a statute; or
6 (D) an order of a court of competent
7 jurisdiction.

8 (a-1) The term "criminal history record" information under
9 Subsection (a) does not refer to any specific document produced to
10 comply with this subchapter but to the information contained,
11 wholly or partly, in a document's original form or any subsequent
12 form or use.

13 (c) An agency or individual may not confirm the existence or
14 nonexistence of criminal history record information to any person
15 that is not eligible to receive the information.

16 SECTION 9A.02. Sections 411.090(b) and (c), Government Code,
17 are amended to read as follows:

18 (b) Criminal history record information obtained by the
19 board in the original form or any subsequent form [~~under Subsection~~
20 ~~(a)~~]:

21 (1) may be used only for a [~~any~~] purpose related to the
22 issuance, denial, suspension, or cancellation of a certificate
23 issued by the board;

24 (2) may not be released to any person except:

25 (A) the person who is the subject of the
26 information;

27 (B) the Texas Education Agency;

1 (C) a local or regional educational entity as
2 provided by Section 411.097; or

3 (D) by [en] court order [ex with the consent of
4 the applicant for a certificate]; [and]

5 (3) is not subject to disclosure as provided by
6 Chapter 552; and

7 (4) shall be destroyed by the board after the
8 information is used for the authorized purposes.

9 (c) The department shall notify the State Board for Educator
10 Certification of the arrest of any educator, as defined by Section
11 5.001, Education Code, who has fingerprints on file with the
12 department. Any record of the notification and any information
13 contained in the notification is not subject to disclosure as
14 provided by Chapter 552.

15 SECTION 9A.03. Section 411.0901, Government Code, is
16 amended to read as follows:

17 Sec. 411.0901. ACCESS TO CRIMINAL HISTORY RECORD
18 INFORMATION: TEXAS EDUCATION AGENCY. (a) The Texas Education
19 Agency is entitled to obtain criminal history record information
20 maintained by the department about a person who:

21 (1) is employed or is an applicant for employment by a
22 school district or open-enrollment charter school;

23 (2) is employed or is an applicant for employment by a
24 shared services arrangement, if the employee's or applicant's
25 duties are or will be performed on school property or at another
26 location where students are regularly present; or

27 (3) is employed or is an applicant for employment by an

1 entity that contracts with a school district, open-enrollment
2 charter school, or shared services arrangement if:

3 (A) the employee or applicant has or will have
4 continuing duties relating to the contracted services; and

5 (B) the employee or applicant has or will have
6 direct contact with students.

7 (b) Criminal history record information obtained by the
8 agency in the original form or any subsequent form:

9 (1) may be used only for a purpose authorized by the
10 Education Code;

11 (2) may not be released to any person except:

12 (A) the person who is the subject of the
13 information;

14 (B) the State Board for Educator Certification;

15 (C) a local or regional educational entity as
16 provided by Section 411.097; or

17 (D) by court order;

18 (3) is not subject to disclosure as provided by
19 Chapter 552; and

20 (4) shall be destroyed by the agency after the
21 information is used for the authorized purposes.

22 SECTION 9A.04. Section 411.097, Government Code, is amended
23 by amending Subsection (d) and adding Subsection (f) to read as
24 follows:

25 (d) Criminal history record information obtained by a
26 school district, charter school, private school, service center,
27 commercial transportation company, or shared services arrangement

1 in the original form or any subsequent form:

2 (1) [~~under Subsection (a), (b), or (c)~~] may not be
3 released [~~or disclosed~~] to any person except:

4 (A) [~~other than~~] the individual who is the
5 subject of the information;

6 (B) [] the Texas Education Agency;

7 (C) [] the State Board for Educator
8 Certification;

9 (D) [~~or~~] the chief personnel officer of the
10 transportation company, if the information is obtained under
11 Subsection (a)(2); or

12 (E) by court order;

13 (2) is not subject to disclosure as provided by
14 Chapter 552; and

15 (3) shall be destroyed by the school district, charter
16 school, private school, service center, commercial transportation
17 company, or shared services arrangement on the earlier of:

18 (A) the first anniversary of the date the
19 information was originally obtained; or

20 (B) the date the information is used for the
21 authorized purpose.

22 (f) An employee of a school district, charter school,
23 private school, regional education service center, commercial
24 transportation company, or education shared services arrangement
25 or an entity that contracts to provide services to a school
26 district, charter school, or shared services arrangement may
27 request from the employer a copy of any criminal history record

1 information relating to that employee that the employer has
2 obtained as provided by Subchapter C, Chapter 22, Education Code.
3 The employer may charge a fee to an employee requesting a copy of
4 the information in an amount not to exceed the actual cost of
5 copying the requested criminal history record information.

6 SECTION 9A.05. Subchapter C, Chapter 22, Education Code, is
7 amended by adding Section 22.08391 to read as follows:

8 Sec. 22.08391. CONFIDENTIALITY OF INFORMATION. (a)

9 Information collected about a person to comply with this
10 subchapter, including the person's name, address, phone number,
11 social security number, driver's license number, other
12 identification number, and fingerprint records:

13 (1) may not be released except:

14 (A) to comply with this subchapter;

15 (B) by court order; or

16 (C) with the consent of the person who is the
17 subject of the information;

18 (2) is not subject to disclosure as provided by
19 Chapter 552, Government Code; and

20 (3) shall be destroyed by the requestor or any
21 subsequent holder of the information not later than the first
22 anniversary of the date the information is received.

23 (b) Any criminal history record information received by the
24 State Board for Educator Certification as provided by this
25 subchapter is subject to Section 411.090(b), Government Code.

26 (c) Any criminal history record information received by the
27 agency as provided by this subchapter is subject to Section

1 411.0901(b), Government Code.

2 (d) Any criminal history record information received by a
3 school district, charter school, private school, regional
4 education service center, commercial transportation company, or
5 education shared services arrangement or an entity that contracts
6 to provide services to a school district, charter school, or shared
7 services arrangement as provided by this subchapter is subject to
8 Section 411.097(d), Government Code.

9 SECTION 9A.06. The change in law made by this article
10 applies to information collected, assembled, or maintained before,
11 on, or after the effective date of this article.

12 ARTICLE 10. CRIMINAL HISTORY RECORD INFORMATION

13 CONCERNING CERTAIN INTOXICATION OFFENSES

14 SECTION 10.01. Section 411.135(a), Government Code, is
15 amended to read as follows:

16 (a) Any person is entitled to obtain from the department:

17 (1) any information described as public information
18 under Chapter 62, Code of Criminal Procedure, [~~as added by Chapter~~
19 ~~668, Acts of the 75th Legislature, Regular Session, 1997,~~]
20 including, to the extent available, a recent photograph of each
21 person subject to registration under that chapter; ~~and~~

22 (2) criminal history record information maintained by
23 the department that relates to the conviction of or a grant of
24 deferred adjudication to a person for any criminal offense,
25 including arrest information that relates to the conviction or
26 grant of deferred adjudication; and

27 (3) any information described as public information

1 (2) in a hearing conducted by the department;
2 (3) under an order from a court; or
3 (4) with the consent of the person who is the subject
4 of the criminal history record information.
5 (c) This section may not be construed to limit the authority
6 of the department to disseminate criminal history record
7 information as provided by Section 411.083.

8 SECTION 9.02. This article takes effect immediately if this
9 Act 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 article takes effect September 1, 2009.

13 ARTICLE 10. COLLECTION, MAINTENANCE, AND TRANSFER AND OTHER
14 DISSEMINATION OF CRIMINAL HISTORY RECORD INFORMATION AND JUVENILE
15 JUSTICE INFORMATION

16 SECTION 10.01. Section 411.042(b), Government Code, as
17 amended by Chapters 70 (H.B. 76), 1306 (S.B. 839), and 1372 (S.B.
18 9), Acts of the 80th Legislature, Regular Session, 2007, is
19 reenacted and amended to read as follows:

20 (b) The bureau of identification and records shall:
21 (1) procure and file for record photographs, pictures,
22 descriptions, fingerprints, measurements, and other pertinent
23 information of all persons arrested for or charged with a criminal
24 offense or convicted of a criminal offense, regardless of whether
25 the conviction is probated;

26 (2) collect information concerning the number and
27 nature of offenses reported or known to have been committed in the

1 state and the legal steps taken in connection with the offenses, and
2 other information useful in the study of crime and the
3 administration of justice, including information that enables the
4 bureau to create a statistical breakdown of offenses in which
5 family violence was involved and a statistical breakdown of
6 offenses under Sections 22.011 and 22.021, Penal Code;

7 (3) make ballistic tests of bullets and firearms and
8 chemical analyses of bloodstains, cloth, materials, and other
9 substances for law enforcement officers of the state;

10 (4) cooperate with identification and crime records
11 bureaus in other states and the United States Department of
12 Justice;

13 (5) maintain a list of all previous background checks
14 for applicants for any position regulated under Chapter 1702,
15 Occupations Code, who have undergone a criminal history background
16 check under Section 411.119, if the check indicates a Class B
17 misdemeanor or equivalent offense or a greater offense;

18 (6) collect information concerning the number and
19 nature of protective orders and all other pertinent information
20 about all persons on active protective orders. Information in the
21 law enforcement information system relating to an active protective
22 order shall include:

23 (A) the name, sex, race, date of birth, personal
24 descriptors, address, and county of residence of the person to whom
25 the order is directed;

26 (B) any known identifying number of the person to
27 whom the order is directed, including the person's social security

1 number or driver's license number;

2 (C) the name and county of residence of the
3 person protected by the order;

4 (D) the residence address and place of employment
5 or business of the person protected by the order, unless that
6 information is excluded from the order under Section 85.007, Family
7 Code;

8 (E) the child-care facility or school where a
9 child protected by the order normally resides or which the child
10 normally attends, unless that information is excluded from the
11 order under Section 85.007, Family Code;

12 (F) the relationship or former relationship
13 between the person who is protected by the order and the person to
14 whom the order is directed; and

15 (G) the date the order expires; ~~and~~

16 (7) grant access to criminal history record
17 information in the manner authorized under Subchapter F;

18 (8) ~~(7)~~ collect and disseminate information
19 regarding offenders with mental impairments in compliance with
20 Chapter 614, Health and Safety Code; and

21 (9) record data and maintain a state database for a
22 computerized criminal history record system and computerized
23 juvenile justice information system that serves:

24 (A) as the record creation point for criminal
25 history record information and juvenile justice information
26 maintained by the state; and

27 (B) as the control terminal for the entry of

1 records, in accordance with federal law and regulations, federal
2 executive orders, and federal policy, into the federal database
3 maintained by the Federal Bureau of Investigation.

4 SECTION 10.02. Section 411.083(b), Government Code, is
5 amended to read as follows:

6 (b) The department shall grant access to criminal history
7 record information to:

8 (1) criminal justice agencies;

9 (2) noncriminal justice agencies authorized by
10 federal statute or executive order or by state statute to receive
11 criminal history record information;

12 (3) the person who is the subject of the criminal
13 history record information;

14 (4) a person working on a research or statistical
15 project that:

16 (A) is funded in whole or in part by state funds;
17 or

18 (B) meets the requirements of Part 22, Title 28,
19 Code of Federal Regulations, and is approved by the department;

20 (5) an individual or an agency that has a specific
21 agreement with a criminal justice agency to provide services
22 required for the administration of criminal justice under that
23 agreement, if the agreement:

24 (A) specifically authorizes access to
25 information;

26 (B) limits the use of information to the purposes
27 for which it is given;

1 (C) ensures the security and confidentiality of
2 the information; ~~and~~

3 (D) provides for sanctions if a requirement
4 imposed under Paragraph (A), (B), or (C) is violated; and

5 (E) requires the individual or agency to perform
6 the applicable services in a manner prescribed by the department;

7 (6) an individual or an agency that has a specific
8 agreement with a noncriminal justice agency to provide services
9 related to the use of criminal history record information
10 disseminated under this subchapter, if the agreement:

11 (A) specifically authorizes access to
12 information;

13 (B) limits the use of information to the purposes
14 for which it is given;

15 (C) ensures the security and confidentiality of
16 the information; ~~and~~

17 (D) provides for sanctions if a requirement
18 imposed under Paragraph (A), (B), or (C) is violated; and

19 (E) requires the individual or agency to perform
20 the applicable services in a manner prescribed by the department;

21 (7) a county or district clerk's office; and

22 (8) the Office of Court Administration of the Texas
23 Judicial System.

24 SECTION 10.03. Section 411.084(b), Government Code, is
25 amended to read as follows:

26 (b) Notwithstanding Subsection (a) or any other provision
27 in this subchapter, criminal history record information obtained

1 from the Federal Bureau of Investigation may be released or
2 disclosed only to a governmental entity or as authorized by federal
3 law and regulations [~~statute, federal rule~~], [~~ex~~] federal executive
4 orders, and federal policy [~~order~~].

5 SECTION 10.04. Sections 411.0845(e), (i), and (k),
6 Government Code, are amended to read as follows:

7 (e) A person entitled to receive criminal history record
8 information under this section must provide the department with the
9 following information regarding the person who is the subject of
10 the criminal history record information requested:

11 (1) the person's full name, date of birth, sex, [~~Texas~~
12 ~~driver's license number or personal identification certificate~~
13 ~~number~~], and social security number, and the number assigned to any
14 form of unexpired identification card issued by this state or
15 another state, the District of Columbia, or a territory of the
16 United States that includes the person's photograph;

17 (2) a recent electronic digital image photograph of
18 the person and a complete set of the person's fingerprints as
19 required by the department; and

20 (3) any other information required by the department.

21 (i) The release under this section of any criminal history
22 record information maintained by the Federal Bureau of
23 Investigation, including the computerized information submitted to
24 the federal database maintained by the Federal Bureau of
25 Investigation as described by Section 411.042(b)(9)(B), is subject
26 to federal law and regulations, federal executive orders, and
27 federal policy.

1 (k) A governmental agency may coordinate with the
2 department regarding the use of the fingerprinting fee collection
3 process to collect [~~collection of~~] a fee for the criminal history
4 record information and any other fees associated with obtaining a
5 person's fingerprints as required by the department [~~through the~~
6 ~~fingerprinting fee collection process~~].

7 SECTION 10.05. Section 411.085(a), Government Code, is
8 amended to read as follows:

9 (a) A person commits an offense if the person knowingly or
10 intentionally:

11 (1) obtains criminal history record information in an
12 unauthorized manner, uses the information for an unauthorized
13 purpose, or discloses the information to a person who is not
14 entitled to the information;

15 [~~(2) provides a person with a copy of the person's~~
16 ~~criminal history record information obtained from the department,~~]
17 or

18 (2) [~~(3)~~] violates a rule of the department adopted
19 under this subchapter.

20 SECTION 10.06. Section 411.094(d), Government Code, is
21 amended to read as follows:

22 (d) Criminal history record information received by an
23 institution of higher education under Subsection (b) may not be
24 released or disclosed to any person except on court order or with
25 the consent of the person who is the subject of the criminal history
26 record information.

27 SECTION 10.07. Section 411.0985(c), Government Code, is

1 amended to read as follows:

2 (c) The Texas Commission for the Blind may not release or
3 disclose information obtained under Subsection (a) except on court
4 order or with the consent of the person who is the subject of the
5 criminal history record information.

6 SECTION 10.08. Section 411.1005(b), Government Code, is
7 amended to read as follows:

8 (b) Information received by the state bar is confidential
9 and may be disseminated only:

10 (1) in a disciplinary action or proceeding conducted
11 by the state bar, the Board of Disciplinary Appeals, or any court;
12 or

13 (2) with the consent of the person who is the subject
14 of the criminal history record information.

15 SECTION 10.09. Section 411.1131(c), Government Code, is
16 amended to read as follows:

17 (c) The Texas Commission for the Deaf and Hard of Hearing
18 may not release or disclose information obtained under Subsection
19 (a), except on court order or with the consent of the person who is
20 the subject of the criminal history record information, and shall
21 destroy all criminal history record information obtained under
22 Subsection (a) after the information is used for its authorized
23 purpose.

24 SECTION 10.10. Section 411.1182(c), Government Code, is
25 amended to read as follows:

26 (c) Criminal history information obtained from the
27 department may not be released or disclosed except:

1 (1) as needed in protecting the security of a
2 commercial nuclear power plant;

3 (2) [~~ex~~] as authorized by the United States Nuclear
4 Regulatory Commission, a court order, or a federal or state law or
5 order; or

6 (3) with the consent of the person who is the subject
7 of the criminal history record information.

8 SECTION 10.11. Section 411.120(b), Government Code, is
9 amended to read as follows:

10 (b) Criminal history record information obtained by a
11 county judge under Subsection (a) may not be released or disclosed
12 to any person except in a hearing held under Chapter 25 or 69,
13 Alcoholic Beverage Code, or with the consent of the person who is
14 the subject of the criminal history record information.

15 SECTION 10.12. Section 411.1236(b), Government Code, is
16 amended to read as follows:

17 (b) Criminal history record information obtained by the
18 Texas Commission on Fire Protection under Subsection (a) may not be
19 released to any person or agency except on court order or with the
20 consent of the person who is the subject of the criminal history
21 record information, or if [~~unless~~] the information is entered into
22 evidence by the board in an administrative, civil, or criminal
23 hearing under Chapter 419.

24 SECTION 10.13. Section 411.136(e), Government Code, is
25 amended to read as follows:

26 (e) All criminal history record information received by a
27 public or nonprofit hospital or hospital district under this

1 section is privileged, confidential, and intended for the exclusive
2 use of the entity that obtained the information. The hospital or
3 district may not release or disclose criminal history record
4 information to any person or agency except in a criminal
5 proceeding, in a hearing conducted by the hospital or district, to
6 another governmental entity as required by law, ~~[or]~~ as required by
7 court order, or with the consent of the person who is the subject of
8 the criminal history record information.

9 SECTION 10.14. Section 411.139(b), Government Code, is
10 amended to read as follows:

11 (b) Criminal history record information obtained by the
12 securities commissioner under this section may not be released by
13 any person or agency except on court order or with the consent of
14 the person who is the subject of the criminal history record
15 information, unless the information is entered into evidence by the
16 State Securities Board or a court at an administrative proceeding
17 or a civil or criminal action under The Securities Act (Article
18 581-1 et seq., Vernon's Texas Civil Statutes).

19 SECTION 10.15. Section 411.140(b), Government Code, is
20 amended to read as follows:

21 (b) Information received by the State Commission on
22 Judicial Conduct is confidential and may be disseminated only in an
23 investigation or proceeding conducted by the commission or with the
24 consent of the person who is the subject of the criminal history
25 record information.

26 SECTION 10.16. Section 411.1402(c), Government Code, is
27 amended to read as follows:

1 (c) The Employees Retirement System of Texas may not release
2 or disclose information obtained under Subsection (a) except on
3 court order or with the consent of the person who is the subject of
4 the criminal history record information.

5 SECTION 10.17. Section 411.1406(d), Government Code, as
6 added by Chapter 406 (S.B. 885), Acts of the 80th Legislature,
7 Regular Session, 2007, is amended to read as follows:

8 (d) The court may not release or disclose information
9 obtained under Subsection (b) except on order of a district court or
10 with the consent of the person who is the subject of the criminal
11 history record information.

12 SECTION 10.18. To the extent of any conflict, this article
13 prevails over another Act of the 81st Legislature, Regular Session,
14 2009, relating to nonsubstantive additions to and corrections in
15 enacted codes.

16 SECTION 10.19. This article takes effect immediately if
17 this Act receives a vote of two-thirds of all the members elected to
18 each house, as provided by Section 39, Article III, Texas
19 Constitution. If this Act does not receive the vote necessary for
20 immediate effect, this article takes effect September 1, 2009.

21 ARTICLE 11. ADMINISTRATION OF CERTAIN PROVISIONS AFFECTING THE
22 LICENSING OF PERSONS TO CARRY A CONCEALED HANDGUN

23 SECTION 11.01. Section 411.1711, Government Code, is
24 amended to read as follows:

25 Sec. 411.1711. CERTAIN EXEMPTIONS FROM CONVICTIONS. A
26 person is not convicted, as that term is defined by Section 411.171,
27 if an order of deferred adjudication was entered against the person

1 on a date not less than 10 years preceding the date of the person's
2 application for a license under this subchapter unless the order of
3 deferred adjudication was entered against the person for:

4 ^{a felony}
(1) ~~[an]~~ offense under:

5 (A) Title 5, Penal Code;

10 (B) ~~[, or]~~ Chapter 29, Penal Code;

11 (C) Section 25.07, Penal Code; or

12 (D) Section 30.02, Penal Code, if the offense is

13 punishable under Subsection (c)(2) or (d) of that section; or

10 (2) an offense under the laws of another state if the
11 offense contains elements that are substantially similar to the
12 elements of an offense listed in Subdivision (1).

3 SECTION 11.02 . Section 411.171(4), Government Code, is
4 amended to read as follows:

5 (4) "Convicted" means an adjudication of guilt or,
6 except as provided in Section 411.1711, an order of deferred
7 adjudication entered against a person by a court of competent
8 jurisdiction whether or not the imposition of the sentence is
9 subsequently probated and the person is discharged from community
10 supervision. The term does not include an adjudication of guilt or
11 an order of deferred adjudication that has been subsequently:

12 (A) expunged; ~~[or]~~

13 (B) pardoned under the authority of a state or
14 federal official; or

15 (C) otherwise vacated, set aside, annulled,
16 invalidated, voided, or sealed under any state or federal law.

13 SECTION 11.03. Section 411.172, Government Code, is amended by amending
14 Subsections (a), (b), (d), and (e) and adding Subsection (b-1) to read as follows:

15 (a) A person is eligible for a license to carry a concealed
16 handgun if the person:

17 (1) is a legal resident of this state for the six-month
18 period preceding the date of application under this subchapter or
19 is otherwise eligible for a license under Section 411.173(a);

20 (2) is at least 21 years of age;

21 (3) has not been convicted of a felony;

22 (4) is not charged with the commission of a Class A or
23 Class B misdemeanor or equivalent offense, or of an offense under
24 Section 42.01, Penal Code, or equivalent offense, or of a felony
25 under an information or indictment;

26 (5) is not a fugitive from justice for a felony or a
27 Class A or Class B misdemeanor or equivalent offense;

1 (6) is not a chemically dependent person;

2 (7) is not incapable of exercising sound judgment with
3 respect to the proper use and storage of a handgun;

4 (8) has not, in the five years preceding the date of
5 application, been convicted of a Class A or Class B misdemeanor or
6 equivalent offense or of an offense under Section 42.01, Penal
7 Code, or equivalent offense;

8 (9) is fully qualified under applicable federal and
9 state law to purchase a handgun;

10 (10) has not been finally determined to be delinquent
11 in making a child support payment administered or collected by the
12 attorney general;

13 (11) ~~[has not been finally determined to be delinquent~~
14 ~~in the payment of a tax or other money collected by the comptroller,~~
15 ~~the tax collector of a political subdivision of the state, or any~~
16 ~~agency or subdivision of the state,~~

17 ~~[(12) has not been finally determined to be in default~~
18 ~~on a loan made under Chapter 57, Education Code,~~

19 ~~[(13)]~~ is not currently restricted under a court
20 protective order or subject to a restraining order affecting the
21 spousal relationship, other than a restraining order solely
22 affecting property interests;

23 (12) ~~[(14)]~~ has not, in the 10 years preceding the date of
24 application, been adjudicated as having engaged in delinquent
25 conduct violating a penal law of the grade of felony; and

26 (13) ~~[(15)]~~ has not made any material misrepresentation, or
27 failed to disclose any material fact, in an application submitted

1 pursuant to Section 411.174 [~~or in a request for application~~
2 ~~submitted pursuant to Section 411.175~~].

7 (b) For the purposes of this section, an offense under the
8 laws of this state, another state, or the United States is:

9 (1) except as provided by Subsection (b-1), a felony if
10 the offense, at the time the offense is committed [~~of a person's~~
11 ~~application for a license to carry a concealed handgun~~]:

12 (A) is designated by a law of this state as a
13 felony;

14 (B) contains all the elements of an offense
15 designated by a law of this state as a felony; or

16 (C) is punishable by confinement for one year or
17 more in a penitentiary; and

18 (2) a Class A misdemeanor if the offense is not a felony
19 and confinement in a jail other than a state jail felony facility
20 is affixed as a possible punishment.

21 (b-1) An offense is not considered a felony for purposes of
22 Subsection (b) if, at the time of a person's application for a
23 license to carry a concealed handgun, the offense:

24 (1) is not designated by a law of this state as a
25 felony; and

26 (2) does not contain all the elements of any offense
27 designated by a law of this state as a felony.

3 (d) For purposes of Subsection (a)(7), a person is incapable
4 of exercising sound judgment with respect to the proper use and
5 storage of a handgun if the person:

6 (1) has been diagnosed by a licensed physician as
7 suffering from a psychiatric disorder or condition that causes or
8 is likely to cause substantial impairment in judgment, mood,
9 perception, impulse control, or intellectual ability;

10 (2) suffers from a psychiatric disorder or condition
11 described by Subdivision (1) that:

12 (A) is in remission but is reasonably likely to
13 redevelop at a future time; or

14 (B) requires continuous medical treatment to
15 avoid redevelopment;

16 (3) has been diagnosed by a licensed physician,
17 determined by a review board or similar authority, or declared by a
18 court to be incompetent to manage the person's own affairs; or

19 (4) has entered in a criminal proceeding a plea of not
20 guilty by reason of insanity.

21 (e) The following constitutes evidence that a person has a
22 psychiatric disorder or condition described by Subsection (d)(1):

23 (1) involuntary psychiatric hospitalization [~~in the~~
24 ~~preceding five-year period~~];

25 (2) psychiatric hospitalization [~~in the preceding~~
26 ~~two-year period~~];

27 (3) inpatient or residential substance abuse

1 treatment in the preceding five-year period;

2 (4) diagnosis in the preceding five-year period by a
3 licensed physician that the person is dependent on alcohol, a
4 controlled substance, or a similar substance; or

5 (5) diagnosis at any time by a licensed physician that
6 the person suffers or has suffered from a psychiatric disorder or
7 condition consisting of or relating to:

8 (A) schizophrenia or delusional disorder;

9 (B) bipolar disorder;

10 (C) chronic dementia, whether caused by illness,
11 brain defect, or brain injury;

12 (D) dissociative identity disorder;

13 (E) intermittent explosive disorder; or

14 (F) antisocial personality disorder.

15 SECTION 11.04. Sections 411.174(a) and (b), Government
16 Code, are amended to read as follows:

17 (a) An applicant for a license to carry a concealed handgun
18 must submit to the director's designee described by Section
19 411.176:

20 (1) a completed application on a form provided by the
21 department that requires only the information listed in Subsection
22 (b);

23 (2) one or more [~~two recent color passport~~]
24 photographs of the applicant that meet the requirements of the
25 department [~~except that an applicant who is younger than 21 years~~
26 ~~of age must submit two recent color passport photographs in profile~~
27 ~~of the applicant~~];

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

3 (4) proof of residency in this state;

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

10 (6) a nonrefundable application and license fee of
11 \$140 paid to the department;

12 (7) evidence of [a] handgun proficiency, in the form
13 and manner required by the department [~~certificate described by~~
14 ~~Section 411.189~~];

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

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

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

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

27 (b) An applicant must provide on the application a statement

1 of the applicant's:

2 (1) full name and place and date of birth;

3 (2) race and sex;

4 (3) residence and business addresses for the preceding
5 five years;

6 (4) hair and eye color;

7 (5) height and weight;

8 (6) driver's license number or identification
9 certificate number issued by the department;

10 (7) criminal history record information of the type
11 maintained by the department under this chapter, including a list
12 of offenses for which the applicant was arrested, charged, or under
13 an information or indictment and the disposition of the offenses;
14 and

15 (8) history [~~during the preceding five years~~], if any,
16 of treatment received by, commitment to, or residence in:

17 (A) a drug or alcohol treatment center licensed
18 to provide drug or alcohol treatment under the laws of this state or
19 another state, but only if the treatment, commitment, or residence
20 occurred during the preceding five years; or

21 (B) a psychiatric hospital.

22 SECTION 11.05. Section 411.176, Government Code, is amended
23 to read as follows:

24 Sec. 411.176. REVIEW OF APPLICATION MATERIALS. (a) On
25 receipt of [~~the~~] application materials by the department at its
26 Austin headquarters, the department shall conduct the appropriate
27 criminal history record check of the applicant through its

1 computerized criminal history system. Not later than the 30th day
2 after the date the department receives the application materials,
3 the department shall forward the materials to the director's
4 designee in the geographical area of the applicant's residence so
5 that the designee may conduct the investigation described by
6 Subsection (b). For purposes of this section, the director's
7 designee may be a noncommissioned employee of the department.

8 (b) The director's designee as needed shall conduct an
9 additional criminal history record check of the applicant and an
10 investigation of the applicant's local official records to verify
11 the accuracy of the application materials. The director's designee
12 may access any records necessary for purposes of this subsection.
13 The scope of the record check and the investigation are at the sole
14 discretion of the department, except that the director's designee
15 shall complete the record check and investigation not later than
16 the 60th day after the date the department receives the application
17 materials. The department shall send a fingerprint card to the
18 Federal Bureau of Investigation for a national criminal history
19 check of the applicant. On completion of the investigation, the
20 director's designee shall return all materials and the result of
21 the investigation to the appropriate division of the department at
22 its Austin headquarters.

23 (c) The director's designee may submit to the appropriate
24 division of the department, at the department's Austin
25 headquarters, along with the application materials a written
26 recommendation for disapproval of the application, accompanied by
27 an affidavit stating personal knowledge or naming persons with

1 personal knowledge of a ground for denial under Section 411.172.
2 The director's designee [~~in the appropriate geographical area~~] may
3 also submit the application and the recommendation that the license
4 be issued.

5 (d) On receipt at the department's Austin headquarters of
6 the application materials and the result of the investigation by
7 the director's designee, the department shall conduct any further
8 record check or investigation the department determines is
9 necessary if a question exists with respect to the accuracy of the
10 application materials or the eligibility of the applicant, except
11 that the department shall complete the record check and
12 investigation not later than the 180th day after the date the
13 department receives the application materials from the applicant.

14 SECTION 11.06. Sections 411.177(a) and (b), Government
15 Code, are amended to read as follows:

16 (a) The department shall issue a license to carry a
17 concealed handgun to an applicant if the applicant meets all the
18 eligibility requirements and submits all the application
19 materials. The department may issue a license to carry handguns
20 only of the categories for which the applicant has demonstrated
21 proficiency in the form and manner required by the department
22 [~~indicated on the applicant's certificate of proficiency issued~~
23 ~~under Section 411.189~~]. The department shall administer the
24 licensing procedures in good faith so that any applicant who meets
25 all the eligibility requirements and submits all the application
26 materials shall receive a license. The department may not deny an
27 application on the basis of a capricious or arbitrary decision by

1 the department.

2 (b) The department shall, not later than the 60th day after
3 the date of the receipt by the director's designee of the completed
4 application materials:

5 (1) issue the license;

6 (2) notify the applicant in writing that the
7 application was denied:

8 (A) on the grounds that the applicant failed to
9 qualify under the criteria listed in Section 411.172;

10 (B) based on the affidavit of the director's
11 designee submitted to the department under Section 411.176(c)
12 [~~411.176(b)~~]; or

13 (C) based on the affidavit of the qualified
14 handgun instructor submitted to the department under Section
15 411.188^k(~~v~~) [~~411.189(e)~~]; or

16 (3) notify the applicant in writing that the
17 department is unable to make a determination regarding the issuance
18 or denial of a license to the applicant within the 60-day period
19 prescribed by this subsection and include in that notification an
20 explanation of the reason for the inability and an estimation of the
21 amount of time the department will need to make the determination.

17 SECTION 11.07.. Section 411.179(c), Government Code, as added
18 by Chapter 1222 (H.B. 2300), Acts of the 80th Legislature, Regular
19 Session, 2007, is amended to read as follows:

20 (c) In adopting the form of the license under Subsection (a),
21 the department shall establish a procedure for the license of a
22 qualified handgun instructor or of a judge, justice, prosecuting
23 attorney, or assistant prosecuting attorney, as described by
24 Section 46.15(a)(4) or (6), Penal Code, to indicate on the license
25 the license holder's status as a qualified handgun instructor or as
26 a judge, justice, district attorney, criminal district attorney, or
27 county attorney. In establishing the procedure, the department
28 shall require sufficient documentary evidence to establish the
29 license holder's status under this subsection.

1 SECTION 11.08. Sections 411.181(a) and (b), Government Code,
2 as amended by Chapters 594 (H.B. 41) and 1222 (H.B. 2300), Acts of
3 the 80th Legislature, Regular Session, 2007, are reenacted and
4 amended to read as follows:

5 (a) If a person who is a current license holder moves from
6 any residence [~~the~~] address stated on the license [~~to a new~~
7 ~~residence address~~], if the name of the person is changed by
8 marriage or otherwise, or if the person's status [~~as a judge,~~
9 ~~justice, district attorney, prosecuting attorney, or assistant~~
10 ~~prosecuting attorney, as a federal judge, a state judge, or the~~
11 ~~spouse of a federal judge or state judge~~] becomes inapplicable for
12 purposes of the information required to be displayed on the license
13 under Section 411.179 [~~411.179(e)~~], the person shall, not later
14 than the 30th day after the date of the address, name, or status
15 change, notify the department and provide the department with the
16 number of the person's license and, as applicable, the person's:

- 17 (1) former and new addresses; [~~or~~]
18 (2) former and new names; or
19 (3) former and new status.

20 (b) If the name of the license holder is changed by marriage
21 or otherwise, or if the person's status [~~as a federal judge or~~
22 ~~state judge, or the spouse of a federal judge or state judge~~]
23 becomes inapplicable as described by Subsection (a), the person
24 shall apply for a duplicate license. The duplicate license must
25 reflect [~~include~~] the person's current name, residence address, and
26 status.

22 SECTION 11.09. Section 411.184(a), Government Code, is
23 amended to read as follows:

24 (a) To modify a license to allow a license holder to carry a
25 handgun of a different category than the license indicates, the
26 license holder must:

- 27 (1) complete a proficiency examination as provided by

1 Section 411.188(e);

2 [~~(2) obtain a handgun proficiency certificate under~~
3 ~~Section 411.189 not more than six months before the date of~~
4 ~~application for a modified license,~~] and

5 (2) [~~(3)~~] submit to the department:

6 (A) an application for a modified license on a
7 form provided by the department;

8 (B) evidence of [a copy of the] handgun
9 proficiency, in the form and manner required by the department
10 [certificate];

11 (C) payment of a modified license fee of \$25; and

12 (D) one or more [two recent color passport]
13 photographs of the license holder that meet the requirements of the
14 department [~~, except that an applicant who is younger than 21 years~~
15 ~~of age must submit two recent color passport photographs in profile~~
16 ~~of the applicant].~~

17 SECTION 11.10 . Section 411.185(a), Government Code, is
18 amended to read as follows:

19 (a) To renew a license, a license holder must:

20 (1) complete a continuing education course in handgun
21 proficiency under Section 411.188(c) within the six-month period
22 preceding:

23 (A) the date of application for renewal, for a
24 first or second renewal; and

25 (B) the date of application for renewal or the
26 date of application for the preceding renewal, for a third or
27 subsequent renewal, to ensure that the license holder is not

1 required to complete the course more than once in any 10-year
2 period;

3 ~~[(2) obtain a handgun proficiency certificate under
4 Section 411.189 within the six-month period preceding~~

5 ~~[(A) the date of application for renewal, for a
6 first or second renewal, and~~

7 ~~[(B) the date of application for renewal or the
8 date of application for the preceding renewal, for a third or
9 subsequent renewal, to ensure that the license holder is not
10 required to obtain the certificate more than once in any 10-year
11 period,] and~~

12 (2) ~~[(3)]~~ submit to the department:

13 (A) an application for renewal on a form provided
14 by the department;

15 (B) evidence of [a copy of the] handgun
16 proficiency, in the form and manner required by the department
17 [certificate];

18 (C) payment of a nonrefundable renewal fee as set
19 by the department; and

20 (D) one or more ~~[two recent color passport]~~
21 photographs of the applicant that meet the requirements of the
22 department.

23 SECTION 11.11. Section 411.186(a), Government Code, is
24 amended to read as follows:

25 (a) The department shall revoke a [A] license ~~[may be~~
26 ~~revoked]~~ under this section if the license holder:

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

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

1 issued;

2 (2) ~~gave false information on the application~~;

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

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

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

15 (6) submits an application fee that is dishonored or
16 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

17 SECTION 11.12. Sections 411.187(a) and (c), Government
18 Code, are amended to read as follows:

19 (a) The department shall suspend a [A] license [~~may be~~
20 ~~suspended~~] under this section if the license holder:

21 (1) is charged with the commission of a Class A or
22 Class B misdemeanor or equivalent offense, or of an offense under
23 Section 42.01, Penal Code, or equivalent offense, or of a felony
24 under an information or indictment;

25 (2) fails to display a license as required by Section
26 411.205;

27 (3) fails to notify the department of a change of

1 address, ~~or~~ ^{or status} name as required by Section 411.181;

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

5 (5) fails to return a previously issued license after
6 a license is modified as required by Section 411.184(d);

7 (6) commits an act of family violence and is the
8 subject of an active protective order rendered under Title 4,
9 Family Code; or

10 (7) is arrested for an offense involving family
11 violence or an offense under Section 42.072, Penal Code, and is the
12 subject of an order for emergency protection issued under Article
13 17.292, Code of Criminal Procedure.

14 (c) The department shall suspend a [A] license ~~[may be~~
15 ~~suspended]~~ under this section:

16 (1) for 30 days, if the person's license is subject to
17 suspension for a reason listed in Subsection (a)(3), (4), or (5),
18 except as provided by Subdivision (3);

19 (2) for 90 days, if the person's license is subject to
20 suspension for a reason listed in Subsection (a)(2), except as
21 provided by Subdivision (3);

22 (3) for not less than one year and not more than three
23 years, if the person's license:

24 (A) is subject to suspension for a reason listed
25 in Subsection (a), other than the reason listed in Subsection
26 (a)(1); ~~and~~

27 (B) ~~[the person's license]~~ has been previously

1 suspended for the same reason;

2 (4) until dismissal of the charges, if the person's
3 license is subject to suspension for the reason listed in
4 Subsection (a)(1); or

5 (5) for the duration of or the period specified by:

6 (A) the protective order issued under Title 4,
7 Family Code, if the person's license is subject to suspension for
8 the reason listed in Subsection (a)(6); or

9 (B) the order for emergency protection issued
10 under Article 17.292, Code of Criminal Procedure, if the person's
11 license is subject to suspension for the reason listed in
12 Subsection (a)(7).

13 SECTION 11.13. Section 411.188, Government Code, is amended
14 by amending Subsections (a), (g), (h), and (i) and adding
15 Subsection (k) to read as follows:

16 (a) The director by rule shall establish minimum standards
17 for handgun proficiency and shall develop a course to teach handgun
18 proficiency and examinations to measure handgun proficiency. The
19 course to teach handgun proficiency must contain training sessions
20 divided into two parts. One part of the course must be classroom
21 instruction and the other part must be range instruction and an
22 actual demonstration by the applicant of the applicant's ability to
23 safely and proficiently use the applicable category of handgun [~~for~~
24 ~~which the applicant seeks certification~~]. An applicant must be
25 able to demonstrate [~~may not be certified unless the applicant~~
26 ~~demonstrates~~], at a minimum, the degree of proficiency that is
27 required to effectively operate a handgun of .32 caliber or above.

1 The department shall distribute the standards, course
2 requirements, and examinations on request to any qualified handgun
3 instructor.

4 (g) A person who wishes to obtain or renew a license to carry
5 a concealed handgun must apply in person to a qualified handgun
6 instructor to take the appropriate course in handgun proficiency
7 and [7] demonstrate handgun proficiency as required by the
8 department~~[, and obtain a handgun proficiency certificate as~~
9 ~~described by Section 411.189]~~.

10 (h) A license holder who wishes to modify a license to allow
11 the license holder to carry a handgun of a different category than
12 the license indicates must apply in person to a qualified handgun
13 instructor to demonstrate the required knowledge and proficiency
14 ~~[to obtain a handgun proficiency certificate]~~ in that category ~~[as~~
15 ~~described by Section 411.189]~~.

16 (i) A certified firearms instructor of the department may
17 monitor any class or training presented by a qualified handgun
18 instructor. A qualified handgun instructor shall cooperate with
19 the department in the department's efforts to monitor the
20 presentation of training by the qualified handgun instructor. A
21 qualified handgun instructor shall make available for inspection to
22 the department any and all records maintained by a qualified
23 handgun instructor under this subchapter. The qualified handgun
24 instructor shall keep a record of all ~~[certificates of handgun~~
25 ~~proficiency issued by the qualified handgun instructor and other]~~
26 information required by department rule.

27 (k) A qualified handgun instructor may submit to the

1 department a written recommendation for disapproval of the
2 application for a license, renewal, or modification of a license,
3 accompanied by an affidavit stating personal knowledge or naming
4 persons with personal knowledge of facts that lead the instructor
5 to believe that an applicant does not possess the required handgun
6 proficiency. The department may use a written recommendation
7 submitted under this subsection as the basis for denial of a license
8 only if the department determines that the recommendation is made
9 in good faith and is supported by a preponderance of the evidence.
10 The department shall make a determination under this subsection not
11 later than the 45th day after the date the department receives the
12 written recommendation. The 60-day period in which the department
13 must take action under Section 411.177(b) is extended one day for
14 each day a determination is pending under this subsection.

27 SECTION 11.14. Section 411.1882, Government Code, is amended
28 to read as follows:

29 Sec. 411.1882. EVIDENCE OF [~~EXEMPTION~~—FROM] HANDGUN

1 PROFICIENCY [~~CERTIFICATE REQUIREMENT~~] FOR CERTAIN PERSONS. (a) A
2 person who is serving in this state as a judge or justice of a
3 federal court, as an active judicial officer, as defined by Section
4 411.201, or as a district attorney, assistant district attorney,
5 criminal district attorney, assistant criminal district attorney,
6 county attorney, or assistant county attorney may establish handgun
7 proficiency for the purposes of this subchapter by obtaining from a
8 handgun proficiency instructor approved by the Commission on Law
9 Enforcement Officer Standards and Education for purposes of Section
10 1702.1675, Occupations Code, a sworn statement that:

11 (1) indicates that the person, during the 12-month
12 period preceding the date of the person's application to the
13 department, demonstrated to the instructor proficiency in the use
14 of handguns; and

15 (2) designates the categories of handguns with respect
16 to which the person demonstrated proficiency [~~Notwithstanding any~~
17 ~~other provision of this subchapter, a person may not be required to~~
18 ~~submit to the department a handgun proficiency certificate to~~
19 ~~obtain or renew a concealed handgun license issued under this~~
20 ~~subchapter if:~~

21 ~~[(1) the person is currently serving in this state as:~~

22 ~~[(A) a judge or justice of a federal court,~~

23 ~~[(B) an active judicial officer, as defined by~~

24 ~~Section 411.201, Government Code, or~~

25 ~~[(C) a district attorney, assistant district~~

26 ~~attorney, criminal district attorney, assistant criminal district~~

27 ~~attorney, county attorney, or assistant county attorney; and~~

28 ~~[(2) a handgun proficiency instructor approved by the~~

29 ~~Commission on Law Enforcement Officer Standards and Education for~~

1 ~~purposes of Section 1702.1675, Occupations Code, makes a sworn~~
2 ~~statement indicating that the person demonstrated proficiency to~~
3 ~~the instructor in the use of handguns during the 12-month period~~
4 ~~preceding the date of the person's application to the department~~
5 ~~and designating the types of handguns with which the person~~
6 ~~demonstrated proficiency].~~

7 (b) The director by rule shall adopt a procedure by which a
8 person described [~~who is exempt~~] under Subsection (a) [~~from the~~
9 ~~handgun proficiency certificate requirement~~] may submit a form
10 demonstrating the person's qualification for an exemption under
11 that subsection. The form must provide sufficient information to
12 allow the department to verify whether the person qualifies for the
13 exemption.

14 (c) A license issued under this section automatically expires
15 on the six-month anniversary of the date the person's status under
16 Subsection (a) becomes inapplicable. A license that expires under
17 this subsection may be renewed under Section 411.185.

18 SECTION 11.15 . Section 411.190, Government Code, is amended
19 by adding Subsection (d-1) to read as follows:

20 (d-1) The department shall ensure that an applicant may renew
21 certification under Subsection (d) from any county in this state by
22 using an online format to complete the required retraining courses
23 if:

24 (1) the applicant is renewing certification for the
25 first time; or
26 (2) the applicant completed the required retraining
27 courses in person the previous time the applicant renewed
28 certification.

15 SECTION 11.6. Sections 411.199(a) and (e), Government
16 Code, are amended to read as follows:

17 (a) A person who is licensed as a peace officer under
18 Chapter 1701, Occupations Code, [415] and who has been employed
19 full-time as a peace officer by a law enforcement agency may apply
20 for a license under this subchapter at any time after retirement.

21 (e) A retired peace officer who obtains a license under this
22 subchapter must maintain, for the category of weapon licensed, the
23 proficiency required for a peace officer under Section 1701.355,
24 Occupations Code [415.035]. The department or a local law
25 enforcement agency shall allow a retired peace officer of the
26 department or agency an opportunity to annually demonstrate the
27 required proficiency. The proficiency shall be reported to the

1 department on application and renewal.

2 SECTION 11.17. Section 411.1991(a), Government Code, is
3 amended to read as follows:

4 (a) A person who is licensed as a peace officer under
5 Chapter 1701, Occupations Code, [415] and is employed full-time as
6 a peace officer by a law enforcement agency may apply for a license
7 under this subchapter. The person shall submit to the department
8 two complete sets of legible and classifiable fingerprints and a
9 sworn statement of the head of the law enforcement agency employing
10 the applicant. A head of a law enforcement agency may not refuse to
11 issue a statement under this subsection. If the applicant alleges
12 that the statement is untrue, the department shall investigate the
13 validity of the statement. The statement must include:

- 14 (1) the name and rank of the applicant;
- 15 (2) whether the applicant has been accused of
16 misconduct at any time during the applicant's period of employment
17 with the agency and the disposition of that accusation;
- 18 (3) a description of the physical and mental condition
19 of the applicant;
- 20 (4) a list of the types of weapons the applicant has
21 demonstrated proficiency with during the preceding year; and
- 22 (5) a recommendation from the agency head that a
23 license be issued to the person under this subchapter.

24 SECTION 11.18. Sections 411.201(c) and (d), Government
25 Code, are amended to read as follows:

26 (c) An active judicial officer is eligible for a license to
27 carry a concealed handgun under the authority of this subchapter. A

1 retired judicial officer is eligible for a license to carry a
2 concealed handgun under the authority of this subchapter if the
3 officer:

4 (1) has not been convicted of a felony;

5 (2) has not, in the five years preceding the date of
6 application, been convicted of a Class A or Class B misdemeanor or
7 equivalent offense;

8 (3) is not charged with the commission of a Class A or
9 Class B misdemeanor or equivalent offense or of a felony under an
10 information or indictment;

11 (4) is not a chemically dependent person; and

12 (5) is not a person of unsound mind.

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

15 (1) a completed application, including all required
16 affidavits, on a form prescribed by the department;

17 (2) one or more [~~two recent color passport~~]
18 photographs of the applicant that meet the requirements of the
19 department;

20 (3) two complete sets of legible and classifiable
21 fingerprints of the applicant, including one set taken by a person
22 employed by a law enforcement agency who is appropriately trained
23 in recording fingerprints;

24 (4) evidence of [a] handgun proficiency, in the form
25 and manner required by the department for an applicant under this
26 section [~~certificate issued to the applicant as evidence that the~~
27 ~~applicant successfully completed the proficiency requirements of~~

1 ~~this subchapter~~];

2 (5) [~~4~~] a nonrefundable application and license fee
3 set by the department in an amount reasonably designed to cover the
4 administrative costs associated with issuance of a license to carry
5 a concealed handgun under this subchapter; and

6 (6) [~~5~~] if the applicant is a retired judicial
7 officer, [+

8 [~~(A) two complete sets of legible and~~
9 ~~classifiable fingerprints of the applicant taken by a person~~
10 ~~employed by a law enforcement agency who is appropriately trained~~
11 ~~in recording fingerprints, and~~

12 [~~(B)~~] a form executed by the applicant that
13 authorizes the department to make an inquiry into any noncriminal
14 history records that are necessary to determine the applicant's
15 eligibility for a license under this subchapter.

16 SECTION 11.19. Section 411.208, Government Code, is amended
17 by adding Subsection (e) to read as follows:

18 (e) The immunities granted under Subsection (a) to a
19 qualified handgun instructor do not apply to a cause of action for
20 fraud or a deceptive trade practice.

21 SECTION 11.20. Article 17.292(1), Code of Criminal
22 Procedure, is amended to read as follows:

23 (1) In the order for emergency protection, the magistrate
24 shall [may] suspend a license to carry a concealed handgun issued
25 under Subchapter H, Chapter 411 [~~Section 411.177~~], Government Code,
26 that is held by the defendant.

18 SECTION 11.21. Section 85.022(d), Family Code, is amended
19 to read as follows:

20 (d) In a protective order, the court shall [~~may~~] suspend a
21 license to carry a concealed handgun issued under Subchapter H,
22 Chapter 411 [~~Section 411.177~~], Government Code, that is held by a
23 person found to have committed family violence.

24 SECTION 11.22. Section 12.095(e), Health and Safety Code,
25 is amended to read as follows:

26 (e) The panel may require the applicant or license holder to
27 undergo a medical or other examination at the applicant's or
1 holder's expense. A person who conducts an examination under this
2 subsection may be compelled to testify before the panel and in any
3 subsequent proceedings under Subchapter H, Chapter 411, Government
4 Code, or Subchapter N, Chapter 521, Transportation Code, as
5 applicable, concerning the person's observations and findings.

6 SECTION 11.23. Section 12.097(b), Health and Safety Code,
7 is amended to read as follows:

8 (b) In a subsequent proceeding under Subchapter H, Chapter
9 411, Government Code, or Subchapter N, Chapter 521, Transportation
10 Code, the medical standards division may provide a copy of the
11 report of the medical advisory board or panel and a medical record
12 or report relating to an applicant or license holder to:

- 13 (1) the Department of Public Safety of the State of
14 Texas;
- 15 (2) the applicant or license holder; and
- 16 (3) the officer who presides at the hearing.

29 SECTION 11.24. Section 46.04, Penal Code, is amended by

1 adding Subsections (f) and (g) to read as follows:

2 (f) For the purposes of this section, an offense under the
3 laws of this state, another state, or the United States is, except
4 as provided by Subsection (g), a felony if, at the time it is
5 committed, the offense:

6 (1) is designated by a law of this state as a felony;

7 (2) contains all the elements of an offense designated
8 by a law of this state as a felony; or

9 (3) is punishable by confinement for one year or more in
10 a penitentiary.

11 (g) An offense is not considered a felony for purposes of
12 Subsection (f) if, at the time the person possesses a firearm, the
13 offense:

14 (1) is not designated by a law of this state as a
15 felony; and

16 (2) does not contain all the elements of any offense
17 designated by a law of this state as a felony.

17 SECTION 11.25. Sections 411.175 and 411.189,
18 Government Code, are repealed.

19 SECTION 11.26. The changes in law made by Sections 411.171,
20 411.1711, 411.172, and 411.201(c), Government Code, as amended by
21 this article,

22 apply only to the eligibility of a person for the
23 issuance, modification, or renewal of a license, the application
24 for which is made on or after the effective date of this article. A
25 holder of a license that was issued, modified, or renewed before the
26 effective date of this article is not disqualified from holding
27 that license solely by reason of this article.

1 SECTION 11.27 . The changes in law made by Sections 411.174,
2 411.176, 411.177, 411.184, 411.185, 411.188, ^{411.189,} and 411.201(d),
3 Government Code, as amended by this article, and by the repeal of
4 Sections 411.175 and 411.189, Government Code, apply
5 only to an application for the issuance, modification, or renewal
6 of a license that is submitted to the Department of Public Safety on
7 or after the effective date of this article. An application
8 submitted before the effective date of this article is governed by
9 the law in effect when the application was submitted, and the former
10 law is continued in effect for that purpose.

11 SECTION 11.28 . The changes in law made by this article to
12 Sections 411.186 and 411.187, Government Code, Article 17.292, Code
13 of Criminal Procedure, and Section 85.022, Family Code, apply only
14 to an administrative or judicial determination concerning the
15 revocation or suspension of a license to carry a concealed handgun
16 that is made on or after the effective date of this article. An
17 administrative or judicial determination made before the effective
18 date of this article is covered by the law in effect when the
19 determination was made, and the former law is continued in effect
20 for that purpose.

21 SECTION 11.29 . The change in law made by Section 411.208,
22 Government Code, as amended by this article, applies only to a cause
23 of action that accrues on or after the effective date of this
24 article. A cause of action that accrued before the effective date
25 of this article is governed by the law in effect immediately before
26 the effective date of this article, and the former law is continued
27 in effect for that purpose.

4 SECTION 11.30. The change in law made by this Act in amending
5 Section 46.04, Penal Code, applies only to an offense committed on
6 or after the effective date of this Act. An offense committed
7 before the effective date of this Act is covered by the law in
8 effect when the offense was committed, and the former law is
9 continued in effect for that purpose. For purposes of this section,
10 an offense was committed before the effective date of this Act if
11 any element of the offense occurred before that date.

1 SECTION 11.31. This article takes effect September 1, 2009.

2 ARTICLE 12. DRIVER EDUCATION AND DRIVER'S LICENSING REQUIREMENTS
3 FOR MINORS

4 SECTION 12.01. This article shall be known as the Less Tears
5 More Years Act.

6 SECTION 12.02. Section 29.902, Education Code, is amended
7 by adding Subsection (c) to read as follows:

8 (c) A school district shall consider offering a driver
9 education and traffic safety course during each school year. If the
10 district offers the course, the district may:

11 (1) conduct the course and charge a fee for the course
12 in the amount determined by the agency to be comparable to the fee
13 charged by a driver education school that holds a license under
14 Chapter 1001; or

15 (2) contract with a driver education school that holds
16 a license under Chapter 1001 to conduct the course.

17 SECTION 12.03. Section 1001.101, Education Code, is amended
18 to read as follows:

19 Sec. 1001.101. DRIVER EDUCATION COURSE CURRICULUM AND
20 TEXTBOOKS. (a) The commissioner by rule shall establish or approve
21 the curriculum and designate the textbooks to be used in a driver
22 education course, including a driver education course conducted by
23 a school district, driver education school, or parent or other
24 individual under Section 521.205, Transportation Code.

25 (b) A driver education course must require the student to
26 complete:

27 (1) 7 hours of behind-the-wheel instruction in the

1 presence of a person who holds a driver education instructor
2 license or who meets the requirements imposed under Section
3 521.205, Transportation Code;

4 (2) 7 hours of observation instruction in the presence
5 of a person who holds a driver education instructor license or who
6 meets the requirements imposed under Section 521.205,
7 Transportation Code; and

8 (3) 20 hours of behind-the-wheel instruction,
9 including at least 10 hours of instruction that takes place at
10 night, in the presence of an adult who meets the requirements of
11 Section 521.222(d)(2), Transportation Code.

12 SECTION 12.04. Subchapter F, Chapter 1001, Education Code,
13 is amended by adding Section 1001.257 to read as follows:

14 Sec. 1001.257. DENIAL OF LICENSE. The commissioner may not
15 issue or renew a driver education instructor license, including a
16 temporary license, to a person who has six or more points assigned
17 to the person's driver's license under Subchapter B, Chapter 708,
18 Transportation Code.

19 SECTION 12.05. Section 521.165, Transportation Code, is
20 amended by amending Subsection (c) and adding Subsection (d) to
21 read as follows:

22 (c) Except as provided by Subsection (d), in [~~It~~] issuing a
23 driver's license for certain types of vehicles, the director may
24 wave a driving test for an applicant who has successfully
25 completed and passed the training and testing conducted by a person
26 certified under Subsection (a).

27 (d) The director may not waive the driving test required by

1 Section 521.161 for an applicant who is under 18 years of age.

2 SECTION 12.06. Section 521.204(a), Transportation Code, is
3 amended to read as follows:

4 (a) The department may issue a Class C driver's license to
5 an applicant under 18 years of age only if the applicant:

6 (1) is 16 years of age or older;

7 (2) has submitted to the department a driver education
8 certificate issued under Section 9A, Texas Driver and Traffic
9 Safety Education Act (Article 4413(29c), Vernon's Texas Civil
10 Statutes), that states that the person has completed and passed a
11 driver education course approved by the department under Section
12 521.205 or by the Texas Education Agency;

13 (3) has obtained a high school diploma or its
14 equivalent or is a student:

15 (A) enrolled in a public school, home school, or
16 private school who attended school for at least 80 days in the fall
17 or spring semester preceding the date of the driver's license
18 application; or

19 (B) who has been enrolled for at least 45 days,
20 and is enrolled as of the date of the application, in a program to
21 prepare persons to pass the high school equivalency exam; ~~and~~

22 (4) has submitted to the department written parental
23 or guardian permission for the department to access the applicant's
24 school enrollment records maintained by the Texas Education Agency;
25 and

26 (5) has passed the examination required by Section
27 521.161.

1 SECTION 12.07. Section 521.205(a), Transportation Code, is
2 amended to read as follows:

3 (a) The department by rule shall provide for approval of a
4 driver education course conducted by the parent, stepparent, foster
5 parent, legal guardian, step-grandparent, or grandparent of a
6 person who is required to complete a driver education course to
7 obtain a Class C license. The rules must provide that:

8 (1) the person conducting the course possess a valid
9 license for the preceding three years that [~~and the license~~] has not
10 been suspended, revoked, or forfeited in the past three years for an
11 offense that involves the operation of a motor vehicle [~~traffic~~
12 ~~related violations~~];

13 (2) the student driver spend a minimum number of hours
14 in:

- 15 (A) classroom instruction; and
- 16 (B) behind-the-wheel instruction;

17 (3) the person conducting the course not be convicted
18 of:

- 19 (A) criminally negligent homicide; or
- 20 (B) driving while intoxicated; [~~and~~]

21 (4) the person conducting the course not be disabled
22 because of mental illness; and

23 (5) the person conducting the course not have six or
24 more points assigned to the person's driver's license under
25 Subchapter B, Chapter 708, at the time the person begins conducting
26 the course.

27 SECTION 12.08. Subchapter J, Chapter 521, Transportation

1 Code, is amended by adding Section 521.206 to read as follows:

2 Sec. 521.206. COLLISION RATE STATISTICS PUBLICATION. (a)

3 The department shall collect data regarding collisions of students
4 taught by public schools, driver education schools licensed under
5 Chapter 1001, Education Code, and other entities that offer driver
6 education courses to students for which a uniform certificate of
7 course completion is issued. The collision rate is computed by
8 determining the number of an entity's students who complete a
9 driver education course during a state fiscal year, dividing that
10 number by the number of collisions that involved students who
11 completed such a course and that occurred in the 12-month period
12 following their licensure, and expressing the quotient as a
13 percentage.

14 (b) The department shall collect data regarding the
15 collision rate of students taught by course instructors approved
16 under Section 521.205. The collision rate is computed by
17 determining the number of students who completed a course approved
18 under Section 521.205 during a state fiscal year, dividing that
19 number by the number of collisions that involved students who
20 completed such a course and that occurred in the 12-month period
21 following their licensure, and expressing the quotient as a
22 percentage.

23 (c) Not later than October 1 of each year, the department
24 shall issue a publication listing the collision rate for students
25 taught by each driver education entity and the collision rate for
26 students taught by a course instructor approved under Section
27 521.205, noting the severity of collisions involving students of

1 each entity and each type of course.

2 SECTION 12.09. Section 521.271, Transportation Code, is
3 amended by amending Subsection (a) and adding Subsection (a-1) to
4 read as follows:

5 (a) Each original driver's license and provisional license
6 expires as follows:

7 (1) except as provided by Section 521.2711, a driver's
8 license expires on the first birthday of the license holder
9 occurring after the sixth anniversary of the date of the
10 application;

11 (2) a provisional license expires on ~~[the earlier of+~~
12 ~~[(A)]~~ the 18th birthday of the license holder ~~[+~~
13 ~~or~~

14 ~~[(B) the first birthday of the license holder~~
15 ~~occurring after the date of the application];~~

16 (3) an instruction permit expires on the 18th birthday
17 of the license holder ~~[second birthday of the license holder~~
18 ~~occurring after the date of the application]; and~~

19 (4) an occupational license expires on the first
20 anniversary of the court order granting the license.

21 (a-1) The department and the Texas Education Agency shall
22 enter into a memorandum of understanding under which the department
23 may access the agency's electronic enrollment records to verify a
24 student's enrollment in a public school. The memorandum of
25 understanding must specify that the department may only access
26 information necessary to verify the identity and enrollment status
27 of a license renewal applicant and only if a parent or guardian of

1 the applicant has provided written permission for the department to
2 access that information. Nothing in this subsection may be
3 construed to allow the release of information in violation of the
4 Family Educational Rights and Privacy Act of 1974 (20 U.S.C.
5 Section 1232g).

6 SECTION 12.10. Section 521.421(c), Transportation Code, is
7 amended to read as follows:

8 (c) The fee for issuance [~~or renewal~~] of a provisional
9 license or instruction permit is \$15 [~~\$5~~].

10 SECTION 12.11. Section 545.424, Transportation Code, is
11 amended by amending Subsections (a), (b), and (c) and adding
12 Subsection (f) to read as follows:

13 (a) A person under 18 years of age [~~during the six-month~~
14 ~~period following issuance of an original Class A, B, or C driver's~~
15 ~~license to the person,~~] may not operate a motor vehicle:

16 (1) during the 12-month period following issuance of
17 an original Class A, B, or C driver's license to the person:

18 (A) after midnight and before 5 a.m. unless the
19 operation of the vehicle is necessary for the operator to attend or
20 participate in employment or a school-related activity or because
21 of a medical emergency; or

22 (B) [~~(2)~~] with more than one passenger in the
23 vehicle under 21 years of age who is not a family member; or

24 (2) [~~(3)~~] while using a wireless communications
25 device, except in case of emergency.

26 (b) A person under 17 years of age who holds a restricted
27 motorcycle license or moped license, during the 12-month

1 [~~six-month~~] period following the issuance of an original motorcycle
2 license or moped license to the person, may not operate a motorcycle
3 or moped:

4 (1) after midnight and before 5 a.m. unless:

5 (A) the person is in sight of the person's parent
6 or guardian; or

7 (B) the operation of the vehicle is necessary for
8 the operator to attend or participate in employment or a
9 school-related activity or because of a medical emergency; or

10 (2) while using a wireless communications device,
11 except in case of emergency.

12 (c) This section does not apply to:

13 (1) the holder of a hardship license; [~~or~~]

14 (2) a person operating a motor vehicle while
15 accompanied in the manner required by Section 521.222(d)(2) for the
16 holder of an instruction permit; or

17 (3) a person licensed by the Federal Communications
18 Commission to operate a wireless communication device or a radio
19 frequency device.

20 (f) In this section, "wireless communication device" means
21 a handheld or hands-free device that uses commercial mobile
22 service, as defined by 47 U.S.C. Section 332.

23 SECTION 12.12. (a) For the purpose of compiling data for
24 the publication required by Section 521.206, Transportation Code,
25 as added by this article, the Texas Department of Public Safety
26 shall determine the number of minor students taught by each driver
27 education entity and the total number of minor students taught by

1 courses approved under Section 521.205, Transportation Code, who
2 become licensed during the state fiscal year beginning September 1,
3 2009, and ending August 31, 2010.

4 (b) The first publication of collision rate data compiled
5 under Section 521.206, Transportation Code, as added by this
6 article, shall be issued not later than October 1, 2011.

7 SECTION 12.13. Not later than November 30, 2009, the Texas
8 Department of Public Safety shall appoint a task force to review and
9 make recommendations regarding the effectiveness of the materials
10 provided by the Texas Education Agency for use in courses licensed
11 under Chapter 1001, Education Code, or authorized by Section
12 521.205^{Transportation Code}. The task force shall consist of the following members:

13 (1) a representative of the Texas Department of Public
14 Safety;

15 (2) a representative of the Texas Education Agency;

16 (3) a commercial provider of driver education courses;

17 (4) a member of an interested group or association, as
18 determined by the department; and

19 (5) other appropriate members, as determined by the
20 department.

21 SECTION 12.14. (a) Section 29.902(c), Education Code, as
22 added by this article, applies beginning with the 2010-2011 school
23 year.

24 (b) Not later than January 1, 2010, the commissioner of
25 education shall adopt rules as required by Section 1001.101,
26 Education Code, as amended by this article.

27 (c) Each driver education and training program approved by

1 the Texas Education Agency under Chapter 1001, Education Code, must
2 comply with the curriculum requirements of Section 1001.101,
3 Education Code, as amended by this article, not later than May 1,
4 2010.

5 (d) Section 521.165, Transportation Code, as amended by
6 this article, applies only to an application for a driver's license
7 submitted on or after the effective date of this article. An
8 application for a driver's license submitted before the effective
9 date of this article is subject to the law in effect on the date the
10 application was submitted, and that law is continued in effect for
11 that purpose.

12 (e) The changes in law made by this article to Section
13 521.205, Transportation Code, apply to a course approved under that
14 section that begins on or after the effective date of this article.
15 A course beginning before the effective date of this article is
16 governed by the law in effect on the date the course was commenced,
17 and that law is continued in effect for that purpose.

18 (f) The changes in law made by this article to Sections
19 521.271, 521.421, and 545.424, Transportation Code, apply only to a
20 person issued a driver's license on or after the effective date of
21 this article. A person issued a driver's license before the
22 effective date of this article is governed by the law in effect on
23 the date the license was issued, and that law is continued in effect
24 for that purpose.

25 SECTION 12.15. This article takes effect September 1, 2009.

1 explanation of the reason for the inability and an estimation of the
2 amount of time the department will need to make the determination.

3 SECTION 11.05. The changes in law made by this article in
4 repealing Section 411.175, Government Code, apply only to an
5 application for the issuance of a license that is submitted to the
6 Department of Public Safety on or after September 1, 2009. An
7 application submitted before September 1, 2009, is governed by the
8 law in effect when the application was submitted, and the former law
9 is continued in effect for that purpose.

10 SECTION 11.06. This article takes effect September 1, 2009.

11 ARTICLE ^{12A}~~12~~. DISPLAY OF LICENSE TO

12 CARRY A CONCEALED HANDGUN

13 SECTION ^{12A}~~12~~.01. Sections 411.187(a) and (c), Government
14 Code, are amended to read as follows:

15 (a) A license may be suspended under this section if the
16 license holder:

17 (1) is charged with the commission of a Class A or
18 Class B misdemeanor or an offense under Section 42.01, Penal Code,
19 or of a felony under an information or indictment;

20 (2) ~~[fails to display a license as required by Section~~
21 ~~411.205,~~

22 ~~[(3)]~~ fails to notify the department of a change of
23 address or name as required by Section 411.181;

24 (3) ~~[(4)]~~ carries a concealed handgun under the
25 authority of this subchapter of a different category than the
26 license holder is licensed to carry;

27 (4) ~~[(5)]~~ fails to return a previously issued license

1 after a license is modified as required by Section 411.184(d);

2 (5) [~~6~~] commits an act of family violence and is the
3 subject of an active protective order rendered under Title 4,
4 Family Code; or

5 (6) [~~7~~] is arrested for an offense involving family
6 violence or an offense under Section 42.072, Penal Code, and is the
7 subject of an order for emergency protection issued under Article
8 17.292, Code of Criminal Procedure.

9 (c) A license may be suspended under this section:

10 (1) for 30 days, if the person's license is subject to
11 suspension for a reason listed in Subsection (a)(2), (3) [~~(a)(3)~~],
12 or (4), [~~or (5)~~], except as provided by Subdivision (2) [~~(3)~~];

13 ~~(2) [for 90 days, if the person's license is subject to~~
14 ~~suspension for a reason listed in Subsection (a)(2), except as~~
15 ~~provided by Subdivision (3),~~

16 [~~(3)~~] for not less than one year and not more than three
17 years if the person's license is subject to suspension for a reason
18 listed in Subsection (a), other than the reason listed in
19 Subsection (a)(1), and the person's license has been previously
20 suspended for the same reason;

21 (3) [~~4~~] until dismissal of the charges if the
22 person's license is subject to suspension for the reason listed in
23 Subsection (a)(1); or

24 (4) [~~5~~] for the duration of or the period specified
25 by:

26 (A) the protective order issued under Title 4,
27 Family Code, if the person's license is subject to suspension for

1 the reason listed in Subsection (a)(5) [~~(a)(6)~~]; or

2 (B) the order for emergency protection issued
3 under Article 17.292, Code of Criminal Procedure, if the person's
4 license is subject to suspension for the reason listed in
5 Subsection (a)(6) [~~(a)(7)~~].

6 SECTION ^{12A}~~42~~.02. Section 411.205, Government Code, is amended
7 to read as follows:

8 Sec. 411.205. REQUIREMENT TO DISPLAY [~~DISPLAYING~~]
9 LICENSE[~~, PENALTY~~]. [~~(a)~~] If a license holder is carrying a
10 handgun on or about the license holder's person when a magistrate or
11 a peace officer demands that the license holder display
12 identification, the license holder shall display both the license
13 holder's driver's license or identification certificate issued by
14 the department and the license holder's handgun license. [~~A person~~
15 ~~who fails or refuses to display the license and identification as~~
16 ~~required by this subsection is subject to suspension of the~~
17 ~~person's license as provided by Section 411.187.~~

18 [~~(b) A person commits an offense if the person fails or~~
19 ~~refuses to display the license and identification as required by~~
20 ~~Subsection (a) after previously having had the person's license~~
21 ~~suspended for a violation of that subsection. An offense under this~~
22 ~~subsection is a Class B misdemeanor.]~~

23 SECTION ^{12A}~~42~~.03. An offense under Section 411.205, Government
24 Code, may not be prosecuted after the effective date of this
25 article. If, on the effective date of this article, a criminal
26 action is pending for an offense under Section 411.205, the action
27 is dismissed on that date. However, a final conviction for an

1 offense under Section 411.205 that exists on the effective date of
2 this article is unaffected by this article.

3 SECTION ^{12A} 12.04. This article takes effect September 1, 2009.

4 ARTICLE 13. DRIVER'S LICENSE ISSUED TO CERTAIN FEDERAL AND STATE
5 JUDGES AND SPOUSES

6 SECTION 13.01. Section 521.001, Transportation Code, is
7 amended by adding Subdivisions (3-a) and (8-a) to read as follows:

8 (3-a) "Federal judge" means:

9 (A) a judge of a United States court of appeals;

10 (B) a judge of a United States district court;

11 (C) a judge of a United States bankruptcy court;

12 or

13 (D) a magistrate judge of a United States

14 district court.

15 (8-a) "State judge" means:

16 (A) the judge of an appellate court, a district
17 court, or a county court at law of this state; or

18 (B) an associate judge appointed under Chapter
19 201, Family Code.

20 SECTION 13.02. Sections 521.054(a) and (b), Transportation
21 Code, are amended to read as follows:

22 (a) This section applies to a person who:

23 (1) after applying for or being issued a [the] license
24 or certificate moves to a new residence [from the] address [stated
25 in the person's application for a license or certificate];

26 (2) has used the procedure under Section 521.121(d)
27 and whose status as a federal judge, a state judge, or the spouse of

1 ARTICLE 13. REGULATION OF DRIVER'S LICENSES AND PERSONAL
2 IDENTIFICATION CERTIFICATES BY DEPARTMENT

3 SECTION 13.01. Section 521.029, Transportation Code, is
4 amended to read as follows:

5 Sec. 521.029. OPERATION OF MOTOR VEHICLE BY NEW STATE
6 RESIDENTS. (a) A person who enters this state as a new resident
7 may operate a motor vehicle in this state for no more than 90 [~~30~~]
8 days after the date on which the person enters this state if the
9 person:

10 (1) is 16 years of age or older; and

11 (2) has in the person's possession a driver's license
12 issued to the person by the person's state or country of previous
13 residence.

14 (b) If a person subject to this section is prosecuted for
15 operating a motor vehicle without a driver's license, the
16 prosecution alleges that the person has resided in this state for
17 more than 90 [~~30~~] days, and the person claims to have been covered
18 by Subsection (a), the person must prove by the preponderance of the
19 evidence that the person has not resided in this state for more than
20 90 [~~30~~] days.

21 SECTION 13.02. Subchapter C, Chapter 521, Transportation
22 Code, is amended by adding Section 521.060 to read as follows:

23 Sec. 521.060. INTERNAL VERIFICATION SYSTEM. (a) The
24 department by rule shall establish a system for identifying unique
25 addresses that are submitted in license or certificate applications
26 under this chapter or Chapter 522 in a frequency or number that, in
27 the department's determination, casts doubt on whether the

1 addresses are the actual addresses where the applicants reside.

2 (b) The department may contract with a third-party personal
3 data verification service to assist the department in implementing
4 this section.

5 (c) The department shall investigate the validity of
6 addresses identified under Subsection (a).

7 (d) The department may disclose the results of an
8 investigation under Subsection (c) to a criminal justice agency for
9 the purposes of enforcing Section 521.4565 or other provisions of
10 this chapter or Chapter 522.

11 (e) In this section, "criminal justice agency" has the
12 meaning assigned by Article 60.01, Code of Criminal Procedure.

13 SECTION 13.03. Section 521.101, Transportation Code, is
14 amended by adding Subsection (j) to read as follows:

15 (j) The department may not issue a personal identification
16 certificate to a person who has not established a domicile in this
17 state.

18 SECTION 13.04. Subchapter G, Chapter 521, Transportation
19 Code, is amended by adding Sections 521.1426 and 521.1427 to read as
20 follows:

21 Sec. 521.1426. DOMICILE REQUIREMENT; VERIFICATION.

22 (a) The department may not issue a driver's license or a personal
23 identification certificate to a person who has not established a
24 domicile in this state.

25 (b) The department shall adopt rules for determining
26 whether a domicile has been established, including rules
27 prescribing the types of documentation the department may require

1 from the applicant to verify the validity of the claimed domicile.

2 (c) The department may contract with a third-party personal
3 data verification service to assist the department in verifying a
4 claim of domicile, including whether the physical address provided
5 by the applicant is the applicant's actual residence.

6 Sec. 521.1427. POST OFFICE BOX NOT VALID AS ADDRESS.

7 (a) In this section, "post office box address" means a United
8 States Postal Service post office box address or a private mailbox
9 address.

10 (b) Unless an exception exists under state or federal law,
11 an applicant may receive delivery of a license or a personal
12 identification certificate at a post office box address only if the
13 applicant has provided the department the physical address where
14 the applicant resides.

15 (c) The department may require the applicant to provide
16 documentation that the department determines necessary to verify
17 the validity of the physical address provided under Subsection (b).

18 (d) The department may contract with a third-party personal
19 data verification service to assist the department in verifying
20 whether the physical address provided by the applicant is the
21 applicant's actual residence.

22 SECTION 13.05. Subchapter C, Chapter 522, Transportation
23 Code, is amended by adding Sections 522.0225 and 522.0226 to read as
24 follows:

25 Sec. 522.0225. VERIFICATION OF DOMICILE. (a) The
26 department shall adopt rules for determining whether a domicile has
27 been established under Section 522.022, including rules

1 prescribing the types of documentation the department may require
2 from the applicant to determine the validity of the claimed
3 domicile.

4 (b) The department may contract with a third-party personal
5 data verification service to assist the department in verifying a
6 claim of domicile, including whether the physical address provided
7 by the applicant is the applicant's actual residence.

8 Sec. 522.0226. POST OFFICE BOX NOT VALID AS ADDRESS.

9 (a) In this section, "post office box address" means a United
10 States Postal Service post office box address or a private mailbox
11 address.

12 (b) Unless an exception exists under state or federal law,
13 an applicant may receive delivery of a commercial driver's license
14 at a post office box address only if the applicant has provided the
15 department the physical address where the applicant resides.

16 (c) The department may require the applicant to provide
17 documentation that the department determines necessary to verify
18 the validity of the physical address provided under Subsection (b).

19 (d) The department may contract with a third-party personal
20 data verification service to assist the department in verifying
21 whether the physical address provided by the applicant is the
22 applicant's actual residence.

23 SECTION 13.06. Subchapter S, Chapter 521, Transportation
24 Code, is amended by adding Section 521.4565 to read as follows:

25 Sec. 521.4565. CONSPIRING TO MANUFACTURE COUNTERFEIT
26 LICENSE OR CERTIFICATE. (a) In this section:

27 (1) "Combination," "conspires to commit," "profits,"

1 and "criminal street gang" have the meanings assigned by Section
2 71.01, Penal Code.

3 (2) "Conspires to manufacture or produce" means that:

4 (A) a person agrees with one or more other
5 persons to engage in the manufacture or production of a forged or
6 counterfeit instrument; and

7 (B) the person and one or more of the other
8 persons perform an overt act in pursuance of the agreement.

9 (3) "Instrument" means a driver's license, commercial
10 driver's license, or personal identification certificate.

11 (4) "Public servant" has the meaning assigned by
12 Section 1.07, Penal Code.

13 (b) A person commits an offense if the person establishes,
14 maintains, or participates in or conspires to establish, maintain,
15 or participate in a combination or criminal street gang, or
16 participates in the profits of a combination or criminal street
17 gang, with the intent to manufacture or produce a forged or
18 counterfeit instrument for the purpose of selling, distributing, or
19 delivering such instrument. An agreement constituting conspiring
20 to manufacture or produce may be inferred from the acts of the
21 parties.

22 (c) An offense under this section is a state jail felony,
23 except that an offense committed by a public servant is a felony of
24 the third degree.

25 SECTION 13.07. The Department of Public Safety of the State
26 of Texas shall adopt rules required by the amendments of this
27 article to Chapters 521 and 522, Transportation Code, as soon as

1 practicable after the effective date of this article.

2 SECTION 13.08. This article takes effect immediately if
3 this Act receives a vote of two-thirds of all the members elected to
4 each house, as provided by Section 39, Article III, Texas
5 Constitution. If this Act does not receive the vote necessary for
6 immediate effect, this article takes effect September 1, 2009.

7 ARTICLE 14. USE OF AN OFFENDER IDENTIFICATION CARD OR SIMILAR FORM
8 OF IDENTIFICATION AS PROOF OF IDENTITY FOR AN APPLICANT FOR A
9 DRIVER'S LICENSE OR COMMERCIAL DRIVER'S LICENSE

10 SECTION 14.01. Subsection (a), Section 521.142,
11 Transportation Code, is amended to read as follows:

12 (a) An application for an original license must state the
13 applicant's full name and place and date of birth. This information
14 must be verified by presentation of proof of identity satisfactory
15 to the department. The department must accept as satisfactory
16 proof of identity under this subsection an offender identification
17 card or similar form of identification issued to an inmate by the
18 Texas Department of Criminal Justice if the applicant also provides
19 supplemental verifiable records or documents that aid in
20 establishing identity.

21 SECTION 14.02. Subchapter G, Chapter 521, Transportation
22 Code, is amended by adding Section 521.1421 to read as follows:

23 Sec. 521.1421. INMATE IDENTIFICATION VERIFICATION PILOT
24 PROGRAM. (a) The department shall participate in an inmate
25 identification verification pilot program for the purpose of
26 issuing driver's licenses and personal identification certificates
27 to inmates of the Texas Department of Criminal Justice.

1 offense under Section 411.205 that exists on the effective date of
2 this article is unaffected by this article.

3 SECTION 12.04. This article takes effect September 1, 2009.

4 ARTICLE ^{13A}~~43~~. DRIVER'S LICENSE ISSUED TO CERTAIN FEDERAL AND STATE
5 JUDGES AND SPOUSES

6 SECTION ^{13A}~~43~~.01. Section 521.001, Transportation Code, is
7 amended by adding Subdivisions (3-a) and (8-a) to read as follows:

8 (3-a) "Federal judge" means:

9 (A) a judge of a United States court of appeals;

10 (B) a judge of a United States district court;

11 (C) a judge of a United States bankruptcy court;

12 or

13 (D) a magistrate judge of a United States
14 district court.

15 (8-a) "State judge" means:

16 (A) the judge of an appellate court, a district
17 court, or a county court at law of this state; or

18 (B) an associate judge appointed under Chapter
19 201, Family Code.

20 SECTION ^{13A}~~43~~.02. Sections 521.054(a) and (b), Transportation
21 Code, are amended to read as follows:

22 (a) This section applies to a person who:

23 (1) after applying for or being issued a [the] license
24 or certificate moves to a new residence [from the] address [stated
25 ~~in the person's application for a license or certificate~~];

26 (2) has used the procedure under Section 521.121(d)
27 and whose status as a federal judge, a state judge, or the spouse of

1 a federal or state judge becomes inapplicable [~~moves from the~~
2 ~~address shown on the license or certificate held by the person~~]; or
3 (3) changes the person's name by marriage or
4 otherwise.

5 (b) A person subject to this section shall notify the
6 department of the change not later than the 30th day after the date
7 on which the change takes effect and apply for a duplicate license
8 or certificate as provided by Section 521.146. The duplicate
9 license must include the person's current residence address.

10 SECTION ^{13A}~~49~~.03. Section 521.121, Transportation Code, is
11 amended by amending Subsection (a) and adding Subsection (d) to
12 read as follows:

13 (a) The driver's license must include:

14 (1) a distinguishing number assigned by the department
15 to the license holder;

16 (2) a color photograph of the entire face of the
17 holder;

18 (3) the full name and[~~r~~] date of birth[~~, and residence~~
19 ~~address~~] of the holder; [~~and~~]

20 (4) a brief description of the holder; and

21 (5) the license holder's residence address or, for a
22 license holder using the procedure under Subsection (d), the street
23 address of the courthouse in which the license holder or license
24 holder's spouse serves as a federal judge or state judge.

25 (d) The department shall establish a procedure for a federal
26 judge, a state judge, or the spouse of a federal or state judge to
27 omit the license holder's residence address on the license and to

1 include, in lieu of that address, the street address of the
2 courthouse in which the license holder or license holder's spouse
3 serves as a federal judge or state judge. In establishing the
4 procedure, the department shall require sufficient documentary
5 evidence to establish the license holder's status as a federal
6 judge, state judge, or the spouse of a federal or state judge.

7 SECTION ^{13A}~~43~~.04. Section 521.142(c), Transportation Code, is
8 amended to read as follows:

9 (c) The application must state:

10 (1) the sex of the applicant;

11 (2) the residence address of the applicant, or if the
12 applicant is a federal judge, a state judge, or the spouse of a
13 federal or state judge using the procedure developed under Section
14 521.121(d), the street address of the courthouse in which the
15 applicant or the applicant's spouse serves as a federal judge or a
16 state judge;

17 (3) whether the applicant has been licensed to drive a
18 motor vehicle before;

19 (4) if previously licensed, when and by what state or
20 country;

21 (5) whether that license has been suspended or revoked
22 or a license application denied;

23 (6) the date and reason for the suspension,
24 revocation, or denial;

25 (7) whether the applicant is a citizen of the United
26 States; and

27 (8) the county of residence of the applicant.

1 practicable after the effective date of this article.

2 SECTION 13.08. This article takes effect immediately if
3 this Act receives a vote of two-thirds of all the members elected to
4 each house, as provided by Section 39, Article III, Texas
5 Constitution. If this Act does not receive the vote necessary for
6 immediate effect, this article takes effect September 1, 2009.

7 ARTICLE 14. USE OF AN OFFENDER IDENTIFICATION CARD OR SIMILAR FORM
8 OF IDENTIFICATION AS PROOF OF IDENTITY FOR AN APPLICANT FOR A
9 DRIVER'S LICENSE OR COMMERCIAL DRIVER'S LICENSE

10 SECTION 14.01. Subsection (a), Section 521.142,
11 Transportation Code, is amended to read as follows:

12 (a) An application for an original license must state the
13 applicant's full name and place and date of birth. This information
14 must be verified by presentation of proof of identity satisfactory
15 to the department. The department must accept as satisfactory
16 proof of identity under this subsection an offender identification
17 card or similar form of identification issued to an inmate by the
18 Texas Department of Criminal Justice if the applicant also provides
19 supplemental verifiable records or documents that aid in
20 establishing identity.

21 SECTION 14.02. Subchapter G, Chapter 521, Transportation
22 Code, is amended by adding Section 521.1421 to read as follows:

23 Sec. 521.1421. INMATE IDENTIFICATION VERIFICATION PILOT
24 PROGRAM. (a) The department shall participate in an inmate
25 identification verification pilot program for the purpose of
26 issuing driver's licenses and personal identification certificates
27 to inmates of the Texas Department of Criminal Justice.

1 (b) Under the pilot program, the department may:

2 (1) enter into a contract with the Texas Department of
3 Criminal Justice and the Department of State Health Services to
4 establish an identification verification process for inmates of the
5 Texas Department of Criminal Justice; and

6 (2) issue a driver's license or a personal
7 identification certificate to an inmate whose identity has been
8 confirmed through the verification process and who otherwise meets
9 the requirements for the issuance of the driver's license or
10 personal identification certificate.

11 (c) At the conclusion of the pilot program the governing
12 bodies of the participating agencies may agree to continue the
13 pilot program on a permanent basis.

14 (d) Not later than December 1, 2010, the department and the
15 Texas Department of Criminal Justice shall jointly issue a report
16 to the standing committees of the legislature with jurisdiction
17 over issues related to criminal justice and homeland security
18 addressing:

19 (1) the status of the pilot program;

20 (2) the effectiveness of the pilot program; and

21 (3) an analysis of the feasibility of implementing a
22 statewide program based on the pilot program.

23 SECTION 14.03. Subsection (c-1), Section 522.021,
24 Transportation Code, is amended to read as follows:

25 (c-1) If the department requires proof of an applicant's
26 identity as part of an application under this section, the
27 department must accept as satisfactory proof of identity an

1 offender identification card or similar form of identification
2 issued to an inmate by the Texas Department of Criminal Justice if
3 the applicant also provides supplemental verifiable records or
4 documents that aid in establishing identity.

5 SECTION 14.04. The changes in law made by this article apply
6 only to an application for a driver's license, commercial driver's
7 license, or personal identification certificate submitted on or
8 after the effective date of this article. An application for a
9 driver's license, commercial driver's license, or personal
10 identification certificate submitted before the effective date of
11 this article is subject to the law in effect on the date the
12 application was submitted, and that law is continued in effect for
13 that purpose.

14 SECTION 14.05. This article takes effect September 1, 2009.

15 ARTICLE 15. DRIVER RESPONSIBILITY PROGRAM

16 SECTION 15.01. Section 708.151, Transportation Code, is
17 amended to read as follows:

18 Sec. 708.151. NOTICE OF SURCHARGE. (a) The department
19 shall send notices as required by Subsection (b) to ~~[notify]~~ the
20 holder of a driver's license when ~~[of the assessment of]~~ a surcharge
21 is assessed on that license. Each notice must:

22 (1) be sent by first class mail ~~[sent]~~ to the person's
23 most recent address as shown on the records of the department;

24 (2) ~~[The notice must]~~ specify the date by which the
25 surcharge must be paid; and

26 (3) state the consequences of a failure to pay the
27 surcharge.

ADOPTED

MAY 27 2009

Secretary of the Senate

John King

FLOOR AMENDMENT NO. 9

BY: _____

Amend C.S.H.B. No. 2730 (Senate committee printing) as follows:

(1) In ARTICLE 15 of the bill, strike SECTIONS 15.01, 15.02, 15.03, and 15.04 (page 58, line 64, through page 60, line 18) and substitute the following:

SECTION 15.01. Section 708.151, Transportation Code, is amended to read as follows:

Sec. 708.151. NOTICE OF SURCHARGE. (a) The department shall send notices as required by Subsection (b) to [notify] the holder of a driver's license when [of the assessment of] a surcharge is assessed on that license. Each notice must:

(1) be sent by first class mail [sent] to the person's most recent address as shown on the records of the department or to the person's most recent forwarding address on record with the United States Postal Service if it is different;

(2) [The notice must] specify the date by which the surcharge must be paid;

(3) state the total dollar amount of the surcharge that must be paid, the number of monthly payments required under an installment payment plan, and the minimum monthly payment required for a person to enter and maintain an installment payment plan with the department; and

(4) state the consequences of a failure to pay the surcharge.

(b) The department shall send a first notice not later than the fifth day after the date the surcharge is assessed.

(c) If on or before the 45th day after the date the first

notice was sent the person fails to pay the amount of the surcharge or fails to enter into an installment payment agreement with the department, the department shall send a second notice. If on or before the 60th day after the date the second notice was sent the person fails to pay the amount of the surcharge or fails to enter into an installment payment agreement with the department, the department shall send a third notice that advises the person that the person's driving privileges are suspended.

SECTION 15.02. Section 708.152(a), Transportation Code, is amended to read as follows:

(a) If on [~~before~~] the 60th [~~30th~~] day after the date the department sends a second notice under Section 708.151 the person fails to pay the amount of a surcharge on the person's license or fails to enter into an installment payment agreement with the department, the license of the person is automatically suspended. A person's license may not be suspended under this section before the 105th day after the date the surcharge was assessed by the department.

SECTION 15.03. Section 708.153(b), Transportation Code, is amended to read as follows:

(b) A rule under this section:

(1) may not require [~~permit~~] a person to:

(A) pay surcharges that total \$500 or more [~~a surcharge~~] over a period of less [~~more~~] than 36 consecutive months;

(B) pay surcharges that total more than \$250 but not more than \$499 over a period of less than 24 consecutive months; or

(C) pay surcharges that total \$249 or less over a period of less than 12 consecutive months; and

(2) may provide that if the person fails to make any (a) required monthly installment payment, the department may reestablish the installment plan on receipt of a payment in the amount equal to at least a required monthly installment payment ~~(or declare the amount of the unpaid surcharge immediately due and payable)~~.

SECTION 15.04. Subchapter D, Chapter 708, Transportation Code, is amended by adding Section 708.158 to read as follows:

Sec. 708.158. INDIGENT STATUS AND REDUCTION OF SURCHARGES.

(a) The department shall waive all surcharges assessed under this chapter for a person who is indigent. For the purposes of this section, a person is considered to be indigent if the person provides the evidence described by Subsection (b) to the court.

(b) A person must provide information to the court in which the person is convicted of the offense that is the basis for the surcharge to establish that the person is indigent. The following documentation may be used as proof:

(1) a copy of the person's most recent federal income tax return that shows that the person's income or the person's household income does not exceed 125 percent of the applicable income level established by the federal poverty guidelines;

(2) a copy of the person's most recent statement of wages that shows that the person's income or the person's household income does not exceed 125 percent of the applicable income level established by the federal poverty guidelines; or

(3) documentation from a federal agency, state agency, or school district that indicates that the person or, if the person is a dependent as defined by Section 152, Internal Revenue Code of 1986, the taxpayer claiming the person as a dependent, receives

assistance from:

(A) the food stamp program or the financial assistance program established under Chapter 31, Human Resources Code;

(B) the federal special supplemental nutrition program for women, infants, and children authorized by 42 U.S.C. Section 1786;

(C) the medical assistance program under Chapter 32, Human Resources Code;

(D) the child health plan program under Chapter 62, Health and Safety Code; or

(E) the national free or reduced-price lunch program established under 42 U.S.C. Section 1751 et seq.

(2) Add the following appropriately numbered SECTION to ARTICLE 15 of the bill and renumber subsequent SECTIONS of that article accordingly:

SECTION/Sec. Section 708.157(c), Transportation Code, is amended to read as follows:

(c) The department by rule shall [may] establish an indigency program for holders of a driver's license on which a surcharge has been assessed for certain offenses, as determined by the department.

(3) In SECTION 15.06 of the bill (page 60, line 27), between "that is assessed" and "on or after", insert "under Chapter 708, Transportation Code,".

(4) In SECTION 15.06 of the bill (page 60, line 28), between "was assessed" and "before", insert "under that chapter".

1 SECTION 15.⁰⁶~~05~~. Subchapter B, Chapter 708, Transportation
2 Code, is amended by adding Section 708.056 to read as follows:

3 Sec. 708.056. DEDUCTION OF POINTS. The department by rule
4 shall establish a procedure to provide for the deduction of one
5 point accumulated by a person under this subchapter to account for
6 each year that the person has not accumulated points under this
7 subchapter.

8 SECTION 15.⁰⁷~~06~~. The changes in law made by this article apply
9 only to a surcharge that is assessed ^{under Chapter 708, Transportation Code,} on or after the effective date
10 of this article. A surcharge that was assessed ^{under that chapter} before the effective
11 date of this article is subject to the law in effect on the date the
12 surcharge was assessed, and that law is continued in effect for that
13 purpose.

14 SECTION 15.⁰⁸~~07~~. This article takes effect September 1, ²⁰¹¹~~2009~~.

15 ARTICLE 16. SUSPENSION OF A DRIVER'S LICENSE BY DEPARTMENT

16 SECTION 16.01. Section 521.341, Transportation Code, is
17 amended to read as follows:

18 Sec. 521.341. REQUIREMENTS FOR AUTOMATIC LICENSE
19 SUSPENSION. Except as provided by Sections 521.344(d)-(i), a
20 license is automatically suspended on final conviction of the
21 license holder of:

- 22 (1) an offense under Section 19.05, Penal Code,
23 committed as a result of the holder's criminally negligent
24 operation of a motor vehicle;
 - 25 (2) an offense under Section 38.04, Penal Code, if the
26 holder used a motor vehicle in the commission of the offense;
 - 27 (3) an offense under Section 49.04, 49.045, or 49.08,
-

~~1 vehicle used exclusively to transport solid waste and performing~~
~~2 duties that require frequent entry into and exit from the vehicle.~~

~~3 SECTION 14.02. The change in law made by this article to~~
~~4 Section 545.413(e), Transportation Code, as amended by this~~
~~5 article, applies only to an offense under Section 545.413(a) of~~
~~6 that code, regardless of whether the offense was committed before,~~
~~7 on, or after the effective date of this Act.~~

8 ~~ARTICLE 15.~~ ^{15A} MOTOR VEHICLE SAFETY RESPONSIBILITY

9 SECTION ~~15~~ ^{15A}.01. Section 601.053, Transportation Code, is
10 amended by amending Subsection (b) and adding Subsection (c) to
11 read as follows:

12 (b) Except as provided by Subsection (c), an [An] operator
13 who does not exhibit evidence of financial responsibility under
14 Subsection (a) is presumed to have operated the vehicle in
15 violation of Section 601.051.

16 (c) Subsection (b) does not apply if the peace officer
17 determines through use of the verification program established
18 under Subchapter N that financial responsibility has been
19 established for the vehicle.

20 SECTION ~~15~~ ^{15A}.02. Subchapter N, Chapter 601, Transportation
21 Code, as added by Chapter 1325 (H.B. 3588), Acts of the 78th
22 Legislature, Regular Session, 2003, is repealed.

23 ~~ARTICLE 16. EFFECTIVE DATE~~

24 SECTION 16.01. Except as otherwise provided by this Act,
25 this Act takes effect immediately if it receives a vote of
26 two-thirds of all the members elected to each house, as provided by
27 Section 39, Article III, Texas Constitution. If this Act does not

1 SECTION 15.05. Subchapter B, Chapter 708, Transportation
2 Code, is amended by adding Section 708.056 to read as follows:

3 Sec. 708.056. DEDUCTION OF POINTS. The department by rule
4 shall establish a procedure to provide for the deduction of one
5 point accumulated by a person under this subchapter to account for
6 each year that the person has not accumulated points under this
7 subchapter.

8 SECTION 15.06. The changes in law made by this article apply
9 only to a surcharge that is assessed on or after the effective date
10 of this article. A surcharge that was assessed before the effective
11 date of this article is subject to the law in effect on the date the
12 surcharge was assessed, and that law is continued in effect for that
13 purpose.

14 SECTION 15.07. This article takes effect September 1, 2009.

15 ARTICLE 16. SUSPENSION OF A DRIVER'S LICENSE BY DEPARTMENT

16 SECTION 16.01. Section 521.341, Transportation Code, is
17 amended to read as follows:

18 Sec. 521.341. REQUIREMENTS FOR AUTOMATIC LICENSE
19 SUSPENSION. Except as provided by Sections 521.344(d)-(i), a
20 license is automatically suspended on final conviction of the
21 license holder of:

22 (1) an offense under Section 19.05, Penal Code,
23 committed as a result of the holder's criminally negligent
24 operation of a motor vehicle;

25 (2) an offense under Section 38.04, Penal Code, if the
26 holder used a motor vehicle in the commission of the offense;

27 (3) an offense under Section 49.04, 49.045, or 49.08,

1 Penal Code;

2 (4) an offense under Section 49.07, Penal Code, if the
3 holder used a motor vehicle in the commission of the offense;

4 (5) an offense punishable as a felony under the motor
5 vehicle laws of this state;

6 (6) an offense under Section 550.021;

7 (7) an offense under Section 521.451 or 521.453; or

8 (8) an offense under Section 19.04, Penal Code, if the
9 holder used a motor vehicle in the commission of the offense.

10 SECTION 16.02. Sections 521.342(a) and (b), Transportation
11 Code, are amended to read as follows:

12 (a) Except as provided by Section 521.344, the license of a
13 person who was under 21 years of age at the time of the offense,
14 other than an offense classified as a misdemeanor punishable by
15 fine only, is automatically suspended on conviction of:

16 (1) an offense under Section 49.04, 49.045, or 49.07,
17 Penal Code, committed as a result of the introduction of alcohol
18 into the body;

19 (2) an offense under the Alcoholic Beverage Code,
20 other than an offense to which Section 106.071 of that code applies,
21 involving the manufacture, delivery, possession, transportation,
22 or use of an alcoholic beverage;

23 (3) a misdemeanor offense under Chapter 481, Health
24 and Safety Code, for which Subchapter P does not require the
25 automatic suspension of the license;

26 (4) an offense under Chapter 483, Health and Safety
27 Code, involving the manufacture, delivery, possession,

1 transportation, or use of a dangerous drug; or

2 (5) an offense under Chapter 485, Health and Safety
3 Code, involving the manufacture, delivery, possession,
4 transportation, or use of an abusable volatile chemical.

5 (b) The department shall suspend for one year the license of
6 a person who is under 21 years of age and is convicted of an offense
7 under Section 49.04, 49.045, 49.07, or 49.08, Penal Code,
8 regardless of whether the person is required to attend an
9 educational program under Section 13(h), Article 42.12, Code of
10 Criminal Procedure, that is designed to rehabilitate persons who
11 have operated motor vehicles while intoxicated, unless the person
12 is placed under community supervision under that article and is
13 required as a condition of the community supervision to not operate
14 a motor vehicle unless the vehicle is equipped with the device
15 described by Section 13(i) of that article. If the person is
16 required to attend such a program and does not complete the program
17 before the end of the person's suspension, the department shall
18 suspend the person's license or continue the suspension, as
19 appropriate, until the department receives proof that the person
20 has successfully completed the program. On the person's successful
21 completion of the program, the person's instructor shall give
22 notice to the department and to the community supervision and
23 corrections department in the manner provided by Section 13(h),
24 Article 42.12, Code of Criminal Procedure.

25 SECTION 16.03. Sections 521.344(a), (c), and (i),
26 Transportation Code, are amended to read as follows:

27 (a) Except as provided by Sections 521.342(b) and 521.345,

1 and by Subsections (d)-(i), if a person is convicted of an offense
2 under Section 49.04, 49.045, or 49.07, Penal Code, the license
3 suspension:

4 (1) begins on a date set by the court that is not
5 earlier than the date of the conviction or later than the 30th day
6 after the date of the conviction, as determined by the court; and

7 (2) continues for a period set by the court according
8 to the following schedule:

9 (A) not less than 90 days or more than one year,
10 if the person is punished under Section 49.04, 49.045, or 49.07,
11 Penal Code, except that if the person's license is suspended for a
12 second or subsequent offense under Section 49.07 committed within
13 five years of the date on which the most recent preceding offense
14 was committed, the suspension continues for a period of one year;

15 (B) not less than 180 days or more than two years,
16 if the person is punished under Section 49.09(a) or (b), Penal Code;
17 or

18 (C) not less than one year or more than two years,
19 if the person is punished under Section 49.09(a) or (b), Penal Code,
20 and is subject to Section 49.09(h) of that code.

21 (c) The court shall credit toward the period of suspension a
22 suspension imposed on the person for refusal to give a specimen
23 under Chapter 724 if the refusal followed an arrest for the same
24 offense for which the court is suspending the person's license
25 under this chapter. The court may not extend the credit to a
26 person:

27 (1) who has been previously convicted of an offense

1 under Section 49.04, 49.045, 49.07, or 49.08, Penal Code; or

2 (2) whose period of suspension is governed by Section
3 521.342(b).

4 (i) On the date that a suspension order under Section
5 521.343(c) is to expire, the period of suspension or the
6 corresponding period in which the department is prohibited from
7 issuing a license is automatically increased to two years unless
8 the department receives notice of successful completion of the
9 educational program as required by Section 13, Article 42.12, Code
10 of Criminal Procedure. At the time a person is convicted of an
11 offense under Section 49.04 or 49.045, Penal Code, the court shall
12 warn the person of the effect of this subsection. On the person's
13 successful completion of the program, the person's instructor shall
14 give notice to the department and to the community supervision and
15 corrections department in the manner required by Section 13,
16 Article 42.12, Code of Criminal Procedure. If the department
17 receives proof of completion after a period has been extended under
18 this subsection, the department shall immediately end the
19 suspension or prohibition.

20 SECTION 16.04. Sections 13(h) and (n), Article 42.12, Code
21 of Criminal Procedure, are amended to read as follows:

22 (h) If a person convicted of an offense under Sections
23 49.04-49.08, Penal Code, is placed on community supervision, the
24 judge shall require, as a condition of the community supervision,
25 that the defendant attend and successfully complete before the
26 181st day after the day community supervision is granted an
27 educational program jointly approved by the Texas Commission on

1 Alcohol and Drug Abuse, the Department of Public Safety, the
2 Traffic Safety Section of the Texas Department of Transportation,
3 and the community justice assistance division of the Texas
4 Department of Criminal Justice designed to rehabilitate persons who
5 have driven while intoxicated. The Texas Commission on Alcohol and
6 Drug Abuse shall publish the jointly approved rules and shall
7 monitor, coordinate, and provide training to persons providing the
8 educational programs. The Texas Commission on Alcohol and Drug
9 Abuse is responsible for the administration of the certification of
10 approved educational programs and may charge a nonrefundable
11 application fee for the initial certification of approval and for
12 renewal of a certificate. The judge may waive the educational
13 program requirement or may grant an extension of time to
14 successfully complete the program that expires not later than one
15 year after the beginning date of the person's community
16 supervision, however, if the defendant by a motion in writing shows
17 good cause. In determining good cause, the judge may consider but
18 is not limited to: the defendant's school and work schedule, the
19 defendant's health, the distance that the defendant must travel to
20 attend an educational program, and the fact that the defendant
21 resides out of state, has no valid driver's license, or does not
22 have access to transportation. The judge shall set out the finding
23 of good cause for waiver in the judgment. If a defendant is
24 required, as a condition of community supervision, to attend an
25 educational program or if the court waives the educational program
26 requirement, the court clerk shall immediately report that fact to
27 the Department of Public Safety, on a form prescribed by the

1 department, for inclusion in the person's driving record. If the
2 court grants an extension of time in which the person may complete
3 the program, the court clerk shall immediately report that fact to
4 the Department of Public Safety on a form prescribed by the
5 department. The report must include the beginning date of the
6 person's community supervision. Upon the person's successful
7 completion of the educational program, the person's instructor
8 shall give notice to the Department of Public Safety for inclusion
9 in the person's driving record and to the community supervision and
10 corrections department. The community supervision and corrections
11 department shall then forward the notice to the court clerk for
12 filing. If the Department of Public Safety does not receive notice
13 that a defendant required to complete an educational program has
14 successfully completed the program within the period required by
15 this section, as shown on department records, the department shall
16 revoke the defendant's driver's license, permit, or privilege or
17 prohibit the person from obtaining a license or permit, as provided
18 by Sections 521.344(e) and (f), Transportation Code. The
19 Department of Public Safety may not reinstate a license suspended
20 under this subsection unless the person whose license was suspended
21 makes application to the department for reinstatement of the
22 person's license and pays to the department a reinstatement fee of
23 \$100 [~~\$50~~]. The Department of Public Safety shall remit all fees
24 collected under this subsection to the comptroller for deposit in
25 the general revenue fund. This subsection does not apply to a
26 defendant if a jury recommends community supervision for the
27 defendant and also recommends that the defendant's driver's license

1 not be suspended.

2 (n) Notwithstanding any other provision of this section or
3 other law, the judge who places on community supervision a
4 defendant who was [~~is~~] younger than 21 years of age at the time of
5 the offense and was convicted for an offense under Sections
6 49.04-49.08, Penal Code, shall:

7 (1) order that the defendant's driver's license be
8 suspended for 90 days beginning on the date that the person is
9 placed on community supervision; and

10 (2) require as a condition of community supervision
11 that the defendant not operate a motor vehicle unless the vehicle is
12 equipped with the device described by Subsection (i) of this
13 section.

14 SECTION 16.05. The changes in law made by this article to
15 Sections 521.341, 521.342, and 521.344, Transportation Code, and
16 Section 13, Article 42.12, Code of Criminal Procedure, apply only
17 to an offense committed on or after the effective date of this
18 article. For purposes of this section, an offense was committed
19 before the effective date of this article if any element of the
20 offense occurred before the effective date of this article.

21 SECTION 16.06. This article takes effect September 1, 2009.

22 ARTICLE 17. SUBMISSION OF REPORTS ON CERTAIN CONVICTIONS OR
23 ADJUDICATIONS RELATING TO THE OPERATION OF MOTOR VEHICLES TO THE
24 DEPARTMENT

25 SECTION 17.01. Subsections (a) and (b), Section 522.061,
26 Transportation Code, are amended to read as follows:

27 (a) A person who holds or is required to hold a commercial

1 driver's license under this chapter and who is convicted in another
2 state of violating a state law or local ordinance relating to motor
3 vehicle traffic control shall notify the department in the manner
4 specified by the department not later than the seventh [~~30th~~] day
5 after the date of conviction.

6 (b) A person who holds or is required to hold a commercial
7 driver's license under this chapter and who is convicted in this
8 state or another state of violating a state law or local ordinance
9 relating to motor vehicle traffic control, including a law
10 regulating the operation of vehicles on highways, shall notify the
11 person's employer in writing of the conviction not later than the
12 seventh [~~30th~~] day after the date of conviction.

13 SECTION 17.02. Section 543.203, Transportation Code, is
14 amended to read as follows:

15 Sec. 543.203. SUBMITTING RECORD TO DEPARTMENT. Not later
16 than the seventh [~~30th~~] day after the date of conviction or
17 forfeiture of bail of a person on a charge of violating a law
18 regulating the operation of a vehicle on a highway or conviction of
19 a person of negligent homicide or a felony in the commission of
20 which a vehicle was used, the magistrate, judge, or clerk of the
21 court in which the conviction was had or bail was forfeited shall
22 immediately submit to the department a written record of the case
23 containing the information required by Section 543.202.

24 SECTION 17.03. Subsection (a), Section 543.204,
25 Transportation Code, is amended to read as follows:

26 (a) A justice of the peace or municipal judge who defers
27 further proceedings, suspends all or part of the imposition of the

1 fine, and places a defendant on probation under Article 45.051,
2 Code of Criminal Procedure, or a county court judge who follows that
3 procedure under Article 42.111, Code of Criminal Procedure, may not
4 submit a written record to the department, except that if the
5 justice or judge subsequently adjudicates the defendant's guilt,
6 the justice or judge shall submit the record not later than the
7 seventh [~~30th~~] day after the date on which the justice or judge
8 adjudicates guilt.

9 SECTION 17.04. The change in law made by this article
10 applies only to a conviction, forfeiture of bail, or adjudication
11 of guilt that occurs on or after the effective date of this article.

12 SECTION 17.05. This article takes effect September 1, 2009.

13 ARTICLE 18. CIVIL CONSEQUENCES OF CERTAIN CONVICTIONS ON A PERSON
14 WHO HOLDS A COMMERCIAL DRIVER'S LICENSE AND OF CERTAIN
15 ADJUDICATIONS ON THE DRIVER'S LICENSE OR PERMIT OF A CHILD

16 SECTION 18.01. Section 522.081(d), Transportation Code, is
17 amended to read as follows:

18 (d) A person is disqualified from driving a commercial motor
19 vehicle for life:

20 (1) if the person is convicted two or more times of an
21 offense specified by Subsection (b)(2), or a combination of those
22 offenses, arising from two or more separate incidents;

23 (2) if the person uses a motor vehicle in the
24 commission of a felony involving:

25 (A) the manufacture, distribution, or dispensing
26 of a controlled substance; or

27 (B) possession with intent to manufacture,

1 distribute, or dispense a controlled substance; [~~or~~]

2 (3) for any combination of two or more of the
3 following, arising from two or more separate incidents:

4 (A) a conviction of the person for an offense
5 described by Subsection (b)(2);

6 (B) a refusal by the person described by
7 Subsection (b)(3); and

8 (C) an analysis of the person's blood, breath, or
9 urine described by Subsection (b)(4); or

10 (4) if the person uses a motor vehicle in the
11 commission of an offense under 8 U.S.C. Section 1324 that involves
12 the transportation, concealment, or harboring of an alien.

13 SECTION 18.02. Section 54.042(a), Family Code, is amended
14 to read as follows:

15 (a) A juvenile court, in a disposition hearing under Section
16 54.04, shall:

17 (1) order the Department of Public Safety to suspend a
18 child's driver's license or permit, or if the child does not have a
19 license or permit, to deny the issuance of a license or permit to
20 the child if the court finds that the child has engaged in conduct
21 that:

22 (A) violates a law of this state enumerated in
23 Section 521.342(a), Transportation Code; or

24 (B) violates a penal law of this state or the
25 United States, an element or elements of which involve a severe form
26 of trafficking in persons, as defined by 22 U.S.C. Section 7102; or

27 (2) notify the Department of Public Safety of the

1 adjudication, if the court finds that the child has engaged in
2 conduct that violates a law of this state enumerated in Section
3 521.372(a), Transportation Code.

4 SECTION 18.03. (a) The change in law made by this article
5 to Section 522.081, Transportation Code, applies only in connection
6 with a conviction that becomes final on or after the effective date
7 of this article. A conviction that became final before the
8 effective date of this article is covered by Section 522.081,
9 Transportation Code, as that section existed on the date the
10 conviction became final, and the former law is continued in effect
11 for that purpose.

12 (b) The change in law made by this article in amending
13 Section 54.042, Family Code, applies only to conduct that occurs on
14 or after the effective date of this article. Conduct that occurred
15 before the effective date of this article is covered by the law in
16 effect at the time the conduct occurred, and the former law is
17 continued in effect for that purpose.

18 SECTION 18.04. This article takes effect September 1, 2009.

19 ~~ARTICLE 19. CIVIL AND CRIMINAL CONSEQUENCES OF OPERATING A MOTOR~~
20 ~~VEHICLE OR A WATERCRAFT WHILE INTOXICATED OR UNDER THE INFLUENCE OF~~
21 ~~ALCOHOL~~

22 SECTION 19.01. ~~The heading to Section 106.041, Alcoholic~~
23 ~~Beverage Code, is amended to read as follows:~~

24 ~~Sec. 106.041. DRIVING OR OPERATING WATERCRAFT UNDER THE~~
25 ~~INFLUENCE OF ALCOHOL BY MINOR.~~

26 SECTION 19.02. ~~Subsections (a) and (g), Section 106.041,~~
27 ~~Alcoholic Beverage Code, are amended to read as follows:~~

ARTICLE 19. [blank]

1 offense committed before the effective date of this article is
2 covered by the law in effect when the offense was committed, and the
3 former law is continued in effect for that purpose. For purposes of
4 this section, an offense was committed before the effective date of
5 this article if any element of the offense was committed before that
6 date.

7 SECTION 19.13. This article takes effect September 1, 2009.

8 ARTICLE 20. ADMINISTRATIVE FINE AND LATE PAYMENT FEE FOR A
9 VIOLATION OF A PARKING RULE APPLICABLE TO THE CAPITOL COMPLEX

10 SECTION 20.01. Subsections (a), (b), and (d), Section
11 411.067, Government Code, are amended to read as follows:

12 (a) The department may [~~shall have authority to~~] adopt rules
13 for the assessment of an administrative fine of \$25 [~~\$10~~] for
14 violations of the parking rules adopted under Section 411.063.
15 Notwithstanding the provisions of Sections 411.065 and 411.066, the
16 department may [~~in its discretion~~] issue an administrative citation
17 for a parking violation.

18 (b) Rules adopted under this section shall:

19 (1) establish a system for enforcement of
20 administrative citations, including [~~but not limited to~~]
21 assessment of a late fee not to exceed \$5 [~~\$2~~] and towing,
22 impoundment, or immobilization of vehicles; and

23 (2) provide [~~for~~] a procedure of administrative review
24 within the highway patrol district that includes the Capitol
25 Complex [~~capitol police district~~] and, on request of the person
26 assessed an administrative fine, further judicial review by the
27 department filing the appropriate citation or complaint in a court

1 ~~[of competent jurisdiction]~~, as provided in Section 411.066.

2 (d) The department shall remit to the comptroller for
3 deposit in the general revenue fund each ~~[any]~~ administrative fine
4 and late fee collected ~~[received]~~ under this section. The money
5 deposited ~~[Such revenues]~~ may be appropriated only to the
6 department for ~~[capitol police]~~ security and parking in the highway
7 patrol district that includes the Capitol Complex.

8 SECTION 20.02. This article takes effect September 1, 2009.

9 ~~ARTICLE 21. EFFECTIVE DATE~~

10 SECTION 21.01. Except as ~~as~~ otherwise provided by this Act,
11 this Act takes effect September 1, 2009.

ADOPTED

MAY 27 2009

FLOOR AMENDMENT NO. 14

BY: *Steve Frazee*
Secretary of the Senate

1 Amend C.S.H.B. No. 2730 (senate committee printing) by
2 adding the following appropriately numbered ARTICLE to the bill
3 and renumbering subsequent ARTICLES of the bill accordingly:

4 ARTICLE 21. CRIMINAL HISTORY REPORTING

5 SECTION 21.001. Chapter 60, Code of Criminal Procedure,
6 is amended by adding Article 60.10 to read as follows:

7 Art. 60.10. DATA REPORTING IMPROVEMENT PLAN. (a) In this
8 article, "disposition completeness percentage" has the meaning
9 assigned by Article 60.21(c).

10 (b) This article applies only to a county that has an
11 average disposition completeness percentage, including both
12 juvenile and adult dispositions, of less than 90 percent, as
13 reflected in the first report the Department of Public Safety
14 submits under Article 60.21(b) (2) on or after January 1, 2009.

15 (c) The commissioners court of a county described by
16 Subsection (b) shall establish a local data advisory board as
17 described by Article 60.09 not later than November 1, 2009. A
18 local data advisory board established under this article may
19 include any person described by Article 60.09(b) and must
20 include:

21 (1) the sheriff of the county, or the sheriff's
22 designee;

23 (2) an attorney who represents the state in the
24 district courts of the county;

25 (3) an attorney who represents the state in the
26 county courts of the county;

27 (4) the clerk for the district courts of the county,
28 or the clerk's designee;

29 (5) the clerk for the county courts of the county, or
30 the clerk's designee;

1 (6) the police chief of the municipality with the
2 greatest population located in the county, or the chief's
3 designee;

4 (7) a representative of the county's automated data
5 processing services, if the county performs those services; and

6 (8) a representative of an entity with whom the
7 county contracts for automated data processing services, if the
8 county contracts for those services.

9 (d) In addition to the duties described by Article
10 60.09(a), a local data advisory board established under this
11 article must prepare a data reporting improvement plan. The
12 data reporting improvement plan must:

13 (1) describe the manner in which the county intends
14 to improve the county's disposition completeness percentage;

15 (2) ensure that the county takes the steps necessary
16 for the county's average disposition completeness percentage to
17 be equal to or greater than 90 percent in the first report the
18 Department of Public Safety submits under Article 60.21(b)(2) on
19 or after January 1, 2013; and

20 (3) include a comprehensive strategy by which the
21 county will permanently maintain the county's disposition
22 completeness percentage at or above 90 percent.

23 (e) Not later than June 1, 2010, a local data advisory
24 board established under this article shall submit to the
25 Department of Public Safety the data reporting improvement plan
26 prepared for the county. On receipt of a data reporting
27 improvement plan under this article, the department shall post
28 the plan on the Internet website maintained by the department.

29 (f) The public safety director of the Department of Public
30 Safety may adopt rules concerning the contents and form of a
31 data reporting improvement plan prepared under this article.

32 (g) This article expires September 1, 2013.

1 SECTION 21.002. Article 60.21, Code of Criminal
2 Procedure, is amended by amending Subsection (b) and adding
3 Subsection (c) to read as follows:
4 (b) The Department of Public Safety shall:
5 (1) monitor the submission of arrest and disposition
6 information by local jurisdictions;
7 (2) annually submit to the Legislative Budget Board,
8 the governor, the lieutenant governor, the state auditor, and
9 the standing committees in the senate and house of
10 representatives that have primary jurisdiction over criminal
11 justice and the Department of Public Safety [council] a report
12 regarding the level of reporting by local jurisdictions;
13 (3) identify local jurisdictions that do not report
14 arrest or disposition information or that partially report
15 information; and
16 (4) for use in determining the status of outstanding
17 dispositions, publish monthly on the Department of Public
18 Safety's Internet website or on another electronic publication a
19 report listing each arrest by local jurisdiction for which there
20 is no corresponding final court disposition.
21 (c) The report described by Subsection (b)(2) must contain
22 a disposition completeness percentage for each county in this
23 state. For purposes of this subsection, "disposition
24 completeness percentage" means the percentage of arrest charges
25 a county reports to the Department of Public Safety to be
26 entered in the computerized criminal history system under this
27 chapter that were brought against a person in the county for
28 which a disposition has been subsequently reported and entered
29 into the computerized criminal history system.

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ADOPTED

MAY 27 2009

Acting Sec
Secretary of the Senate

FLOOR AMENDMENT NO. 23

BY: *William*

1 Amend C.S.H.B. No. 2730 (Senate committee printing) by adding
2 the following appropriately numbered ARTICLE to the bill and
3 renumbering subsequent ARTICLES accordingly:

4 ARTICLE 22. TRANSFER OF REGULATORY PROGRAMS RELATING TO
5 DISPENSING CONTROLLED SUBSTANCES BY PRESCRIPTION

6 SECTION 22.01. (a) The director of the Department of
7 Public Safety or the director's designee, the executive director of
8 the Texas State Board of Pharmacy or the executive director's
9 designee, and the executive director of the Texas Medical Board or
10 the executive director's designee shall meet as an interagency
11 council to develop a transition plan for the orderly transfer from
12 the Department of Public Safety to the Texas State Board of Pharmacy
13 of certain records and regulatory functions relating to dispensing
14 controlled substances by prescription under Chapter 481, Health and
15 Safety Code.

16 (b) In developing the transition plan, the council shall:

17 (1) consult with the Health and Human Services
18 Commission, the Department of State Health Services, and other
19 health and human services agencies that contract with a third party
20 for data collection;

21 (2) specify the records and regulatory functions to be
22 transferred;

23 (3) create a time frame within which the specified
24 records and functions will be transferred;

25 (4) ensure the Department of Public Safety's continued
26 access for law enforcement purposes to prescription drug
27 information obtained under Chapter 481, Health and Safety Code;

28 (5) develop a plan for the transfer of relevant
29 database information;

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1 (6) make recommendations for improvements to data
2 transmission, including examining the feasibility of implementing
3 an electronic data transmission system for use by registrants and
4 the Department of Public Safety or the Texas State Board of
5 Pharmacy;

6 (7) estimate the fiscal impact of the transfer,
7 including an estimate of the costs associated with any necessary
8 staff increase;

9 (8) minimize disruptions to the professions affected
10 by the transfer;

11 (9) identify any obstacles to the transfer and make
12 recommendations to address those obstacles; and

13 (10) address any other consideration the council
14 determines is appropriate.

15 (c) Not later than January 1, 2011, the council shall submit
16 its recommendations to the legislature on the transition plan
17 developed by the council.

18 (d) The Department of Public Safety may not enter into any
19 contract or otherwise take any action that would prevent, delay, or
20 hinder a potential transfer to the Texas State Board of Pharmacy
21 occurring on or after September 1, 2011, of certain records and
22 regulatory functions relating to dispensing controlled substances
23 by prescription.

24 (e) This section expires September 1, 2011.

ARTICLE 23. EFFECTIVE DATE

SECTION 23.01. Except as otherwise provided by this Act,
this Act takes effect September 1, 2009.

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House Bill 2730
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION	SENATE VERSION	CONFERENCE
ARTICLE 1. CHANGES TO VEHICLE INSPECTION PROGRAM	Same as House version.	Same as House.
SECTION 1.01. Amends Section 548.006(i), Transportation Code. Requires the Vehicle Inspection Advisory Committee to meet at least once each quarter instead of annually.	No equivalent provision.	Same as House.
SECTION 1.02. Subchapter A, Chapter 548, Transportation Code, is amended by adding Section 548.008. Requires DPS to manage the vehicle inspection program as a civilian business and licensing operation with established goals and expected performance outcomes.	SECTION 1.01. Same as House version.	Same as House.
SECTION 1.03. Amends Section 548.501, Transportation Code by amending Subsection (a) and adding Subsection (c). Increases motor vehicle inspection fees from \$12.50 to \$14 and for a moped from \$5.75 to \$6.75. Increases the fee for a verification form from \$1 to \$2. Permits the increase to be retained by the state-certified inspection station. Permits any state-certified inspection station to collect an inspection fee at the time of the original inspection, even if the vehicle fails the inspection. Permits bundling by state-certified inspection stations of motor vehicle inspection fees and other products and services and allows the advertising of the bundled services.	No equivalent provision.	Same as Senate.
ARTICLE 2. DIVISION OF EMERGENCY MANAGEMENT	Same as House version.	Same as House.
PART A. ORGANIZATION OF DIVISION	Same as House version.	Same as House.
SECTION 2A.01. Section 418.004, Government Code, is amended by amending Subdivision (2) and adding Subdivision (9). Changes Governor's Division of Emergency Management to the Texas Division of Emergency Management, and clarifies that it is a division of DPS.	Same as House version.	Same as House.
SECTION 2A.02. Amends Sections 418.041(a), (b), and (c), Government Code. Specifies that DPS' director appoints the chief of the Governor's Division of	SECTION 2A.02. Same as House version without specifying the qualification of the chief.	Same as House.

House Bill 2730
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION	SENATE VERSION	CONFERENCE
Emergency Management, subject to approval of the governor, and requires coordination between DPS, Governor's Division of Emergency Management, and the Governor's Office of Homeland Security. Requires the chief to possess professional training and knowledge consisting of not less than five years of managerial or strategic planning experience in matters relating to public safety, security, emergency services, and emergency response.		
SECTION 2A.03. Amends Section 418.072, Government Code. Updates references to the Health and Human Services Commission and the chief of the division.	Same as House version.	Same as House.
SECTION 2A.04. Amends Section 418.074(b), Government Code. Updates reference to the chief of the division.	Same as House version.	Same as House.
SECTION 2A.05. Amends section 431.082, Government Code. Provides that a member of the Texas State Guard called to state active duty in response to a state emergency is a temporary employee of the state while on state active duty.	No equivalent provision.	Same as Senate.
PART B. OTHER AMENDMENTS, INCLUDING CONFORMING AMENDMENTS REFLECTING DIVISION'S NAME CHANGE	PART B. CONFORMING AMENDMENTS REFLECTING DIVISION'S NAME CHANGE	Same as Senate.
SECTION 2B.01. Section 12.0012, Agriculture Code. Changes Governor's Division of Emergency Management to the Texas Division of Emergency Management, and clarifies that it is a division of DPS.	Same as House version.	Same as House.
SECTION 2B.02. Amends Sections 88.303(a) and (d), Education Code. Changes Governor's Division of Emergency Management to the Texas Division of Emergency Management	Same as House version.	Same as House.
SECTION 2B.03. Amends Section 418.014(e), Government Code. Updates reference to the division.	Same as House version.	Same as House.

House Bill 2730
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION	SENATE VERSION	CONFERENCE
<p>SECTION 2B.04. Amends the heading to Subchapter C, Chapter 418, Government Code. Changes Governor's Division of Emergency Management to the Texas Division of Emergency Management</p>	Same as House version.	Same as House.
<p>SECTION 2B.05. Subchapter C, Chapter 418, Government Code, is amended by adding Section 418.050. Sec. 418.050. (a) Provides that the division shall consider implementing a pilot program for a reentry credentialing process for reentry into areas previously evacuated because of a disaster or threat of disaster. (b) Requires reentry credentials under the pilot project to be uniform and commonly constructed; have common card holder information; and have security features equivalent to the security features of a Texas driver's license. (c) Provides that the division may not require residents of an evacuated area to participate in or comply with a reentry credentialing process under this section.</p>	No equivalent provision.	Same as House, except strike subsections (b) and (c).
<p>SECTION 2B.06. Amends Section 418.073(d), Government Code. Requires the division to annually report to the speaker of the house of representatives and the lieutenant governor on expenditures from the disaster contingency fund, the overall status of the fund, and any changes to rules and procedures regarding the fund.</p>	SECTION 2B.05. Same as House version.	Same as House.
<p>SECTION 2B.07. Amends Section 421.021(a), Government Code. Provides that the Homeland Security Council is composed of the governor or the governor's designee, the speaker of the house of representatives or the speaker's designee, the lieutenant governor or the lieutenant governor's designee, and one representative of certain entities, including the House Committee on Defense and Veterans' Affairs, rather than the House Committee on Defense and State-Federal Relations, appointed by the single statewide elected or appointed governing officer, administrative head, or chair, as appropriate, of the entity.</p>	SECTION 2B.06. Same as House version.	Same as House.
<p>SECTION 2B.08. Amends Section 661.907(b), Government Code. Changes Governor's Division of Emergency Management to the Texas Division of Emergency Management.</p>	SECTION 2B.07. Same as House version.	Same as House.

House Bill 2730
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION	SENATE VERSION	CONFERENCE
SECTION 2B.09. Amends Section 661.919(b), Government Code. Changes Governor's Division of Emergency Management to the Texas Division of Emergency Management.	SECTION 2B.08. Same as House version.	Same as House.
SECTION 2B.10. Amends Section 501.001(5), Labor Code. Changes Governor's Division of Emergency Management to the Texas Division of Emergency Management. Changes definition of employee for a Texas Task Force 1 member, for workers compensation purposes, to someone who is injured during training, rather than injured during any training session, sponsored by Texas Task Force 1.	SECTION 2B.09 Same as House version.	Same as House.
SECTION 2B.11. Amends Sections 16.055(a) and (b), Water Code. Changes Governor's Division of Emergency Management to the Texas Division of Emergency Management and corrects archaic statutes.	SECTION 2B.10. Same as House version.	Same as House.
SECTION 2B.12. Amends Section 1(3), Chapter 350 (S.B. 1101), Acts of the 71st Legislature, Regular Session, 1989 (Article 6419c, Vernon's Texas Civil Statutes). Changes Governor's Division of Emergency Management to the Texas Division of Emergency Management.	SECTION 2B.11. Same as House version.	Same as House.
SECTION 2B.13. Provides that a reference in law or a rule to the "governor's division of emergency management" or the "division of emergency management in the office of the governor" means the Texas Division of Emergency Management in the Department of Public Safety of the State of Texas.	SECTION 2B.12. Same as House version.	Same as House.
ARTICLE 3. ADMINISTRATIVE SUSPENSION OF DRIVER'S LICENSE FOR INTOXICATION OFFENSES	No equivalent provision.	Same as House.

House Bill 2730
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION	SENATE VERSION	CONFERENCE
SECTION 3.01. Amends Section 524.038 (d), Transportation Code and adds Subsection (e). Requires affidavits of breath test operators and breath test supervisors to be admissible in administrative hearings without witness' appearance unless the judge finds that justice requires their presence.	No equivalent provision.	Same as Senate.
SECTION 3.02. Amends Section 524.039, Transportation Code. Requires the defense to request breath test operators and breath test supervisors by subpoena, instead of written notice, in administrative hearings.	No equivalent provision.	Same as House.
SECTION 3.03. Provides for the transition in statutes for hearings affected by the bill.	No equivalent provision.	Same as House.
No equivalent provision.	ARTICLE 3 [blank]	Same as House.
SECTION 3.04. This article takes effect September 1, 2009.	No equivalent provision.	Same as House.
ARTICLE 4. CHANGES TO PRIVATE SECURITY ACT	Same as House version.	Same as House.
SECTION 4.01. Amends Section 1702.002, Occupations Code by amending Subdivisions (2), (3), (5), (11), (12), (13), (17), (19), (20), and (21) and adding Subdivision (6-b). Changes "commission" to "board" to reflect the renaming of the Texas Commission on Private Security as the Texas Private Security Board. Authorizes the Private Security Bureau to license by endorsement to streamline the licensing process.	SECTION 4.01. Same as House version, except adds a new class of regulation for licensed camera installers. Defines camera system as a device to capture images in a format that permits viewing, recording, or archiving to obtain evidence of possible law violations. Clarifies that a camera system is not a device or system used to monitor traffic conditions or detect motor vehicle violations, detect criminal activity by law enforcement agencies, facilitate videoconferencing, monitor manufacturing, perform medical procedures, or used to record testimony by a court reporter.	Same as House.
SECTION 4.02. Amends Section 1702.004, Occupations Code.	Same as House version.	Same as House.

House Bill 2730
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION	SENATE VERSION	CONFERENCE
Authorizes the Private Security Bureau to license by endorsement to streamline the licensing process. Specifies that the changes apply only to an application for a new or renewal license, registration, endorsement, or commission filed with the Board after September 1, 2009. Also specifies that that change made with respect to conduct that is grounds for imposition of a disciplinary sanction applies only to conduct that occurs after September 1, 2009.		
SECTION 4.03. Amends the heading to Subchapter B, Chapter 1702, Occupations Code. Changes "commission" to "board" to reflect the renaming of the Texas Commission on Private Security as the Texas Private Security Board.	Same as House version.	Same as House.
SECTION 4.04. Amends Section 1702.021, Occupations Code. Changes "commission" to "board" to reflect the renaming of the Texas Commission on Private Security as the Texas Private Security Board.	Same as House version.	Same as House.
SECTION 4.05. Amends Section 1702.023, Occupations Code. Changes "commission" to "board" to reflect the renaming of the Texas Commission on Private Security as the Texas Private Security Board.	Same as House version.	Same as House.
SECTION 4.06. Amends Sections 1702.024(b) and (c), Occupations Code. Changes "commission" to "board" to reflect the renaming of the Texas Commission on Private Security as the Texas Private Security Board.	Same as House version.	Same as House.
SECTION 4.07. Amends Section 1702.027, Occupations Code. Changes "commission" to "board" to reflect the renaming of the Texas Commission on Private Security as the Texas Private Security Board.	Same as House version.	Same as House.
SECTION 4.08. Amends Section 1702.028, Occupations Code. Changes "commission" to "board" to reflect the renaming of the Texas Commission on Private Security as the Texas Private Security Board. Authorizes Private Security Board members to receive reimbursement for travel expenses.	Same as House version.	Same as House.
SECTION 4.09. Amends Section 1702.029, Occupations Code.	Same as House version.	Same as House.

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HOUSE VERSION	SENATE VERSION	CONFERENCE
Changes "commission" to "board" to reflect the renaming of the Texas Commission on Private Security as the Texas Private Security Board.		
SECTION 4.10. Amends Section 1702.030, Occupations Code. Changes "commission" to "board" to reflect the renaming of the Texas Commission on Private Security as the Texas Private Security Board.	Same as House version.	Same as House.
SECTION 4.11. Amends the heading to Subchapter C, Chapter 1702, Occupations Code. Changes "director" to "chief administrator".	Same as House version.	Same as House.
SECTION 4.12. Amends Section 1702.041, Occupations Code. Changes "commission" to "board" and "director" to "chief administrator".	Same as House version.	Same as House.
SECTION 4.13. Amends Section 1702.042, Occupations Code. Prohibits an employee of the department whose primary duties include private security regulation from having a financial or business interest, contingent or otherwise, in a security services contractor or investigations company or being licensed under this chapter.	Same as House version.	Same as House.
SECTION 4.14. Amends Section 1702.043, Occupations Code. Changes "commission" to "board" and "director" to "chief administrator".	Same as House version.	Same as House.
SECTION 4.15. Amends Section 1702.044, Occupations Code. Changes "commission" to "board" and "director" to "chief administrator".	Same as House version.	Same as House.
SECTION 4.16. Amends the heading to Subchapter D, Chapter 1702, Occupations Code. Changes "commission" to "board."	Same as House version.	Same as House.
SECTION 4.17. Amends Section 1702.061, Occupations Code.	Same as House version.	Same as House.

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HOUSE VERSION	SENATE VERSION	CONFERENCE
Changes “commission” to “board” and “director” to “chief administrator”. Removes archaic authority to commission investigators.		
SECTION 4.18. Amends Subchapter D, Chapter 1702, Occupations Code by adding Section 1702. Adds standard Sunset language requiring the Board to develop a policy that encourages the use of negotiated rulemaking and alternative dispute resolution.	Same as House version.	Same as House.
SECTION 4.19. Amends Section 1702.062, Occupations Code. Eliminates fee caps in the Private Security Act and requires the Private Security Board to recommend fee amounts to the Public Safety Commission for establishment in rule. Changes “commission” to “board.”	Same as House version.	Same as House.
SECTION 4.20. Amends the heading to Section 1702.063, Occupations Code. Changes “commission” to “board.”	Same as House version.	Same as House.
SECTION 4.21. Amends Section 1702.0635, Occupations Code. Changes “commission” to “board.”	Same as House version.	Same as House.
SECTION 4.22. Amends Section 1702.064, Occupations Code. Changes “commission” to “board.”	Same as House version.	Same as House.
SECTION 4.23. Amends Section 1702.0645, Occupations Code. Changes “commission” to “board.”	Same as House version.	Same as House.
SECTION 4.24. Amends Section 1702.066, Occupations Code. Changes “commission” to “board” and “director” to “chief administrator”.	Same as House version.	Same as House.
SECTION 4.25. Amends Section 1702.067, Occupations Code.	Same as House version.	Same as House.

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Senate Amendments
Section-by-Section Analysis

HOUSE VERSION	SENATE VERSION	CONFERENCE
Changes "commission" to "board" and "director" to "chief administrator".		
SECTION 4.26. Amends Section 1702.068, Occupations Code. Changes "commission" to "board."	Same as House version.	Same as House.
SECTION 4.27. Amends Section 1702.081, Occupations Code. Changes "commission" to "board."	Same as House version.	Same as House.
SECTION 4.28. Amends Section 1702.082, Occupations Code. Updates standard Sunset language requiring the Private Security Board to maintain information on all complaints and notify the parties about policies for and status of complaints.	Same as House version.	Same as House.
SECTION 4.29. Amends Section 1702.083, Occupations Code. Changes "commission" to "board."	Same as House version.	Same as House.
SECTION 4.30. Amends Section 1702.084, Occupations Code. Changes "commission" to "board."	Same as House version.	Same as House.
No equivalent provision.	SECTION __. Adds a new class of regulation for licensed camera installers.	Same as House.
SECTION 4.31. Amends Section 1702.103, Occupations Code. Authorizes the Private Security Bureau to license by endorsement to streamline the licensing process.	Same as House version.	Same as House.
No equivalent provision.	SECTION 4.____. Amends Section 1702.104, Occupations Code. Clarifies that persons who repair or maintain computers do not fall under the Private Security Act licensing requirements.	Same as Senate.

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HOUSE VERSION

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No equivalent provision.

SECTION ___. Amends Subchapter F, Chapter 1702, Occupations Code by adding Section 1702.1057.
Defines camera systems company.

Same as House.

SECTION 4.32. Amends Section 1702.110, Occupations Code.
Sec. 1702.110. APPLICATION FOR LICENSE. An application for a license under this chapter must be in the form prescribed by the board [~~commission~~] and include:

- (1) the full name and business address of the applicant;
- (2) the name under which the applicant intends to do business;
- (3) a statement as to the general nature of the business in which the applicant intends to engage;
- (4) a statement as to the classification for which the applicant requests qualification;
- (5) if the applicant is an entity other than an individual, the full name and residence address of each partner, officer, and director of the applicant, and of the applicant's manager;
- (6) if the applicant is an individual, two classifiable sets of fingerprints of the applicant or, if the applicant is an entity other than an individual, of each officer and of each partner or shareholder who owns at least a 25 percent interest in the applicant;
- (7) a verified statement of the applicant's experience qualifications in the particular classification in which the applicant is applying;
- (8) a report from the department [~~Texas Department of Public Safety~~] stating the applicant's record of any convictions for a Class B misdemeanor or equivalent offense or a greater offense;
- (9) the social security number of the individual making the application; and
- (10) other information, evidence, statements, or documents required by the board [~~commission~~].

SECTION 4B.06. Amends Section 1702.110, Occupations Code.
Sec. 1702.110. APPLICATION FOR LICENSE. (a) An application for a license under this chapter must be in the form prescribed by the board [~~commission~~] and include:

- (1) the full name and business address of the applicant;
- (2) the name under which the applicant intends to do business;
- (3) a statement as to the general nature of the business in which the applicant intends to engage;
- (4) a statement as to the classification for which the applicant requests qualification;
- (5) if the applicant is an entity other than an individual, the full name and residence address of each partner, officer who oversees the security-related aspects of the business, and director of the applicant, and of the applicant's manager;
- (6) if the applicant is an individual, two classifiable sets of fingerprints of the applicant or, if the applicant is an entity other than an individual, of each officer who oversees the security-related aspects of the business and of each partner or shareholder who owns at least a 25 percent interest in the applicant;
- (7) a verified statement of the applicant's experience qualifications in the particular classification in which the applicant is applying;
- (8) a report from the department [~~Texas Department of Public Safety~~] stating the applicant's record of any convictions for a Class B misdemeanor or equivalent offense or a greater offense;
- (9) the social security number of the individual making the application; and
- (10) other information, evidence, statements, or documents required by the board [~~commission~~].

(b) An applicant for a license as a security services contractor shall maintain a physical address within this state and provide that address to the board. The board shall adopt rules to enable an out-of-state license holder to comply with this subsection.

Same as Senate.

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HOUSE VERSION	SENATE VERSION	CONFERENCE
SECTION 4.33. Amends Section 1702.111, Occupations Code. Changes "commission" to "board."	SECTION 4.32. Same as House version.	Same as House.
SECTION 4.34. Amends Section 1702.112, Occupations Code. Changes "commission" to "board."	SECTION 4B.07. Same as House version with the additional requirement that licenses bear a photograph of the license holder.	Same as Senate.
SECTION 4.35. Amends Sections 1702.113(a) and (c), Occupations Code. Applies Chapter 53 of the Occupations Code to the Private Security Act to provide flexibility when licensing applicants with criminal histories.	SECTION 4.33. Same as House version.	Same as House.
SECTION 4.36. Amends Section 1702.114, Occupations Code. Changes "commission" to "board" and "director" to "chief administrator".	SECTION 4.34. Same as House version.	Same as House.
SECTION 4.37. Amends Section 1702.115, Occupations Code. Changes "commission" to "board" and "director" to "chief administrator".	SECTION 4.35. Same as House version.	Same as House.
SECTION 4.38. Amends Section 1702.116, Occupations Code. Changes "commission" to "board," updates archaic statutory references.	SECTION 4.36. Same as House version.	Same as House.
SECTION 4.39. Sections 1702.117(a), (c), and (d), Occupations Code, are amended to read as follows: (a) The <u>board</u> [commission] shall require an applicant <u>for a commission, license, registration, or endorsement under this chapter</u> or the applicant's manager to demonstrate qualifications in the person's license classification, including knowledge of applicable state laws and <u>board</u> [commission] rules, by taking an examination to be determined by the <u>board</u> [commission]. (c) The <u>board</u> [commission] shall set the reexamination fee in an amount not to exceed the amount of the renewal fee for the license classification for which application was made. (d) The <u>board</u> [commission] shall develop and provide to a person who applies	SECTION 4.37. Sections 1702.117(a), (c), and (d), Occupations Code, are amended to read as follows: (a) The <u>board</u> [commission] shall require an applicant <u>for a license under this chapter</u> or the applicant's manager to demonstrate qualifications in the person's license classification, including knowledge of applicable state laws and <u>board</u> [commission] rules, by taking an examination to be determined by the <u>board</u> [commission]. (b) The <u>board</u> [commission] shall set the reexamination fee in an amount not to exceed the amount of the renewal fee for the license classification for which application was made. (d) The <u>board</u> [commission] shall develop and provide to a person who applies	Same as Senate.

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HOUSE VERSION	SENATE VERSION	CONFERENCE
to take the examination under Subsection (a) material containing all applicable state laws and <u>board</u> [commission] rules.	to take the examination under Subsection (a) material containing all applicable state laws and <u>board</u> [commission] rules.	
SECTION 4.40. Amends Section 1702.118, Occupations Code. Changes “commission” to “board,” updates archaic statutory references.	SECTION 4.38. Same as House version.	Same as House.
SECTION 4.41. Amends Section 1702.1183, Occupations Code. Changes “commission” to “board,” updates archaic statutory references.	SECTION 4.39. Same as House version.	Same as House.
SECTION 4.42. Amends Section 1702.1186, Occupations Code. Changes “commission” to “board,” updates archaic statutory references.	SECTION 4.40. Same as House version.	Same as House.
SECTION 4.43. Amends Section 1702.120(b), Occupations Code. Changes “commission” to “board,” updates archaic statutory references.	SECTION 4.41. Same as House version.	Same as House.
SECTION 4.44. Amends Section 1702.121, Occupations Code. Changes “commission” to “board,” updates archaic statutory references.	SECTION 4B.08. Same as House version, but adds a provision requiring the immediate termination of a manager on the effective date of any summary action.	Same as House.
SECTION 4.45. Amends Section 1702.122, Occupations Code. Changes “commission” to “board.”	SECTION 4.42. Same as House version.	Same as House.
SECTION 4.46. Amends Section 1702.123, Occupations Code. Changes “commission” to “board.”	SECTION 4.43. Same as House version.	Same as House.
SECTION 4.47. Amends Section 1702.125, Occupations Code. Changes “commission” to “board.”	SECTION 4.44. Same as House version.	Same as House.

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HOUSE VERSION	SENATE VERSION	CONFERENCE
SECTION 4.48. Amends Sections 1702.127(b) and (c), Occupations Code. Changes "commission" to "board."	SECTION 4B.09. Same as House version, but adds Subsection (d) to provide that a license holder must maintain required records at a physical address provided to the board.	Same as House.
SECTION 4.49. Amends Section 1702.129, Occupations Code. Changes "commission" to "board."	SECTION 4.45. Same as House version.	Same as House.
SECTION 4.50. Amends Section 1702.131, Occupations Code. Changes "commission" to "board."	SECTION 4.46. Same as House version.	Same as House.
SECTION 4.51. Amends Section 1702.161(b), Occupations Code. Changes "commission" to "board."	SECTION 4.47. Same as House version.	Same as House.
SECTION 4.52. Amends Section 1702.162, Occupations Code. Changes "commission" to "board."	SECTION 4.48. Same as House version.	Same as House.
SECTION 4.53. Amends Section 1702.165, Occupations Code. Changes "commission" to "board."	SECTION 4.49. Same as House version.	Same as House.
SECTION 4.54. Amends Section 1702.167, Occupations Code. Changes "commission" to "board."	SECTION 4.50. Same as House version.	Same as House.
SECTION 4.55. Amends Sections 1702.1675(a), (b), (c), (d), (e), (f), and (i), Occupations Code. Changes "commission" to "board."	SECTION 4.51. Same as House version.	Same as House.

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HOUSE VERSION	SENATE VERSION	CONFERENCE
SECTION 4.56. Amends Section 1702.168, Occupations Code. Changes “commission” to “board.”	SECTION 4.52. Same as House version.	Same as House.
SECTION 4.57. Amends Sections 1702.1685(b) and (d), Occupations Code. Changes “commission” to “board.”	SECTION 4.53. Same as House version.	Same as House.
SECTION 4.58. Amends Section 1702.171, Occupations Code. Changes “commission” to “board.”	SECTION 4.54. Same as House version.	Same as House.
SECTION 4.59. Amends Section 1702.183, Occupations Code. Changes “commission” to “board,” update archaic statutory reference.	SECTION 4.55. Same as House version.	Same as House.
SECTION 4.60. Amends the heading to Subchapter 1, Chapter 1702, Occupations Code. Changes “authorization” to “endorsement.”	SECTION 4.56. Same as House version.	Same as House.
SECTION 4.61. Amends Section 1702.201, Occupations Code. Changes “authorization” to “endorsement.”	SECTION 4B.11. Same as House version with a change to clarify that the requirement applies to an individual.	Same as Senate.
SECTION 4.62. Amends Section 1702.203, Occupations Code. Changes “commission” to “board” and “authorization” to “endorsement.”	SECTION 4.57. Same as House version.	Same as House.
SECTION 4.63. Amends Section 1702.204, Occupations Code. Changes “commission” to “board” and “authorization” to “endorsement.”	SECTION 4.58. Same as House version.	Same as House.
SECTION 4.64. Amends Section 1702.205(a), Occupations Code. Changes “commission” to “board.”	SECTION 4.59. Same as House version.	Same as House.

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SECTION 4.65. Amends Section 1702.206, Occupations Code.
Changes "authorization" to "endorsement."

SECTION 4B.13. Same as House version, but provides that an individual who is acting as a personal protection officer and is wearing the uniform of a security officer may not conceal any firearm the individual is carrying and shall carry the firearm in plain view.

Same as Senate.

SECTION 4.66. Amends Section 1702.221, Occupations Code.
Sec. 1702.221. REGISTRATION AND ENDORSEMENT REQUIRED. (a) To perform any activity regulated by this chapter, the individual must:
(1) register in accordance with the requirements of this chapter and related administrative rules;
(2) obtain the proper endorsement under Subsection (b); and
(3) be employed by a company licensed under this chapter.
(b) An individual must obtain the appropriate endorsement [~~register~~] in accordance with the requirements of this chapter and related administrative rules if the individual:
(1) is employed as:
(A) an alarm instructor;
(B) an alarm systems installer;
(C) an [;] alarm systems monitor;
(D) an [;] electronic access control device installer;
(E) a level 3 classroom or firearm instructor;
(F) a [;] locksmith;
(G) a [;] dog trainer;
(H) a [;] manager or branch office manager;
(I) a [;] noncommissioned security officer;
(J) a level 4 personal protection instructor;
(K) a [;] private investigator;
(L) a [;] private security consultant;
(M) a [;-or] security salesperson; or
(N) an individual whose duties include performing another activity for which an endorsement is required under Subsection (e); or
(2) is an owner, officer, partner, or shareholder of a license holder.
(c) [~~(b)~~] Registration and endorsement under this chapter does not preclude an individual from performing additional duties or services authorized by the

SECTION 4.60. Same as House, but adds camera systems installer to the list of individuals who must obtain endorsements.

Same as House.

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<p>individual's employer that are not regulated by this chapter. <u>An individual who performs more than one of the services that require an endorsement under this section must obtain an endorsement for each service.</u></p> <p><u>(d) In addition to the services listed in Subsection (a), a person holding a security officer commission must also obtain an endorsement for personal protection if the individual performs the services described by Section 1702.202.</u></p> <p><u>(e) The board by rule may require a person to hold an endorsement for performing other activity expressly regulated by this chapter.</u></p>		
<p>SECTION 4.67. Amends Section 1702.2226(b), Occupations Code. Changes "authorization" to "endorsement."</p>	<p>SECTION 4.61. Same as House version.</p>	<p>Same as House.</p>
<p>No equivalent provision.</p>	<p>SECTION __. Amends Subchapter J, Chapter 1702, Occupations Code by adding Section 1702.2245. Defines camera systems installer.</p>	<p>Same as House.</p>
<p>SECTION 4.68. Amends the heading to Subchapter J, Chapter 1702, Occupations Code. Changes "authorization" to "endorsement."</p>	<p>SECTION 4.62. Same as House version.</p>	<p>Same as House.</p>
<p>SECTION 4.69. Amends Section 1702.228, Occupations Code. Changes "commission" to "board."</p>	<p>SECTION 4.63. Same as House version.</p>	<p>Same as House.</p>
<p>SECTION 4.70. Amends Section 1702.230, Occupations Code. Changes "commission" to "board" and "registration" to "endorsement."</p>	<p>SECTIONS 4.64 and 4.65. Same as House version.</p>	<p>Same as House.</p>
<p>SECTION 4.71. Amends Section 1702.2305, Occupations Code. Changes "commission" to "board."</p>	<p>SECTION 4.66. Same as House version.</p>	<p>Same as House.</p>
<p>SECTION 4.72. Amends Section 1702.232, Occupations Code. Changes "commission" to "board," and provides that registrant pocket cards</p>	<p>SECTION 4.67. Same as House version except requires color photos attached to pocket cards at the time of issuance.</p>	<p>Same as Senate.</p>

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HOUSE VERSION	SENATE VERSION	CONFERENCE
must state each endorsement held.		
SECTION 4.73. Amends Section 1702.234, Occupations Code. Changes "commission" to "board," adds endorsements.	SECTION 4.68. Same as House version.	Same as House.
SECTION 4.74. Section 1702.235, Occupations Code. Changes "commission" to "board."	SECTION 4.69. Same as House version.	Same as House.
SECTION 4.75. Amends Section 1702.236, Occupations Code. Changes "commission" to "board."	SECTION 4.70. Same as House version.	Same as House.
SECTION 4.76. Amends Sections 1702.239(a), (b), and (d), Occupations Code. Changes "commission" to "board," "director" to "chief administrator," and "registration" to "endorsement."	SECTION 4.71. Same as House version.	Same as House.
SECTION 4.77. Amends Section 1702.240(b), Occupations Code. Changes "commission" to "board."	SECTION 4.72. Same as House version.	Same as House.
SECTION 4.78. Amends Subchapter J, Chapter 1702, Occupations Code, by adding Section 1702.241. Authorizes the Private Security Board to require jurisprudence exams for all security licenses to ensure licensees understand the laws and rules that guide their professions.	SECTION 4.73. Same as House version.	Same as House.
SECTION 4.79. Amends Sections 1702.282(a), (c), and (e), Occupations Code. Authorizes the Private Security Bureau to license by endorsement to streamline the licensing process.	SECTION 4.74. Same as House version, but omits 1702.282(a).	Same as House.
SECTION 4.80. Amends Section 1702.283, Occupations Code. Changes "registration" to "endorsement."	SECTION 4.75. Same as House version.	Same as House.

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HOUSE VERSION	SENATE VERSION	CONFERENCE
SECTION 4.81. Amends Section 1702.285, Occupations Code. Changes "registration" to "endorsement."	SECTION 4.76. Same as House version.	Same as House.
SECTION 4.82. Amends Sections 1702.301(c), (d), (e), (f), (g), and (h), Occupations Code. Changes "commission" to "board," and "registration" to "endorsement."	SECTION 4.77. Same as House version.	Same as House.
SECTION 4.83. Amends Section 1702.302, Occupations Code. Changes "commission" to "board."	SECTION 4.78. Same as House version.	Same as House.
SECTION 4.84. Amends Section 1702.303, Occupations Code. Changes "commission" to "board."	SECTION 4.79. Same as House version.	Same as House.
SECTION 4.85. Amends Section 1702.304, Occupations Code. Changes "commission" to "board."	SECTION 4.80. Same as House version.	Same as House.
SECTION 4.86. Amends Section 1702.307, Occupations Code. Changes "commission" to "board."	SECTION 4.81. Same as House version.	Same as House.
SECTION 4.87. Amends Sections 1702.308(b) and (c), Occupations Code. Changes "commission" to "board," and "registration" to "endorsement."	SECTION 4.82. Same as House version.	Same as House.
SECTION 4.88. Amends Section 1702.309(a), Occupations Code. Changes "commission" to "board."	SECTION 4.83. Same as House version.	Same as House.

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SECTION 4.89. Amends Sections 1702.321(b), (c), and (e), Occupations Code. Changes "commission" to "board."

SECTION 4.84. Same as House version.

Same as House.

No equivalent provision.

SECTION 4.____. Amends Section 1702.324(b), Occupations Code. Exempts employees performing investigative services for the Texas Dept. of Insurance, Office of Thrift Supervision, Securities and Exchange Commission, Federal Deposit Insurance Corporation, National Assoc. of Securities Dealers, or the Financial Industry Regulatory Authority from Private Security Board regulation.

Same as Senate.

No equivalent provision.

SECTION __. Amends Section 1702.328, Occupations Code.
Sec. 1702.328. SECURITY SYSTEMS SALES AND INSTALLATION.
This chapter does not apply to:
(1) a person who owns and installs a burglar detection or alarm device, electronic access control device, lock, or camera system on the person's own property or ~~[- if the person does not charge for the device or the installation,]~~ installs the device for the protection of the person's personal property located on another person's property and does not, as a normal business practice, install the devices on the property of another, and who does not perform any other act that requires a license or registration under this chapter;
(2) a person in the business of building construction that installs electrical wiring and devices that may include in part the installation .of a burglar alarm, electronic access control device, lock, camera system, or detection device if:
(A) the person is a party to a contract that provides that:
(i) the installation will be performed ~~[under the direct supervision of,]~~ and inspected and certified by~~;~~ a person licensed to install and certify the alarm or detection device, electronic access control device, lock, or camera system; and
(ii) the license holder assumes full responsibility for the installation of the alarm or detection device; and
(B) the person does not service or maintain alarm systems, electronic access control devices, locks, camera systems, ~~[or]~~ detection devices, or any other device or service that requires a license or registration under this chapter;
(3) a person who sells or installs automobile burglar alarm devices and who does not perform any other act that requires a license under this chapter; or

Same as House.

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SECTION 4.90. Sections 1702.361(a) and (b), Occupations Code, are amended to read as follows:

(a) Subject to the board's final order under the hearing provisions of this subchapter, the department, for conduct described by Subsection (b), may:

- (1) deny an application or revoke, suspend, or refuse to renew a license, registration, endorsement, or security officer commission;
- (2) reprimand a license holder, registrant, or commissioned security officer; or
- (3) place on probation a person whose license, registration, endorsement, or security officer commission has been suspended.

(b) The department shall take disciplinary action described by Subsection (a) on proof:

(1) that the applicant, license holder, registrant, endorsement holder, or commissioned security officer has:

- (A) violated this chapter or a rule adopted under this chapter;
- (B) become ineligible for licensure, [~~or~~] registration, or endorsement under Section 1702.113, or a commission under Section 1702.163, if applicable, other than an action for which the department has taken summary action under Section 1702.364;
- (C) engaged in fraud, deceit, or misrepresentation;
- (D) made a material misstatement in an application for or renewal of a license, registration, endorsement, or commission; [~~or~~]
- (E) failed to pay in full an administrative penalty assessed under Subchapter Q, for which the board has issued a final order; or
- (F) performed any service for which an endorsement is required under this chapter and either:
 - (i) was not employed with a company licensed under this chapter at the time the service was performed; or
 - (ii) performed the service for a company licensed under this chapter that was not listed on the individual's registration without informing the board of the individual's employment with the company within a reasonable period; or

(4) a person who sells exclusively by e-commerce, over the counter transactions, or mail order, alarm systems, electronic access control devices, locks, or detection devices, and who does not perform any other act that requires a license or registration under this chapter.

SECTION 4.85. Amends Section 1702.361(b), Occupations Code.

Same as House.

(b) The department shall take disciplinary action described by Subsection (a) on proof:

(1) that the applicant, license holder, registrant, endorsement holder, or commissioned security officer has:

- (A) violated this chapter or a rule adopted under this chapter;
- (B) become ineligible for licensure, [~~or~~] registration, or endorsement under Section 1702.113, or a commission under Section 1702.163, if applicable, other than an action for which the department has taken summary action under Section 1702.364;
- (C) engaged in fraud, deceit, or misrepresentation;
- (D) made a material misstatement in an application for or renewal of a license, registration, endorsement, or commission; [~~or~~]
- (E) failed to pay in full an administrative penalty assessed under Subchapter Q, for which the board has issued a final order; or
- (F) performed any service for which an endorsement is required under this chapter and either:
 - (i) was not employed with a company licensed under this chapter at the time the service was performed; or
 - (ii) performed the service for a company licensed under this chapter that was not listed on the individual's registration without informing the board of the individual's employment with the company within a reasonable period; or
- (2) that the license holder of a registrant or commissioned security officer has submitted to the department sufficient evidence that the registrant or commissioned security officer:
 - (A) engaged in fraud or deceit while employed by the license holder; or
 - (B) committed theft while performing work as a registrant or commissioned security officer.

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<p>(2) that the license holder of a registrant or commissioned security officer has submitted to the department sufficient evidence that the registrant or commissioned security officer:</p> <p>(A) engaged in fraud or deceit while employed by the license holder; or</p> <p>(B) committed theft while performing work as a registrant or commissioned security officer.</p>		
<p>SECTION 4.91. Amends Section 1702.362, Occupations Code. Changes "commission" to "board."</p>	<p>SECTION 4.86. Same as House version.</p>	<p>Same as House.</p>
<p>SECTION 4.92. Amends Section 1702.363, Occupations Code. Changes "commission" to "board."</p>	<p>SECTION 4.87. Same as House version.</p>	<p>Same as House.</p>
<p>SECTION 4.93. Amends Sections 1702.364(a), (d), (f), and (h), Occupations Code.</p> <p>Authorizes the Private Security Bureau to license by endorsement to streamline the licensing process.</p>	<p>SECTION 4.88. Same as House version.</p>	<p>Same as House.</p>
<p>SECTION 4.94. Amends Section 1702.365, Occupations Code. Changes "commission" to "board," and adds endorsement.</p>	<p>SECTION 4.89. Same as House version.</p>	<p>Same as House.</p>
<p>SECTION 4.95. Amends Sections 1702.367(a), (c), (d), and (e), Occupations Code, are amended to read as follows:</p> <p>Changes "commission" to "board."</p>	<p>SECTION 4.90. Same as House version, but makes no change to Section 1702.367(a).</p>	<p>Same as House.</p>
<p>SECTION 4.96. Amends Section 1702.368, Occupations Code. Changes "commission" to "board," and other conforming changes.</p>	<p>SECTION 4.91. Same as House version.</p>	<p>Same as House.</p>
<p>SECTION 4.97. Amends Subchapter O, Chapter 1702, Occupations Code by</p>	<p>SECTION 4.92. Same as House version.</p>	<p>Same as House.</p>

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adding Section 1702.372. Prohibits Private Security Board members from being involved in both the investigation of complaints and the determination of disciplinary action.		
SECTION 4.98. Amends Section 1702.381(b), Occupations Code. Adds endorsement.	SECTION 4.93. Same as House version.	Same as House.
SECTION 4.99. Amends Section 1702.386(a), Occupations Code. Changes "certificate" to "endorsement."	SECTION 4.94. Same as House version.	Same as House.
SECTION 4.100. Amends Section 1702.3863(a), Occupations Code. Adds endorsement.	SECTION 4.95. Same as House version.	Same as House.
SECTION 4.101. Amends Section 1702.387(a), Occupations Code. Changes "commission" to "board."	SECTION 4.96. Same as House version.	Same as House.
SECTION 4.102. Amends Section 1702.388(b), Occupations Code. Adds endorsement.	SECTION 4.97. Same as House version.	Same as House.
SECTION 4.103. Amends Section 1702.402(a) and adds Subsection (c). Increases the amount of the Private Security Act's maximum administrative penalty from \$500 to \$5,000, and requires the Private Security Board to develop an administrative penalty matrix in rule.	SECTION 4.98. Same as House version.	Same as House.
SECTION 4.104. Amends Section 1702.406(b), Occupations Code. Requires appeals of Private Security Board disciplinary action to district court to be reviewed under the substantial evidence standard.	SECTION 4.99. Same as House version.	Same as House.
SECTION 4.105. Repeals Occupations Code Section 1702.002(4); Section 1702.003; Section 1702.045; Section 1702.046; Section 1702.047; Section	SECTION 4.100. Same as House version, but does not repeal Section 1702.047.	Same as Senate.

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1702.065; Section 1702.069; Section 1702.113(e); Section 1702.364(j); and Subchapter K.		
SECTION 4.106. Provides effective dates and transitional provisions for the provisions in this Article.	SECTION 4.101. Same as House version.	Same as House.
No equivalent provision.	ARTICLE 4A [Blank]	Same as House.
No equivalent provision.	ARTICLE 4B. REGULATION OF THE BUSINESS OF PRIVATE SECURITY	Same as Senate.
No equivalent provision.	SECTION 4B.01. Amends Section 1702.002, Occupations Code, to clarify that the term "alarm system" does not an accessory used only to activate a gate or door, if it is not connected to a computer or data processor that records or archives the voice, visual image, or identifying information of the user. Also defines "Personal protection officer" and "Security officer."	Same as Senate.
No equivalent provision.	SECTION 4B.02. Amends Section 1702.047, Occupations Code. Sec. 1702.047. ADMINISTRATIVE STAFF. The department shall designate a department employee who shall report directly to the board. The employee designated under this section shall <u>provide administrative assistance to</u> [assist] the board in the <u>performance</u> [administration] of the board's duties. [The salary for an employee designated under this section may not exceed the salary specified in the General Appropriations Act for an employee subject to salary group A10.]	Same as Senate.
No equivalent provision.	SECTION 4B.03. Amends Subsection (e), Section 1702.082, Occupations Code. (e) <u>On written request, the department</u> [The commission, at least quarterly until final disposition of the complaint,] shall <u>inform</u> [notify] the person filing	Same as Senate.

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No equivalent provision.	the complaint and each person who is a subject of the complaint of the status of the investigation unless the <u>information</u> [notice] would jeopardize an <u>ongoing</u> [undercover] investigation.	
No equivalent provision.	SECTION 4B.04. Amends Subchapter A, Chapter 1702, Occupations Code by adding Section 1702.006. Clarifies that licensure under this chapter does not exempt a foreign entity from the registration requirements of Chapter 9, Business Organizations Code.	Same as Senate.
No equivalent provision.	SECTION 4B.05. Amends Subsection (a), Section 1702.1056, Occupations Code. Clarifies that a person acts as a locksmith company if the person offers to sell, install, service, or maintain, mechanical security devices, including deadbolts and locks.	Same as Senate.
No equivalent provision.	SECTION 4B.10. Amends Section 1702.163, Occupations Code by adding Subsection (d-1). Clarifies that the department may require applicants to authorize the release of any relevant medical records for the purposes of determining eligibility.	Same as Senate.
No equivalent provision.	SECTION 4B.12. Amends Section 1702.202, Occupations Code. Provides that an individual acts as a personal protection officer if the individual while carrying a firearm provides to another individual personal protection from bodily harm.	Same as Senate.
No equivalent provision.	SECTION 4B.14. Section 1702.230, Occupations Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows: (b) The employer of the applicant shall make a reasonable attempt to verify the information required under Subsection (a)(1) <u>before the earlier of:</u> <u>(1) the date the application is submitted; or</u> <u>(2) the date the applicant begins to perform the duties of employment that require registration.</u> <u>(c) An applicant must submit an application that substantially meets the requirements of this section before employment in a capacity for which</u>	Same as Senate.

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	<u>registration is required.</u>	
No equivalent provision.	SECTION 4B.15. Amends Subsection (a), Section 1702.282, Occupations Code. Adds endorsement. Provides that the board may request applicants to provide certified copies of relevant court documents or other records.	Same as Senate.
No equivalent provision.	SECTION 4B.16. Renumbers Section 1702.286, Occupations Code, as added by Chapter 1102 (H.B. 2243), Acts of the 79th Legislature, Regular Session. Makes a conforming change to renumber existing statutes.	Same as Senate.
No equivalent provision.	SECTION 4B.17. Amends Section 1702.322, Occupations Code. Clarifies the exemption for peace officers who receive compensation for private employment on an individual or an independent contractor basis as a patrolman, guard, extra job coordinator, or watchman applies if the officer is employed on an individual contractual basis directly by the recipient of the services.	Same as Senate.
No equivalent provision.	SECTION 4B.18. Amends Subsection (a), Section 1702.361, Occupations Code. (a) The [Subject to the board's final order under the hearing provisions of this subchapter, the] department, for conduct described by Subsection (b), may: (1) deny an application or revoke, suspend, or refuse to renew a license, registration, <u>endorsement</u> , or security officer commission; (2) reprimand a license holder, registrant, or commissioned security officer; or (3) place on probation a person whose license, registration, <u>endorsement</u> , or security officer commission has been suspended.	Same as Senate.
No equivalent provision.	SECTION 4B.19. Section 1702.367, Occupations Code, is amended by amending Subsection (a) and adding Subsections (f) and (g) to read as follows: (a) For an investigation conducted under this chapter, <u>if necessary to enforce</u>	Same as Senate.

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~~this chapter or the board's rules, the department [commission] may issue an administrative [a] subpoena to any person in this state compelling:~~
~~(1) the production of information or documents; or~~
~~(2) the attendance and testimony of a witness [compel the attendance of a witness or the production of a pertinent record or document.—The hearings officer may administer oaths and require testimony or evidence to be given under oath].~~
~~(f) A person licensed or otherwise regulated under this chapter who fails without good cause to comply with a subpoena issued under this section may be subject to suspension of a license under Section 1702.361.~~
~~(g) If a subpoena issued under this section relates to an ongoing criminal investigation by the department and the department determines that disclosure could significantly impede the investigation, the subpoena may provide that the person to whom the subpoena is directed may not:~~
~~(1) disclose that the subpoena has been issued;~~
~~(2) identify or describe any records requested by the subpoena; or~~
~~(3) disclose whether records have been furnished in response to the subpoena.~~

No equivalent provision.

SECTION 4B.20. Amends Subchapter P, Chapter 1702, Occupations Code by adding Section 1702.3835.
Provides that an unlicensed person who performs an activity regulated under this chapter commits a false, misleading, or deceptive act or practice within the meaning of the Deceptive Trade Practices Act.

Same as Senate.

No equivalent provision.

SECTION 4B.21. Amends Subsection (d), Section 46.03, Penal Code.
Updates name of the Private Security Board. Specifies that it is a defense to the prosecution of carrying a firearm in a prohibited place if a security officer-body guard is wearing a uniform and carrying the firearm in plain view or not wearing a uniform and carrying a concealed firearm.

Same as Senate.

No equivalent provision.

SECTION 4B.22. Reenacts and amends Subsection (b), Section 46.15, Penal Code, as amended by Chapters 647 (H.B. 964), 693 (H.B. 1815), and 1048 (H.B. 2101), Acts of the 80th Legislature, Regular Session, 2007.
Specifies that Penal Code Sec.A46.02. (unlawful carrying weapons) does not apply to a commissioned security officer-body guard if the person is working

Same as Senate.

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	as a body guard or is traveling to or from work and is either wearing a uniform and carrying the firearm in plain view or not wearing a uniform and carrying a concealed firearm.	
No equivalent provision.	SECTION 4B.23. Provides for the transition to law for changes made by this article.	Same as Senate.
No equivalent provision.	SECTION 4B.24. Provides that this article prevails over another Act of the 81st Legislature, Regular Session, 2009, relating to nonsubstantive additions and corrections in enacted codes, to the extent of any conflict.	Same as Senate.
SECTION 4.107. This article takes effect September 1, 2009.	SECTION 4B.25. Same as House version.	Same as House.
ARTICLE 5. GENERAL PROVISIONS	Same as House version.	Same as House.
SECTION 5.01. Amends Section 411.002, Government Code by amending Subsection (c) and adding Subsections (d) and (e). Provides that unless continued in existence by the Texas Sunset Act, DPS is abolished September 1, 2015. Requires the Sunset Advisory Commission to review DPS' implementation of the recommendations in the 2008 audit of DPS' information technology system and a civilian business model for the operation of the driver's license division that focuses on improving customer service by using best practices in call center technology and monitoring customer service calls, expanding operating hours at driver's license offices, and decreasing the time DPS takes to send a replacement driver's license. Requires the Sunset Advisory Commission to submit the report not later than February 15, 2011.	SECTION 5.01. Same as House version, except that the Sunset date is September 1, 2021.	Same as House.
SECTION 5.02. Amends Section 411.0035, Government Code. Updates standard Sunset language prohibiting Public Safety Commission members, high-level employees, and spouses from serving as an officer or employee of a related Texas trade association.	Same as House version.	Same as House.

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SECTION 5.03. Amends Subchapter A, Chapter 411, Government Code. Adds standard Sunset language requiring the Public Safety Commission to separate its policymaking duties from the agency's management functions.

Same as House version.

Same as House.

SECTION 5.04. Amends Subchapter A, Chapter 411, Government Code by adding Section 411. Adds standard Sunset language requiring the Public Safety Commission to make effective use of technology in its delivery of services and provision of information to the public.

Same as House version.

Same as House.

SECTION 5.05. Amends Subchapter A, Chapter 411, Government Code by adding Section 411.0044. Adds standard Sunset language requiring the Public Safety Commission to develop a policy that encourages the use of negotiated rulemaking and alternative dispute resolutions.

Same as House version.

Same as House.

SECTION 5.06. Section 411.005, Government Code, is amended by amending Subsections (a) and (c) and adding Subsection (d) to read as follows:
(a) The commission shall appoint a citizen of the United States ~~[this state]~~ as public safety director. The director serves until removed by the commission.
(c) The commission shall select the director, and the director shall select an assistant director, on the basis of the person's training, experience, and qualifications for the position. The director and each ~~[an]~~ assistant director must, during the six-year period before appointment to the department as the director or as an assistant director, have been serving for a period of not less than five consecutive years as:
(1) a full-time peace officer commissioned by a state, federal, local, or tribal law enforcement agency; and
(2) the head of or a senior manager in a state, federal, local, or tribal law enforcement agency ~~[five years' experience, preferably in police or public administration].~~
(d) The director and an assistant director are entitled to annual salaries as provided by the legislature.

SECTION __. Subchapter A, Chapter 411, Government Code, is amended by amending Section 411.005 to read as follows:
Sec. 411.005. ~~[DIRECTOR AND ASSISTANT DIRECTOR]~~ DIRECTOR, DEPUTY DIRECTORS, AND ASSISTANT DIRECTORS.
(b) The director may appoint, with advice and consent of the commission, deputy directors and assistant directors who shall perform the duties the director designates. ~~[An]~~ Deputy directors and assistant directors serve until removed by the director.
(c) The commission shall select the director, and the director shall select ~~[an assistant director]~~ deputy directors and assistant directors, on the basis of the person's training, experience, and qualifications for the position. ~~[The director and an assistant director must have five years' experience, preferably in police or public administration.]~~ The director, ~~[an assistant director]~~ deputy directors, and assistant directors are entitled to annual salaries as provided by the legislature.

Same as Senate, except SECTION 5.06(a) from the House version is included.

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SECTION 5.07. Amends Section 411.015(b), Government Code. Deletes existing text prohibiting the number of divisions from exceeding the number of divisions existing on August 22, 1957.	SECTION 5.06. Same as House version.	Same as House.
SECTION 5.08. Amends Sections 411.0195(a), (b), and (c), Government Code. Updates standard Sunset language requiring DPS to maintain information on all complaints and notify the parties about policies for and status of complaints.	SECTION 5.07. Same as House version.	Same as House.
SECTION 5.09. Amends Section 411.188, Government Code by adding Subsection (j). Authorizes the online offering of the continuing education instruction course and written section of the proficiency examination.	SECTION 5.08. Same as House version.	Same as House.
SECTION 5.10. Amends Section 411.190, Government Code adding Subsection (d-1). Requires DPS to offer online renewals.	SECTION __. Same as House version.	Same as House.
SECTION 5.11. Amends heading to Section 411.244, Government Code. Changes "internal affairs" to "inspector general."	SECTION 5.09. Same as House version.	Same as House.
SECTION 5.12. Amends Sections 411.244(a), (b), (d), (e), and (f), Government Code. Requires the commission to establish the office of inspector general, which is responsible for acting to prevent and detect criminal conduct within the department; and independently and objectively investigating: criminal activity occurring in all divisions of the department; allegations of wrongdoing by department employees; crimes committed on department property; and serious breaches of department policy. Replaces existing references to "internal affairs" with "inspector general." Grants the commission direct oversight over the office	SECTION 5.10. Same as House version except adds responsibility for the inspector general to independently and objectively review, delegate, and oversee investigations. Also requires the inspector general to delegate criminal allegations to the Texas Ranger division or the Criminal Law Enforcement division for investigation and referral back to the inspector general for further action. Provides that this chapter or other law does not preempt the authority of the state auditor to conduct an audit or investigation under Chapter 321 or other law.	Same as Senate.

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of inspector general. Requires the commission to establish policies to oversee the inspector general. Requires the inspector general to present to present at each regularly scheduled commission meeting and other appropriate times reports of investigations summary information relating to investigations that includes analysis of investigations, trends, and recommendations to avoid future complaints.		
SECTION 5.13. Repeals Sections 411.0195(d) and (e), Government Code. Repeals obsolete provisions regarding DPS complaint policies.	SECTION 5.11. Same as House version.	Same as House.
SECTION 5.14. Provides for the transition in qualifications for Public Safety Commission members and high-level employees.	SECTION 5.12. Same as House version.	Same as House.
SECTION 5.15. Provides for the transition in requirements for DPS to maintain information on complaints.	SECTION 5.13. Same as House version.	Same as House.
SECTION 5.16. Provides for the transition in requirements regarding qualified handgun instructor certification.	No equivalent provision.	Same as House.
SECTION 5.17. Establishes the timeframe for DPS to develop customer service training requirements for employees.	No equivalent provision.	Same as House.
SECTION 5.18. Provides for the transition in requirements for DPS to develop cultural diversity training for staff of the drivers license division.	No equivalent provision.	Same as House.
SECTION 5.19. Provides for the transition in requirements for DPS to develop training requirements regarding proof of citizenship documents.	No equivalent provision.	Same as House.

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ARTICLE 6. ADDITIONAL PROVISIONS	No equivalent provision.	Same as House.
No equivalent provision.	ARTICLE 6. PERSONNEL RECORDS	Same as House.
SECTION 6.01. Amends Section 411.00755(b), Government Code. Specifies that the Public Information Act applies to the personnel records of DPS commissioned officers.	Same as House version.	Same as House.
SECTION 6.02. Amends Section 411.192, Government Code by amending Subsections (a) and (d) and adding Subsection (e). Adds phone numbers, emails, and website addresses of concealed handgun license holders to the information that is subject to disclosure to criminal justice agencies. Requires, rather than authorizes, DPS to make and distribute to the public a list of qualified handgun instructors and adds the requirement that the list must include the instructors' name, phone number, email, and website.	No equivalent provision.	Same as House, but requires concealed handgun license instructors to opt in to have DPS put their information online, instead of opt out.
SECTION 6.03. Amends the heading to Section 418.005, Government Code to add appointed officers.	No equivalent provision.	Same as Senate.
SECTION 6.04. Amends Subchapter A, Chapter 418, Government Code by adding Section 418.0051. Allows elected public officers whose duties include emergency management responsibilities to attend emergency management training.	No equivalent provision.	Same as Senate.
SECTION 6.05. Amends Section 614.151(2), Government Code, as added by Chapter 1159 (H.B. 12), Acts of the 80th Legislature, Regular Session, 2007. Removes language referencing Schedules B and C of the position classification salary schedule prescribed by the General Appropriations Act from the definition of a Law enforcement officer.	No equivalent provision.	Same as House.
SECTION 6.06. Amends Section 614.152, Government Code, as added by Chapter 1159 (H.B. 12), Acts of the 80th Legislature, Regular Session, 2007. Changes the physical fitness standards for state law enforcement agencies to	No equivalent provision.	Same as House, except removes weight as a consideration in fitness goals and retains agencies' ability to discharge officers for

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specify that the standards and programs may include individual fitness goals relative to an officer's age and sex. Requires each law enforcement agency to adopt a reward policy that provides incentives to officers who participate in the program and meet the standards. Deletes the provision that a TPWD law enforcement officer compensated according to Schedule B who is unable to meet a physical fitness standard may be transferred to a position that does not require the employee to be a commissioned peace officer.		violation of fitness standards.
No equivalent provision.	ARTICLE 7. TEXAS RANGERS' UNSOLVED CRIMES INVESTIGATION TEAM	Same as Senate.
No equivalent provision.	SECTION 7.01. Amends the heading to Subchapter J, Chapter 411, Government Code. Changes the name of the Unsolved Crimes Investigation Team to the Unsolved Crimes Investigation Program.	Same as Senate.
No equivalent provision.	SECTION 7.02. Amends Section 411.262, Government Code. Changes the name of the Unsolved Crimes Investigation Team to the Unsolved Crimes Investigation Program. Allows the Texas Rangers Unsolved Crimes Investigation Team to operate statewide instead of at Austin DPS headquarters.	Same as Senate.
No equivalent provision.	SECTION 7.03. Amends Section 411.263, Government Code. Changes the name of the Unsolved Crimes Investigation Team to the Unsolved Crimes Investigation Program.	Same as Senate.
No equivalent provision.	SECTION 7.04. Provides that this article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house or September 1, 2009 if the Act does not receive the vote necessary for immediate effect.	Same as Senate.
No equivalent provision.	ARTICLE 8. DISSEMINATION OF EMERGENCY PUBLIC SERVICE MESSAGES	Same as Senate.
No equivalent provision.	SECTION 8.01. Section 418.047, Government Code, is amended by adding	Same as Senate, except removes subsection (a-

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Subsection (a-1) to read as follows:

(a-1) The division shall coordinate with the Texas Department of Transportation to establish additional methods for disseminating emergency public service messages to motorists, including:

(1) severe weather advisories;

(2) AMBER alerts under Subchapter L, Chapter 411;

(3) silver alerts under Subchapter M, Chapter 411; and

(4) information regarding the availability of fuel, food, lodging, and pharmacy services during an evacuation order under this chapter or a disaster declared under this chapter.

1)(4).

No equivalent provision.

ARTICLE 9. AUTHORITY OF DEPARTMENT TO OBTAIN AND USE
CRIMINAL HISTORY RECORD INFORMATION FOR CERTAIN
DEPARTMENTAL AUTHORIZATIONS

Same as Senate.

No equivalent provision.

SECTION 9.01. Subchapter F, Chapter 411, Government Code, is amended
by adding Section 411.0891 to read as follows:

Sec. 411.0891. DEPARTMENT ACCESS TO CRIMINAL HISTORY
RECORD INFORMATION: CERTAIN DEPARTMENTAL
AUTHORIZATIONS. (a) Subject to Section 411.087, the department is
authorized to obtain and use criminal history record information maintained
by the Federal Bureau of Investigation or the department that relates to a
person who:

Same as Senate.

(1) is an applicant for or holds a registration issued by the director under
Subchapter C, Chapter 481, Health and Safety Code, that authorizes the
person to manufacture, distribute, analyze, or conduct research with a
controlled substance;

(2) is an applicant for or holds a chemical precursor transfer permit issued by
the director under Section 481.078, Health and Safety Code;

(3) is an applicant for or holds a chemical laboratory apparatus transfer
permit issued by the director under Section 481.081, Health and Safety Code;

(4) is an applicant for certification by the department as an inspection station
or an inspector under Subchapter G, Chapter 548, Transportation Code, holds
an inspection station or inspector certificate issued under that subchapter, or is

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the owner of an inspection station operating under that chapter; or
(5) is an applicant for approval or has been approved as a program sponsor by
the department under Chapter 662, Transportation Code, is an applicant for
certification by the department as an instructor under that chapter, or holds an
instructor certificate issued under that chapter.
(b) The department may release or disclose criminal history record
information obtained or used by the department for a purpose described by
Subsection (a) to another person or agency only:
(1) in a criminal proceeding;
(2) in a hearing conducted by the department;
(3) under an order from a court; or
(4) with the consent of the person who is the subject of the criminal history
record information.
(c) This section may not be construed to limit the authority of the department
to disseminate criminal history record information as provided by Section
411.083.

No equivalent provision.

SECTION 9.02. Provides that this article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house or September 1, 2009 if the Act does not receive the vote necessary for immediate effect.

Same as Senate.

No equivalent provision.

ARTICLE 10. COLLECTION, MAINTENANCE, AND TRANSFER AND OTHER DISSEMINATION OF CRIMINAL HISTORY RECORD INFORMATION AND JUVENILE JUSTICE INFORMATION

Same as Senate.

No equivalent provision.

SECTION 10.01. Section 411.042(b), Government Code, as amended by Chapters 70 (H.B. 76), 1306 (S.B. 839), and 1372 (S.B. 9), Acts of the 80th Legislature, Regular Session, 2007, is reenacted and amended to read as follows:
(b) The bureau of identification and records shall:
(1) procure and file for record photographs, pictures, descriptions, fingerprints, measurements, and other pertinent information of all persons arrested for or charged with a criminal offense or convicted of a criminal

Same as Senate.

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- offense, regardless of whether the conviction is probated;
- (2) collect information concerning the number and nature of offenses reported or known to have been committed in the state and the legal steps taken in connection with the offenses, and other information useful in the study of crime and the administration of justice, including information that enables the bureau to create a statistical breakdown of offenses in which family violence was involved and a statistical breakdown of offenses under Sections 22.011 and 22.021, Penal Code;
- (3) make ballistic tests of bullets and firearms and chemical analyses of bloodstains, cloth, materials, and other substances for law enforcement officers of the state;
- (4) cooperate with identification and crime records bureaus in other states and the United States Department of Justice;
- (5) maintain a list of all previous background checks for applicants for any position regulated under Chapter 1702, Occupations Code, who have undergone a criminal history background check under Section 411.119, if the check indicates a Class B misdemeanor or equivalent offense or a greater offense;
- (6) collect information concerning the number and nature of protective orders and all other pertinent information about all persons on active protective orders. Information in the law enforcement information system relating to an active protective order shall include:
- (A) the name, sex, race, date of birth, personal descriptors, address, and county of residence of the person to whom the order is directed;
- (B) any known identifying number of the person to whom the order is directed, including the person's social security number or driver's license number;
- (C) the name and county of residence of the person protected by the order;
- (D) the residence address and place of employment or business of the person protected by the order, unless that information is excluded from the order under Section 85.007, Family Code;
- (E) the child-care facility or school where a child protected by the order normally resides or which the child normally attends, unless that information is excluded from the order under Section 85.007, Family Code;
- (F) the relationship or former relationship between the person who is protected by the order and the person to whom the order is directed; and
- (G) the date the order expires; ~~and~~

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- (7) grant access to criminal history record information in the manner authorized under Subchapter F;
- ~~(8) [(7)] collect and disseminate information regarding offenders with mental impairments in compliance with Chapter 614, Health and Safety Code; and~~
- (9) record data and maintain a state database for a computerized criminal history record system and computerized juvenile justice information system that serves:
- (A) as the record creation point for criminal history record information and juvenile justice information maintained by the state; and
- (B) as the control terminal for the entry of records, in accordance with federal law and regulations, federal executive orders, and federal policy, into the federal database maintained by the Federal Bureau of Investigation.

No equivalent provision.

- SECTION 10.02. Amends Section 411.083(b), Government Code.
- (b) The department shall grant access to criminal history record information to:
- (1) criminal justice agencies;
 - (2) noncriminal justice agencies authorized by federal statute or executive order or by state statute to receive criminal history record information;
 - (3) the person who is the subject of the criminal history record information;
 - (4) a person working on a research or statistical project that:
 - (A) is funded in whole or in part by state funds; or
 - (B) meets the requirements of Part 22, Title 28, Code of Federal Regulations, and is approved by the department;
 - (5) an individual or an agency that has a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice under that agreement, if the agreement:
 - (A) specifically authorizes access to information;
 - (B) limits the use of information to the purposes for which it is given;
 - (C) ensures the security and confidentiality of the information; ~~and~~
 - (D) provides for sanctions if a requirement imposed under Paragraph (A), (B), or (C) is violated; and
 - (E) requires the individual or agency to perform the applicable services in a manner prescribed by the department;
 - (6) an individual or an agency that has a specific agreement with a noncriminal justice agency to provide services related to the use of criminal

Same as Senate.

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history record information disseminated under this subchapter, if the agreement:

- (A) specifically authorizes access to information;
- (B) limits the use of information to the purposes for which it is given;
- (C) ensures the security and confidentiality of the information; ~~[and]~~
- (D) provides for sanctions if a requirement imposed under Paragraph (A), (B), or (C) is violated; and
- (E) requires the individual or agency to perform the applicable services in a manner prescribed by the department;
- (7) a county or district clerk's office; and
- (8) the Office of Court Administration of the Texas Judicial System.

No equivalent provision.

SECTION 10.03. Amends Section 411.084(b), Government Code.

Same as Senate.

(b) Notwithstanding Subsection (a) or any other provision in this subchapter, criminal history record information obtained from the Federal Bureau of Investigation may be released or disclosed only to a governmental entity or as authorized by federal law and regulations ~~[statute, federal rule]~~, ~~[or]~~ federal executive orders, and federal policy ~~[order]~~.

No equivalent provision.

SECTION 10.04. Sections 411.0845(e), (i), and (k), Government Code, are amended to read as follows:

Same as Senate.

(e) A person entitled to receive criminal history record information under this section must provide the department with the following information regarding the person who is the subject of the criminal history record information requested:

- (1) the person's full name, date of birth, sex, ~~[Texas driver's license number or personal identification certificate number,]~~ and social security number, and the number assigned to any form of unexpired identification card issued by this state or another state, the District of Columbia, or a territory of the United States that includes the person's photograph;
- (2) a recent electronic digital image photograph of the person and a complete set of the person's fingerprints as required by the department; and
- (3) any other information required by the department.
- (i) The release under this section of any criminal history record information maintained by the Federal Bureau of Investigation, including the

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	<p><u>computerized information submitted to the federal database maintained by the Federal Bureau of Investigation as described by Section 411.042(b)(9)(B)</u>, is subject to federal law and regulations, federal executive orders, and federal policy.</p> <p>(k) A governmental agency may coordinate with the department regarding the <u>use of the fingerprinting fee collection process to collect</u> [collection of] a fee for the criminal history record information <u>and any other fees associated with obtaining a person's fingerprints as required by the department</u> [through the fingerprinting fee collection process].</p>	
No equivalent provision.	<p>SECTION 10.05. Amends Section 411.085(a), Government Code.</p> <p>(a) A person commits an offense if the person knowingly or intentionally:</p> <p>(1) obtains criminal history record information in an unauthorized manner, uses the information for an unauthorized purpose, or discloses the information to a person who is not entitled to the information;</p> <p>[(2) provides a person with a copy of the person's criminal history record information obtained from the department;] or</p> <p>(2) (3) violates a rule of the department adopted under this subchapter.</p>	Same as Senate.
No equivalent provision.	<p>SECTION 10.06. Amends Section 411.094(d), Government Code.</p> <p>(d) Criminal history record information received by an institution of higher education under Subsection (b) may not be released or disclosed to any person except on court order <u>or with the consent of the person who is the subject of the criminal history record information</u>.</p>	Same as Senate.
No equivalent provision.	<p>SECTION 10.07. Amends Section 411.0985(c), Government Code.</p> <p>(c) The Texas Commission for the Blind may not release or disclose information obtained under Subsection (a) except on court order <u>or with the consent of the person who is the subject of the criminal history record information</u>.</p>	Same as Senate.
No equivalent provision.	<p>SECTION 10.08. Amends Section 411.1005(b), Government Code.</p> <p>(b) Information received by the state bar is confidential and may be disseminated only:</p> <p>(1) in a disciplinary action or proceeding conducted by the state bar, the Board of Disciplinary Appeals, or any court; <u>or</u></p>	Same as Senate.

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No equivalent provision.	<p><u>(2) with the consent of the person who is the subject of the criminal history record information.</u></p> <p>SECTION 10.09. Amends Section 411.1131(c), Government Code. (c) The Texas Commission for the Deaf and Hard of Hearing may not release or disclose information obtained under Subsection (a), <u>except on court order or with the consent of the person who is the subject of the criminal history record information,</u> and shall destroy all criminal history record information obtained under Subsection (a) after the information is used for its authorized purpose.</p>	Same as Senate.
No equivalent provision.	<p>SECTION 10.10. Amends Section 411.1182(c), Government Code. (c) Criminal history information obtained from the department may not be released or disclosed except: <u>(1) as needed in protecting the security of a commercial nuclear power plant;</u> <u>(2) [or] as authorized by the United States Nuclear Regulatory Commission, a court order, or a federal or state law or order; or</u> <u>(3) with the consent of the person who is the subject of the criminal history record information.</u></p>	Same as Senate.
No equivalent provision.	<p>SECTION 10.11. Amends Section 411.120(b), Government Code. (b) Criminal history record information obtained by a county judge under Subsection (a) may not be released or disclosed to any person except in a hearing held under Chapter 25 or 69, Alcoholic Beverage Code, <u>or with the consent of the person who is the subject of the criminal history record information.</u></p>	Same as Senate.
No equivalent provision.	<p>SECTION 10.12. Amends Section 411.1236(b), Government Code. (b) Criminal history record information obtained by the Texas Commission on Fire Protection under Subsection (a) may not be released to any person or agency except on court order <u>or with the consent of the person who is the subject of the criminal history record information, or if [unless] the information is entered into evidence by the board in an administrative, civil, or criminal hearing under Chapter 419.</u></p>	Same as Senate.
No equivalent provision.	SECTION 10.13. Amends Section 411.136(e), Government Code.	Same as Senate.

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(e) All criminal history record information received by a public or nonprofit hospital or hospital district under this section is privileged, confidential, and intended for the exclusive use of the entity that obtained the information. The hospital or district may not release or disclose criminal history record information to any person or agency except in a criminal proceeding, in a hearing conducted by the hospital or district, to another governmental entity as required by law, [ø] as required by court order, or with the consent of the person who is the subject of the criminal history record information.

No equivalent provision.

SECTION 10.14. Amends Section 411.139(b), Government Code.

Same as Senate.

(b) Criminal history record information obtained by the securities commissioner under this section may not be released by any person or agency except on court order or with the consent of the person who is the subject of the criminal history record information, unless the information is entered into evidence by the State Securities Board or a court at an administrative proceeding or a civil or criminal action under The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes).

No equivalent provision.

SECTION 10.15. Amends Section 411.140(b), Government Code.

Same as Senate.

(b) Information received by the State Commission on Judicial Conduct is confidential and may be disseminated only in an investigation or proceeding conducted by the commission or with the consent of the person who is the subject of the criminal history record information.

No equivalent provision.

SECTION 10.16. Amends Section 411.1402(c), Government Code.

Same as Senate.

(c) The Employees Retirement System of Texas may not release or disclose information obtained under Subsection (a) except on court order or with the consent of the person who is the subject of the criminal history record information.

No equivalent provision.

SECTION 10.17. Amends Section 411.1406(d), Government Code, as added by Chapter 406 (S.B. 885), Acts of the 80th Legislature, Regular Session, 2007.

Same as Senate.

(d) The court may not release or disclose information obtained under Subsection (b) except on order of a district court or with the consent of the person who is the subject of the criminal history record information.

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No equivalent provision.	SECTION 10.18. Provides that this article prevails over another Act of the 81st Legislature, Regular Session, 2009, relating to nonsubstantive additions and corrections in enacted codes, to the extent of any conflict.	Same as Senate.
No equivalent provision.	SECTION 10.19. Provides that this article takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house or September 1, 2009 if the Act does not receive the vote necessary for immediate effect.	Same as Senate.
No equivalent provision.	ARTICLE 11. ADMINISTRATION OF CERTAIN PROVISIONS AFFECTING THE LICENSING OF PERSONS TO CARRY A CONCEALED HANDGUN	Same as Senate.
SECTION 6.07. Amends Section 411.171(4), Government Code. (4) "Convicted" means an adjudication of guilt or, except as provided in Section 411.1711, an order of deferred adjudication entered against a person by a court of competent jurisdiction whether or not the imposition of the sentence is subsequently probated and the person is discharged from community supervision. The term does not include an adjudication of guilt or an order of deferred adjudication that has been subsequently: (A) expunged; [or] (B) pardoned under the authority of a state or federal official; or (C) <u>otherwise vacated, set aside, annulled, invalidated, voided, or sealed under any state or federal law.</u>	SECTION ___. Same as House version.	Same as House.
SECTION 6.08. Amends Section 521.005, Transportation Code. Sec. 521.005. RULEMAKING AUTHORITY. (a) The department may adopt rules necessary to administer this chapter. <u>(b) The department may not adopt or implement a new rule or directive that is consistent with the REAL ID Act of 2005 (49 U.S.C. Section 30301 et seq.), unless otherwise authorized by this chapter.</u>	No equivalent provision.	Same as Senate.
SECTION 6.09. Amends Subchapter C, Chapter 522, Transportation Code by	No equivalent provision.	Same as Senate.

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adding Section 522.034.

Requires DPS to establish a health management and wellness program to counsel commercial driver license applicants on the increased risks caused by high blood pressure, high cholesterol, and diabetes while driving a commercial motor vehicle.

No equivalent provision.

SECTION 11.01. Amends Section 411.1711, Government Code.

Sec. 411.1711. CERTAIN EXEMPTIONS FROM CONVICTIONS. A person is not convicted, as that term is defined by Section 411.171, if an order of deferred adjudication was entered against the person on a date not less than 10 years preceding the date of the person's application for a license under this subchapter unless the order of deferred adjudication was entered against the person for:

(1) a felony [an] offense under;

(A) Title 5, Penal Code;

(B) [5-07] Chapter 29, Penal Code;

(C) Section 25.07, Penal Code; or

(D) Section 30.02, Penal Code, if the offense is punishable under Subsection (c)(2) or (d) of that section; or

(2) an offense under the laws of another state if the offense contains elements that are substantially similar to the elements of an offense listed in Subdivision (1).

Same as Senate.

No equivalent provision.

SECTION 11.03. Amends Sections 411.174(a) and (b), Government Code.

Changes concealed handgun license application requirements from two recent color passport photographs to one or more photographs of the applicant that meet the requirements of the department, and deletes exception for applicants younger than 21 from having to submit photos. Rewords handgun proficiency documentation requirements and 5-year drug/alcohol history application requirements.

Same as Senate.

SECTION 6.10. Amends Subchapter S, Chapter 521, Transportation Code by adding Section 521.4565.

Provides that a person commits an offense if the person establishes, maintains, or participates in or conspires to establish, maintain, or participate in a

SECTION 13.06. Same as House version.

Same as House.

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combination or criminal street gang, or participates in the profits of a combination or criminal street gang, with the intent to manufacture or produce a forged or counterfeit instrument for the purpose of selling, distributing, or delivering such instrument. Provides that an offense under this section is a state jail felony, except that an offense committed by a public servant is a felony of the third degree.

SECTION 6.11. Amend Section 708.151, Transportation Code.
Requires DPS to notify persons assessed surcharges under the Driver Responsibility Program (DRP) that they may be qualify as indigent under the Program. Requires DPS to waive 75 or 80 percent of surcharges assessed under DRP for persons who are indigent. Requires persons to provide to DPS evidence of indigency.

SECTION 6.12. Amends Section 708.152(a), Transportation Code.
Extends the time for persons to pay the amount of a surcharge on the person's license or to enter into an installment payment agreement with the department, from 30 to 60 days after second notice under Section 708.151. Provides that a person's license may not be suspended under this section before the 105th day after the surcharge was assessed by the department.

SECTION 6.13. Amends Section 708.153(b), Transportation Code.
Specifies how long a person must be given to pay certain surcharge amounts.

SECTION 6.14. Amends Section 708.157(c), Transportation Code.
Requires DPS to establish an indigency program for holders of a driver's license on which a surcharge has been assessed for certain offenses.

SECTION 6.15. Amends Subchapter D, Chapter 708, Transportation Code by adding Section 708.158.
Requires, authorizes, DPS to establish an indigency program for driver license holders who have been assessed a surcharge in the Driver Responsibility Program, including a 75 to 80 percent reduction in surcharges assessed to indigent persons. Defines indigency and requires persons to provide DPS evidence of indigency.

SECTION 15.01. Same as House version except deletes requirement to display a conspicuous notice regarding the ability of a person to qualify as indigent, the required procedures to establish indigent status, and the requirement for DPS to send a new notification to that person which accurately reflects the reduced surcharges owed.

SECTION 15.02. Same as House version.

SECTION 15.03. Same as House version.

SECTION __. Same as House version.

SECTION 15.04. Same as House version, except requires DPS to waive surcharges assessed to indigent persons. Requires persons to provide courts with evidence of indigency.

Same as Senate.

Same as House.

Same as House.

Same as House.

Same as Senate.

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SECTION 6.16. Amends Article 2.131, Code of Criminal Procedure. Prohibits a civilian employee of the Department of Public Safety assigned to a driver's license facility from engaging in racial profiling in issuing an original, renewal, or duplicate driver's license, commercial driver's license, or personal identification certificate.	No equivalent provision.	Same as Senate.
SECTION 6.17. Amends Article 2.132, Code of Criminal Procedure. Provides that, to the extent that they can be made applicable, the provisions of Subsections (b)(1), (2), (3), (4), and (5) also apply to civilian employees of the Department of Public Safety who are assigned to the driver's license facilities of the department.	No equivalent provision.	Same as Senate.
SECTION 6.18. Amends Section 22.0834, Education Code by adding Subsection (k). Clarifies the duty of subcontractors acting under contracting entities in schools to perform criminal background checks on their employees.	SECTION ___. Amends Section 22.0834, Education Code, is amended by adding Subsections (k), (l), (m), (n), (o), and (p). Similar to House version, except adds subcontractor duties to accomplish criminal background checks on their employees.	Same as Senate.
SECTION 6.19. Establishes a pilot program for use of mobile fingerprint scanners to perform field fingerprint. Requires DPS to report to the Governor, Lt. Governor, Speaker, and Sunset Commission on the appropriateness and value of the fingerprint scanners.	No equivalent provision.	Same as Senate.
SECTION 6.20. Provides, subject to the availability of funds, a one-time pay raise in the amount of \$3,000 per year to DPS employees who process applications and issue driver's licenses, and who complete all training requirements, have a minimum of six months consecutive employment in the same position; and have a satisfactory job review by the employee's immediate supervisor.	No equivalent provision.	Same as Senate.
ARTICLE 7. CERTAIN AGENCY ACCESS TO DATABASES	No equivalent provision.	Same as Senate.

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<p>SECTION 7.01 Amends Subchapter C, Chapter 481, Health and Safety Code. Requires DPS, when technologically feasible, to permit the Texas State Board of Pharmacy and the Texas Medical Board to have independent direct access to any information on applicants or licensees relating to controlled substance prescriptions, including information submitted by electronic transfer of prescriptions for controlled substances.</p>	No equivalent provision.	Same as Senate.
<p>ARTICLE 8. GRANTS FOR HOMELAND SECURITY AND BORDER SECURITY PURPOSES</p>	No equivalent provision.	Same as Senate.
<p>SECTION 8.01. Amends Subchapter A, Chapter 411, Government Code by adding Section 411.0133. Provides that DPS is the only state government entity that may select the recipient of state or federal funds for homeland security or border security purposes. Requires other state entities with state or federal funds for homeland security or border security purposes to remit the funds to the department or notify DPS and award the grant to the person selected by the department. Requires DPS to adopt a formula for making homeland security and border security grants. The formula must consider the needs of entities applying for grants and give emphasis to the quality of information collected by applicants; the number of suspects in a criminal enterprise apprehended by the applicants; and the amount of illegal substances, contraband currency, and ammunition and number of firearms and stolen vehicles seized. Requires DPS to submit a report to the governor, lieutenant governor, speaker of the house of representatives, and members of the legislature regarding the department's activities under this section.</p>	No equivalent provision.	Same as Senate.
<p>SECTION 8.02. Amends Sections 421.0025(b) and (c), Government Code. Provides that the Border Security Council shall develop and recommend to DPS, instead of the office of the governor, performance standards, reporting requirements, and audit methods to ensure that funds allocated for security on Texas' international border are used properly and that the recipients of the funds are accountable for the proper use of the funds. is the only state government entity that may select the recipient of state or federal funds for homeland security or border security purposes.</p>	No equivalent provision.	Same as Senate.

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SECTION 8.03. Amends the heading to Subchapter D, Chapter 421, Government Code. SUBCHAPTER D. COOPERATION AND ASSISTANCE[FUNDING]	No equivalent provision.	Same as Senate.
SECTION 8.04. Repeals Section 421.072, Government Code, related to the governor's allocation of homeland security funds.	No equivalent provision.	Same as Senate.
SECTION 8.05. Provides effect date of Article as September 1, 2009.	SECTION 11.26. Same as House version.	Same as House.
ARTICLE 9. SAFE SCHOOLS UNIT Establishes a safe schools unit pilot program.	No equivalent provision.	Same as Senate.
SECTION 9.01. Amends Subchapter A, Chapter 411, Government Code by adding Section 411.0203. Requires DPS to develop a safe schools unit pilot program to provide school districts with information on juvenile delinquency, substance abuse, and other law enforcement issues that affect school districts.	No equivalent provision.	Same as Senate.
SECTION 9.02. Requires adoption of rules to implement the safe schools unit pilot program as soon as practicable after the effective date of the Act.	No equivalent provision.	Same as Senate.
ARTICLE 9A. DISCLOSURE OF CRIMINAL HISTORY RECORD INFORMATION REGARDING PUBLIC SCHOOL EMPLOYEES	ARTICLE __. Same as House version.	Same as House.
SECTION 9A.01. Amends Section 411.084, Government Code by amending Subsection (a) and adding Subsections (a-1) and (c). Prohibits release of criminal history record information regarding public	SECTION __. Same as House version.	Same as House.

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education employees obtained by school districts, charter schools, or other entities.		
SECTION 9A.02. Amends Sections 411.090(b) and (c), Government Code. Prohibits release of criminal history record information regarding public education employees obtained by school districts, charter schools, or other entities.	SECTION __. Same as House version.	Same as House.
SECTION 9A.03. Amends Section 411.0901, Government Code. Prohibits release of criminal history record information regarding public education employees obtained by school districts, charter schools, or other entities.	SECTION __. Same as House version.	Same as House.
SECTION 9A.04. Amends Section 411.097, Government Code by amending Subsection (d) and adding Subsection (f). Prohibits release of criminal history record information regarding public education employees obtained by school districts, charter schools, or other entities.	SECTION __. Same as House version.	Same as House.
SECTION 9A.05. Amends Subchapter C, Chapter 22, Education Code by adding Section 22.08391. Prohibits release of criminal history record information regarding public education employees obtained by school districts, charter schools, or other entities.	SECTION __. Same as House version.	Same as House.
SECTION 9A.06. Provides that changes made by this article applies to information collected, assembled, or maintained before, on, or after the effective date of this article.	SECTION __. Same as House version.	Same as House.
ARTICLE 10. CRIMINAL HISTORY RECORD INFORMATION CONCERNING CERTAIN INTOXICATION OFFENSES	No equivalent provision.	Same as Senate.

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SECTION 10.01. Amends Section 411.135(a), Government Code. Provides that criminal history information on persons convicted of at least two intoxication offenses is public.	No equivalent provision.	Same as Senate.
SECTION 10.02. Amends Subchapter F, Chapter 411, Government Code by adding Sections 411.1355 and 411.1356. Requires DPS to develop a free public website that include criminal history information on persons convicted of at least two intoxication offenses. The website must include a recent photo of the person, and criminal history involving intoxication offense convictions must be provided to peace officers during a motor vehicle stop.	No equivalent provision.	Same as Senate.
SECTION 10.03. Establishes that DPS must make available to requesting persons criminal history information on persons convicted of at least two intoxication offenses not later than May 1, 2010.	No equivalent provision.	Same as Senate.
ARTICLE 11. APPLICATION FOR LICENSE TO CARRY A CONCEALED HANDGUN	No equivalent provision.	Same as House.
SECTION 11.01. Repeals Section 411.175, Government Code.	SECTION 11.21. Same as House version, except also repeals Section 411.189, Government Code	Same as Senate.
SECTION 11.02. Amends Section 411.172(a), Government Code. (a) A person is eligible for a license to carry a concealed handgun if the person: (1) is a legal resident of this state for the six-month period preceding the date of application under this subchapter or is otherwise eligible for a license under Section 411.173(a); (2) is at least 21 years of age; (3) has not been convicted of a felony; (4) is not charged with the commission of a Class A or Class B misdemeanor or an offense under Section 42.01, Penal Code, or of a felony under an information or indictment; (5) is not a fugitive from justice for a felony or a Class A or Class B misdemeanor; (6) is not a chemically dependent person; (7) is not incapable of exercising sound judgment with respect to the proper use	SECTION 11.02. Section 411.172, Government Code, is amended by amending Subsections (a), (b), (d), and (e) and adding Subsection (b-1) to read as follows: (a) A person is eligible for a license to carry a concealed handgun if the person: (1) is a legal resident of this state for the six-month period preceding the date of application under this subchapter or is otherwise eligible for a license under Section 411.173(a); (2) is at least 21 years of age; (3) has not been convicted of a felony; (4) is not charged with the commission of a Class A or Class B misdemeanor <u>or equivalent offense</u> , or <u>of</u> an offense under Section 42.01, Penal Code, <u>or equivalent offense</u> , or of a felony under an information or indictment; (5) is not a fugitive from justice for a felony or a Class A or Class B	Same as Senate.

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and storage of a handgun;
(8) has not, in the five years preceding the date of application, been convicted of a Class A or Class B misdemeanor or an offense under Section 42.01, Penal Code;
(9) is fully qualified under applicable federal and state law to purchase a handgun;
(10) has not been finally determined to be delinquent in making a child support payment administered or collected by the attorney general;
(11) ~~has not been finally determined to be delinquent in the payment of a tax or other money collected by the comptroller, the tax collector of a political subdivision of the state, or any agency or subdivision of the state;~~
~~[(12) has not been finally determined to be in default on a loan made under Chapter 57, Education Code;~~
~~[(13)]~~ is not currently restricted under a court protective order or subject to a restraining order affecting the spousal relationship, other than a restraining order solely affecting property interests;
(12) [(14)] has not, in the 10 years preceding the date of application, been adjudicated as having engaged in delinquent conduct violating a penal law of the grade of felony; and
(13) [(15)] has not made any material misrepresentation, or failed to disclose any material fact, in an application submitted pursuant to Section 411.174 ~~[or in a request for application submitted pursuant to Section 411.175].~~

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misdemeanor or equivalent offense;
(6) is not a chemically dependent person;
(7) is not incapable of exercising sound judgment with respect to the proper use and storage of a handgun;
(8) has not, in the five years preceding the date of application, been convicted of a Class A or Class B misdemeanor or equivalent offense or of an offense under Section 42.01, Penal Code, or equivalent offense;
(9) is fully qualified under applicable federal and state law to purchase a handgun;
(10) has not been finally determined to be delinquent in making a child support payment administered or collected by the attorney general;
(11) has not been finally determined to be delinquent in the payment of a tax or other money collected by the comptroller, the tax collector of a political subdivision of the state, or any agency or subdivision of the state;
~~[(12) has not been finally determined to be in default on a loan made under Chapter 57, Education Code;]~~
(12) [(13)] is not currently restricted under a court protective order or subject to a restraining order affecting the spousal relationship, other than a restraining order solely affecting property interests;
(13) [(14)] has not, in the 10 years preceding the date of application, been adjudicated as having engaged in delinquent conduct violating a penal law of the grade of felony; and
(14) [(15)] has not made any material misrepresentation, or failed to disclose any material fact, in an application submitted pursuant to Section 411.174 ~~[or in a request for application submitted pursuant to Section 411.175].~~
(b) For the purposes of this section, an offense under the laws of this state, another state, or the United States is:
(1) except as provided by Subsection (b-1), a felony if the offense, at the time the offense if committed ~~[of a person's application for a license to carry a concealed handgun]~~:
(A) is designated by a law of this state as a felony;
(B) contains all of the elements of an offense designated by a law of this state as a felony; or
(C) is punishable by confinement for one year or more in a penitentiary; and
(2) a Class A misdemeanor if the offense is not a felony and confinement in a jail other than a state jail felony facility is affixed as a possible punishment.
(b-1) An offense is not considered a felony for purposes of Subsection (b) if,

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at the time of a person's application for a license to carry a concealed handgun, the offense:

(1) is not designated by a law of this state as a felony; and

(2) does not contain all the elements of any offense designated by a law of this state as a felony.

(d) For purposes of Subsection (a)(7), a person is incapable of exercising sound judgment with respect to the proper use and storage of a handgun if the person:

(1) has been diagnosed by a licensed physician as suffering from a psychiatric disorder or condition that causes or is likely to cause substantial impairment in judgment, mood, perception, impulse control, or intellectual ability;

(2) suffers from a psychiatric disorder or condition described by Subdivision (1) that:

(A) is in remission but is reasonably likely to redevelop at a future time; or

(B) requires continuous medical treatment to avoid redevelopment;

(3) has been diagnosed by a licensed physician, determined by a review board or similar authority, or declared by a court to be incompetent to manage the person's own affairs; or

(4) has entered in a criminal proceeding a plea of not guilty by reason of insanity.

(e) The following constitutes evidence that a person has a psychiatric disorder or condition described by Subsection (d)(1):

(1) involuntary psychiatric hospitalization [~~in the preceding five-year period~~];

(2) psychiatric hospitalization [~~in the preceding two-year period~~];

(3) inpatient or residential substance abuse treatment in the preceding five-year period;

(4) diagnosis in the preceding five-year period by a licensed physician that the person is dependent on alcohol, a controlled substance, or a similar substance; or

(5) diagnosis at any time by a licensed physician that the person suffers or has suffered from a psychiatric disorder or condition consisting of or relating to:

(A) schizophrenia or delusional disorder;

(B) bipolar disorder;

(C) chronic dementia, whether caused by illness, brain defect, or brain injury;

(D) dissociative identity disorder;

(E) intermittent explosive disorder; or

(F) antisocial personality disorder.

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SECTION 11.03. Amends Section 411.176, Government Code.

Sec. 411.176. REVIEW OF APPLICATION MATERIALS. (a) On receipt of ~~the~~ application materials by the department at its Austin headquarters, the department shall conduct the appropriate criminal history record check of the applicant through its computerized criminal history system. Not later than the 30th day after the date the department receives the application materials, the department shall forward the materials to the director's designee in the geographical area of the applicant's residence so that the designee may conduct the investigation described by Subsection (b). For purposes of this section, the director's designee may be a noncommissioned employee of the department.

(b) The director's designee as needed shall conduct an additional criminal history record check of the applicant and an investigation of the applicant's local official records to verify the accuracy of the application materials. The director's designee may access any records necessary for purposes of this subsection. The scope of the record check and the investigation are at the sole discretion of the department, except that the director's designee shall complete the record check and investigation not later than the 60th day after the date the department receives the application materials. The department shall send a fingerprint card to the Federal Bureau of Investigation for a national criminal history check of the applicant. On completion of the investigation, the director's designee shall return all materials and the result of the investigation to the appropriate division of the department at its Austin headquarters.

(c) The director's designee may submit to the appropriate division of the department, at the department's Austin headquarters, along with the application materials a written recommendation for disapproval of the application, accompanied by an affidavit stating personal knowledge or naming persons with personal knowledge of a ground for denial under Section 411.172. The director's designee ~~[in the appropriate geographical area]~~ may also submit the application and the recommendation that the license be issued.

(d) On receipt at the department's Austin headquarters of the application materials and the result of the investigation by the director's designee, the department shall conduct any further record check or investigation the department determines is necessary if a question exists with respect to the accuracy of the application materials or the eligibility of the applicant, except that the department shall complete the record check and investigation not later

SECTION 11.04. Same as House version.

Same as House.

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than the 180th day after the date the department receives the application materials from the applicant.

SECTION 11.04. Amends Section 411.177(b), Government Code.

(b) The department shall, not later than the 60th day after the date of the receipt by the director's designee of the completed application materials:

(1) issue the license;

(2) notify the applicant in writing that the application was denied:

(A) on the grounds that the applicant failed to qualify under the criteria listed in Section 411.172;

(B) based on the affidavit of the director's designee submitted to the department under Section 411.176(c) [~~411.176(b)~~]; or

(C) based on the affidavit of the qualified handgun instructor submitted to the department under Section 411.189(c); or

(3) notify the applicant in writing that the department is unable to make a determination regarding the issuance or denial of a license to the applicant within the 60-day period prescribed by this subsection and include in that notification an explanation of the reason for the inability and an estimation of the amount of time the department will need to make the determination.

SECTION 11.05. Sections 411.177(a) and (b), Government Code, are amended to read as follows:

(a) The department shall issue a license to carry a concealed handgun to an applicant if the applicant meets all the eligibility requirements and submits all the application materials. The department may issue a license to carry handguns only of the categories for which the applicant has demonstrated proficiency in the form and manner required by the department [~~indicated on the applicant's certificate of proficiency issued under Section 411.189~~]. The department shall administer the licensing procedures in good faith so that any applicant who meets all the eligibility requirements and submits all the application materials shall receive a license. The department may not deny an application on the basis of a capricious or arbitrary decision by the department.

(b) The department shall, not later than the 60th day after the date of the receipt by the director's designee of the completed application materials:

(1) issue the license;

(2) notify the applicant in writing that the application was denied:

(A) on the grounds that the applicant failed to qualify under the criteria listed in Section 411.172;

(B) based on the affidavit of the director's designee submitted to the department under Section 411.176(c) [~~411.176(b)~~]; or

(C) based on the affidavit of the qualified handgun instructor submitted to the department under Section 411.188(k) [~~411.189(e)~~]; or

(3) notify the applicant in writing that the department is unable to make a determination regarding the issuance or denial of a license to the applicant within the 60-day period prescribed by this subsection and include in that notification an explanation of the reason for the inability and an estimation of the amount of time the department will need to make the determination.

Same as House.

SECTION 11.05. Provides for the transition for changes in law made by this article in repealing Section 411.175, Government Code.

No equivalent provision.

Same as House.

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No equivalent provision.

SECTION ___. Amends Section 411.179(c), Government Code, as added by Chapter 1222 (H.B. 2300), Acts of the 80th Legislature, Regular Session, 2007.

Same as Senate.

(c) In adopting the form of the license under Subsection (a), the department shall establish a procedure for the license of a qualified handgun instructor or of a judge, justice, prosecuting attorney, or assistant prosecuting attorney, as described by Section 46.15(a)(4) or (6), Penal Code, to indicate on the license the license holder's status as a qualified handgun instructor or as a judge, justice, district attorney, criminal district attorney, or county attorney. In establishing the procedure, the department shall require sufficient documentary evidence to establish the license holder's status under this subsection.

No equivalent provision.

SECTION ___. Sections 411.181(a) and (b), Government Code, as amended by Chapters 594 (H.B. 41) and 1222 (H.B. 2300), Acts of the 80th Legislature, Regular Session, 2007, are reenacted and amended to read as follows:

Same as Senate.

(a) If a person who is a current license holder moves from any residence [the] address stated on the license [to a new residence address], if the name of the person is changed by marriage or otherwise, or if the person's status [~~as a judge, justice, district attorney, prosecuting attorney, or assistant prosecuting attorney, as a federal judge, a state judge, or the spouse of a federal judge or state judge,~~] becomes inapplicable for purposes of the information required to be displayed on the license under Section 411.179 [411.179(e)], the person shall, not later than the 30th day after the date of the address, name, or status change, notify the department and provide the department with the number of the person's license and, as applicable, the person's:

- (1) former and new addresses; ~~[or]~~
- (2) former and new names; or
- (3) former and new status.

(b) If the name of the license holder is changed by marriage or otherwise, or if the person's status [~~as a federal judge or state judge, or the spouse of a federal judge or state judge]~~ becomes inapplicable as described by Subsection (a), the person shall apply for a duplicate license. The duplicate license must reflect ~~[include]~~ the person's current name, residence address, and status.

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No equivalent provision.

SECTION 11.06. Amends Section 411.184(a), Government Code.
(a) To modify a license to allow a license holder to carry a handgun of a different category than the license indicates, the license holder must:
(1) complete a proficiency examination as provided by Section 411.188(e);
~~[(2) obtain a handgun proficiency certificate under Section 411.189 not more than six months before the date of application for a modified license;]~~ and
(2) ~~[(3)]~~ submit to the department:
(A) an application for a modified license on a form provided by the department;
(B) evidence of [a copy of the] handgun proficiency, in the form and manner required by the department [certificate];
(C) payment of a modified license fee of \$25; and
(D) one or more [two recent color passport] photographs of the license holder that meet the requirements of the department [; except that an applicant who is younger than 21 years of age must submit two recent color passport photographs in profile of the applicant].

Same as Senate.

No equivalent provision.

SECTION 11.07. Amends Section 411.185(a), Government Code.
(a) To renew a license, a license holder must:
(1) complete a continuing education course in handgun proficiency under Section 411.188(c) within the six-month period preceding:
(A) the date of application for renewal, for a first or second renewal; and
(B) the date of application for renewal or the date of application for the preceding renewal, for a third or subsequent renewal, to ensure that the license holder is not required to complete the course more than once in any 10-year period;
~~[(2) obtain a handgun proficiency certificate under Section 411.189 within the six-month period preceding:
[(A) the date of application for renewal, for a first or second renewal; and
[(B) the date of application for renewal or the date of application for the preceding renewal, for a third or subsequent renewal, to ensure that the license holder is not required to obtain the certificate more than once in any 10-year period;]] and~~
(2) ~~[(3)]~~ submit to the department:
(A) an application for renewal on a form provided by the department;
(B) evidence of [a copy of the] handgun proficiency, in the form and manner required by the department [certificate];

Same as Senate.

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No equivalent provision.

(C) payment of a nonrefundable renewal fee as set by the department; and
(D) one or more [two recent color passport] photographs of the applicant that meet the requirements of the department.

SECTION 11.08. Amends Section 411.186(a), Government Code.

Same as Senate.

(a) The department shall revoke a [A] license [may be revoked] 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 [gave false information on the application];
- (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;
- (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.

No equivalent provision.

SECTION 11.10. Amends Section 411.188, Government Code, is amended by amending Subsections (a), (g), (h), and (i) and adding Subsection (k) to read as follows:

Same as Senate.

(a) The director by rule shall establish minimum standards for handgun proficiency and shall develop a course to teach handgun proficiency and examinations to measure handgun proficiency. The course to teach handgun proficiency must contain training sessions divided into two parts. One part of the course must be classroom instruction and the other part must be range instruction and an actual demonstration by the applicant of the applicant's ability to safely and proficiently use the applicable category of handgun ~~for~~

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~~which the applicant seeks certification].~~ An applicant must be able to demonstrate ~~[may not be certified unless the applicant demonstrates],~~ at a minimum, the degree of proficiency that is required to effectively operate a handgun of .32 caliber or above. The department shall distribute the standards, course requirements, and examinations on request to any qualified handgun instructor.

(g) A person who wishes to obtain or renew a license to carry a concealed handgun must apply in person to a qualified handgun instructor to take the appropriate course in handgun proficiency and ~~[;]~~ demonstrate handgun proficiency as required by the department~~[, and obtain a handgun proficiency certificate as described by Section 411.189].~~

(h) A license holder who wishes to modify a license to allow the license holder to carry a handgun of a different category than the license indicates must apply in person to a qualified handgun instructor to demonstrate the required knowledge and proficiency ~~[to obtain a handgun proficiency certificate]~~ in that category ~~[as described by Section 411.189].~~

(i) A certified firearms instructor of the department may monitor any class or training presented by a qualified handgun instructor. A qualified handgun instructor shall cooperate with the department in the department's efforts to monitor the presentation of training by the qualified handgun instructor. A qualified handgun instructor shall make available for inspection to the department any and all records maintained by a qualified handgun instructor under this subchapter. The qualified handgun instructor shall keep a record of all ~~[certificates of handgun proficiency issued by the qualified handgun instructor and other]~~ information required by department rule.

(k) A qualified handgun instructor may submit to the department a written recommendation for disapproval of the application for a license, renewal, or modification of a license, accompanied by an affidavit stating personal knowledge or naming persons with personal knowledge of facts that lead the instructor to believe that an applicant does not possess the required handgun proficiency. The department may use a written recommendation submitted under this subsection as the basis for denial of a license only if the department determines that the recommendation is made in good faith and is supported by a preponderance of the evidence. The department shall make a determination under this subsection not later than the 45th day after the date the department receives the written recommendation. The 60-day period in which the department must take action under Section 411.177(b) is extended one day for

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No equivalent provision.

each day a determination is pending under this subsection.

Same as Senate.

SECTION __. Amends Section 411.1882, Government Code.
Sec. 411.1882. EVIDENCE OF [EXEMPTION FROM] HANDGUN PROFICIENCY [CERTIFICATE REQUIREMENT] FOR CERTAIN PERSONS. (a) A person who is serving in this state as a judge or justice of a federal court, an active judicial officer, as defined by Section 411.201, or as a district attorney, assistant district attorney, criminal district attorney, assistant criminal district attorney, county attorney, or assistant county attorney may establish handgun proficiency for the purposes of this subchapter by obtaining from a handgun proficiency instructor approved by the Commission on Law Enforcement Officer Standards and Education for purposes of Section 1702.1675, Occupations Code, a sworn statement that:
(1) indicates that the person, during the 12-month period preceding the date of the person's application to the department, demonstrated to the instructor proficiency in the use of handguns; and
(2) designates the categories of handguns with respect to which the person demonstrated proficiency [Notwithstanding any other provision of this subchapter, a person may not be required to submit to the department a handgun proficiency certificate to obtain or renew a concealed handgun license issued under this subchapter if:
[(1) the person is currently serving in this state as:
[(A) a judge or justice of a federal court;
[(B) an active judicial officer, as defined by Section 411.201, Government Code; or
[(C) a district attorney, assistant district attorney, criminal district attorney, assistant criminal district attorney, county attorney, or assistant county attorney; and
(2) a handgun proficiency instructor approved by the Commission on Law Enforcement Officer Standards and Education for purposes of Section 1702.1675, Occupations Code, makes a sworn statement indicating that the person demonstrated proficiency to the instructor in the use of handguns during the 12-month period preceding the date of the person's application to the department and designating the types of handguns with which the person demonstrated proficiency].
(b) The director by rule shall adopt a procedure by which a person described [who is exempt] under Subsection (a) [from the handgun proficiency

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~~certificate requirement~~] may submit a form demonstrating the person's qualification for an exemption under that subsection. The form must provide sufficient information to allow the department to verify whether the person qualifies for the exemption.

(c) A license issued under this section automatically expires on the six-month anniversary of the date the person's status under Subsection (a) becomes inapplicable. A license that expires under this subsection may be renewed under Section 411.185.

No equivalent provision.

SECTION 11.11. Sections 411.199(a) and (e), Government Code, are amended to read as follows:

Same as Senate.

(a) A person who is licensed as a peace officer under Chapter 1701, Occupations Code, [415] and who has been employed full-time as a peace officer by a law enforcement agency may apply for a license under this subchapter at any time after retirement.

(e) A retired peace officer who obtains a license under this subchapter must maintain, for the category of weapon licensed, the proficiency required for a peace officer under Section 1701.355, Occupations Code [415.035]. The department or a local law enforcement agency shall allow a retired peace officer of the department or agency an opportunity to annually demonstrate the required proficiency. The proficiency shall be reported to the department on application and renewal.

No equivalent provision.

SECTION 11.12. Amends Section 411.1991(a), Government Code.

Same as Senate.

(a) A person who is licensed as a peace officer under Chapter 1701, Occupations Code, [415] and is employed full-time as a peace officer by a law enforcement agency may apply for a license under this subchapter. The person shall submit to the department two complete sets of legible and classifiable fingerprints and a sworn statement of the head of the law enforcement agency employing the applicant. A head of a law enforcement agency may not refuse to issue a statement under this subsection. If the applicant alleges that the statement is untrue, the department shall investigate the validity of the statement. The statement must include:

- (1) the name and rank of the applicant;
- (2) whether the applicant has been accused of misconduct at any time during the applicant's period of employment with the agency and the disposition of

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that accusation;

- (3) a description of the physical and mental condition of the applicant;
- (4) a list of the types of weapons the applicant has demonstrated proficiency with during the preceding year; and
- (5) a recommendation from the agency head that a license be issued to the person under this subchapter.

No equivalent provision.

SECTION 11.13. Sections 411.201(c) and (d), Government Code, are amended to read as follows:

Same as Senate.

(c) An active judicial officer is eligible for a license to carry a concealed handgun under the authority of this subchapter. A retired judicial officer is eligible for a license to carry a concealed handgun under the authority of this subchapter if the officer:

- (1) has not been convicted of a felony;
- (2) has not, in the five years preceding the date of application, been convicted of a Class A or Class B misdemeanor or equivalent offense;
- (3) is not charged with the commission of a Class A or Class B misdemeanor or equivalent offense or of a felony under an information or indictment;
- (4) is not a chemically dependent person; and
- (5) is not a person of unsound mind.

(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 [~~two recent color passport~~] 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 [a] handgun proficiency, in the form and manner required by the department for an applicant under this section [~~certificate issued to the applicant as evidence that the applicant successfully completed the proficiency requirements of this subchapter~~];
- (5) [(4)] 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 concealed handgun under this subchapter; and

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~~(6) [(5)]~~ if the applicant is a retired judicial officer,[:
~~[(A) two complete sets of legible and classifiable fingerprints of the applicant taken by a person employed by a law enforcement agency who is appropriately trained in recording fingerprints; and~~
~~[(B)]~~ 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.

No equivalent provision.

SECTION 11.14. Section 411.208, Government Code, is amended by adding Subsection (e) to read as follows:
(e) The immunities granted under Subsection (a) to a qualified handgun instructor do not apply to a cause of action for fraud or a deceptive trade practice.

Same as Senate.

No equivalent provision.

SECTION 11.15. Amends Article 17.292(l), Code of Criminal Procedure.
(l) In the order for emergency protection, the magistrate shall ~~may~~ suspend a license to carry a concealed handgun issued under Subchapter H, Chapter 411 ~~[Section 411.177]~~, Government Code, that is held by the defendant.

Same as Senate.

No equivalent provision.

SECTION 11.18. Amends Section 85.022(d), Family Code.
(d) In a protective order, the court shall ~~may~~ suspend a license to carry a concealed handgun issued under Subchapter H, Chapter 411 ~~[Section 411.177]~~, Government Code, that is held by a person found to have committed family violence.

Same as Senate.

No equivalent provision.

SECTION __. Amends Section 662.005(b), Government Code.
(b) Except as provided by Section 662.010, and notwithstanding Section 659.015 or another law, a state employee who is a peace officer commissioned by a state officer or state agency listed under Article 2.12, Code of Criminal Procedure, or who is employed by the Department of Public Safety either to perform communications or dispatch services related to traffic law enforcement or as a public security officer, as that term is defined by Section 1701.001, Occupations Code, and who is required to work on a national or state holiday that falls on a Saturday or Sunday is entitled to compensatory time off at the rate of one hour for each hour worked on the holiday.

Same as Senate.

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No equivalent provision.	SECTION 11.19. Amends Section 12.095(e), Health and Safety Code. (e) The panel may require the applicant or license holder to undergo a medical or other examination at the applicant's or holder's expense. A person who conducts an examination under this subsection may be compelled to testify before the panel and in any subsequent proceedings under <u>Subchapter H, Chapter 411, Government Code, or Subchapter N, Chapter 521, Transportation Code, as applicable</u> , concerning the person's observations and findings.	Same as Senate.
No equivalent provision.	SECTION 11.20. Amends Section 12.097(b), Health and Safety Code. (b) In a subsequent proceeding under <u>Subchapter H, Chapter 411, Government Code, or Subchapter N, Chapter 521, Transportation Code</u> , the medical standards division may provide a copy of the report of the medical advisory board or panel and a medical record or report relating to an applicant or license holder to: (1) the Department of Public Safety of the State of Texas; (2) the applicant or license holder; and (3) the officer who presides at the hearing.	Same as Senate.
No equivalent provision.	SECTION __. Section 46.04, Penal Code, is amended by adding Subsections (f) and (g) to read as follows: <u>(f) For the purposes of this section, an offense under the laws of this state, another state, or the United States is, except as provided by Subsection (g), a felony if, at the time it is committed, the offense:</u> <u>(1) is designated by a law of this state as a felony;</u> <u>(2) contains all the elements of an offense designated by a law of this state as a felony; or</u> <u>(3) is punishable by confinement for one year or more in a penitentiary.</u> <u>(g) An offense is not considered a felony for purposes of Subsection (f) if, at the time the person possesses a firearm, the offense:</u> <u>(1) is not designated by a law of this state as a felony; and</u> <u>(2) does not contain all the elements of any offense designated by a law of this state as a felony.</u>	Same as Senate.
No equivalent provision.	SECTION __. The change in law made by this Act in amending Section 46.04, Penal Code, applies only to an offense committed on or after the	Same as Senate.

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SECTION 11.06. This article takes effect September 1, 2009.

ARTICLE 12. DISPLAY OF LICENSE TO
CARRY A CONCEALED HANDGUN

SECTION 12.01. Sections 411.187(a) and (c), Government Code, are amended to read as follows:

- (a) A license may be suspended under this section if the license holder:
- (1) is charged with the commission of a Class A or Class B misdemeanor or an offense under Section 42.01, Penal Code, or of a felony under an information or indictment;
 - (2) ~~fails to display a license as required by Section 411.205;~~
 - ~~[(3)]~~ fails to notify the department of a change of address or name as required by Section 411.181;
 - ~~(3)~~ ~~[(4)]~~ carries a concealed handgun under the authority of this subchapter of a different category than the license holder is licensed to carry;
 - ~~(4)~~ ~~[(5)]~~ fails to return a previously issued license after a license is modified as required by Section 411.184(d);
 - ~~(5)~~ ~~[(6)]~~ commits an act of family violence and is the subject of an active protective order rendered under Title 4, Family Code; or
 - ~~(6)~~ ~~[(7)]~~ is arrested for an offense involving family violence or an offense under Section 42.072, Penal Code, and is the subject of an order for emergency protection issued under Article 17.292, Code of Criminal Procedure.
- (c) A license may be suspended under this section:
- (1) for 30 days, if the person's license is subject to suspension for a reason listed in Subsection ~~(a)(2), (3)~~ ~~[(a)(3)]~~, or (4), ~~[or (5)]~~; except as provided by Subdivision ~~(2)~~ ~~[(3)]~~;
 - ~~(2) [for 90 days, if the person's license is subject to suspension for a reason listed in Subsection (a)(2), except as provided by Subdivision (3)];~~

effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 12.15. Same as House version.

No equivalent provision.

SECTION 11.09. Sections 411.187(a) and (c), Government Code, are amended to read as follows:

- (a) The department shall suspend a [A] license ~~[may be suspended]~~ under this section if the license holder:
- (1) 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;
 - (2) fails to display a license as required by Section 411.205;
 - (3) fails to notify the department of a change of address, ~~[or] name, or status~~ as required by Section 411.181;
 - (4) carries a concealed handgun under the authority of this subchapter of a different category than the license holder is licensed to carry;
 - (5) fails to return a previously issued license after a license is modified as required by Section 411.184(d);
 - (6) commits an act of family violence and is the subject of an active protective order rendered under Title 4, Family Code; or
 - (7) is arrested for an offense involving family violence or an offense under Section 42.072, Penal Code, and is the subject of an order for emergency protection issued under Article 17.292, Code of Criminal Procedure.
- (c) The department shall suspend a [A] license ~~[may be suspended]~~ under this section:
- (1) for 30 days, if the person's license is subject to suspension for a reason listed in Subsection (a)(3), (4), or (5), except as provided by Subdivision (3);
 - (2) for 90 days, if the person's license is subject to suspension for a reason

Same as House.

Same as House.

Same as House.

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~~[(3)]~~ for not less than one year and not more than three years if the person's license is subject to suspension for a reason listed in Subsection (a), other than the reason listed in Subsection (a)(1), and the person's license has been previously suspended for the same reason;

~~(3)~~ ~~[(4)]~~ until dismissal of the charges if the person's license is subject to suspension for the reason listed in Subsection (a)(1); or

~~(4)~~ ~~[(5)]~~ for the duration of or the period specified by:

(A) the protective order issued under Title 4, Family Code, if the person's license is subject to suspension for the reason listed in Subsection ~~(a)(5)~~ ~~[(a)(6)]~~;

or
(B) the order for emergency protection issued under Article 17.292, Code of Criminal Procedure, if the person's license is subject to suspension for the reason listed in Subsection ~~(a)(6)~~ ~~[(a)(7)]~~.

SECTION 12.02. Amends Section 411.205, Government Code.

Sec. 411.205. REQUIREMENT TO DISPLAY ~~[DISPLAYING]~~ LICENSE~~;~~ ~~PENALTY~~. ~~[(a)]~~ If a license holder is carrying a handgun on or about the license holder's person when a magistrate or a peace officer demands that the license holder display identification, the license holder shall display both the license holder's driver's license or identification certificate issued by the department and the license holder's handgun license. ~~[A person who fails or refuses to display the license and identification as required by this subsection is subject to suspension of the person's license as provided by Section 411.187.~~

~~[(b) A person commits an offense if the person fails or refuses to display the license and identification as required by Subsection (a) after previously having had the person's license suspended for a violation of that subsection. An offense under this subsection is a Class B misdemeanor.]~~

SECTION 12.03. An offense under Section 411.205, Government Code, may not be prosecuted after the effective date of this article. If, on the effective date of this article, a criminal action is pending for an offense under Section 411.205, the action is dismissed on that date. However, a final conviction for an offense under Section 411.205 that exists on the effective date of this article is unaffected by this article.

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listed in Subsection (a)(2), except as provided by Subdivision (3);

(3) for not less than one year and not more than three years, if the person's license:

~~(A)~~ is subject to suspension for a reason listed in Subsection (a), other than the reason listed in Subsection (a)(1); ~~[(5)]~~ and

~~(B)~~ ~~[the person's license]~~ has been previously suspended for the same reason;

(4) until dismissal of the charges, if the person's license is subject to suspension for the reason listed in Subsection (a)(1); or

(5) for the duration of or the period specified by:

(A) the protective order issued under Title 4, Family Code, if the person's license is subject to suspension for the reason listed in Subsection (a)(6); or

(B) the order for emergency protection issued under Article 17.292, Code of Criminal Procedure, if the person's license is subject to suspension for the reason listed in Subsection (a)(7).

SECTION __. Amends Section 411.205(a), Government Code.

(a) If a license holder is carrying a handgun on or about the license holder's person when a magistrate or a peace officer demands that the license holder display identification, the license holder shall display both the license holder's driver's license or identification certificate issued by the department and the license holder's handgun license. A person who fails or refuses to display the person's [license and] identification and handgun license as required by this subsection is subject to suspension of the person's license as provided by Section 411.187 or, if the license is expired, a refusal to renew the person's license for the applicable period of suspension provided by that section.

No equivalent provision.

CONFERENCE

Same as House.

Same as House.

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SECTION 12.04. This article takes effect September 1, 2009.	SECTION 14.05. Same as House version.	Same as House.
ARTICLE 13. DRIVER'S LICENSE ISSUED TO CERTAIN FEDERAL AND STATE JUDGES AND SPOUSES	No equivalent provision.	Same as House.
SECTION 13.01. Section 521.001, Transportation Code, is amended by adding Subdivisions (3-a) and (8-a) to read as follows: <u>(3-a) "Federal judge" means:</u> <u>(A) a judge of a United States court of appeals;</u> <u>(B) a judge of a United States district court;</u> <u>(C) a judge of a United States bankruptcy court; or</u> <u>(D) a magistrate judge of a United States district court.</u> <u>(8-a) "State judge" means:</u> <u>(A) the judge of an appellate court, a district court, or a county court at law of this state; or</u> <u>(B) an associate judge appointed under Chapter 201, Family Code.</u>	SECTION __. Same as House version.	Same as House.
SECTION 13.02. Sections 521.054(a) and (b), Transportation Code, are amended to read as follows: (a) This section applies to a person who: (1) after applying for <u>or being issued a [the] license or certificate moves to a new residence [from the] address [stated in the person's application for a license or certificate];</u> (2) <u>has used the procedure under Section 521.121(d) and whose status as a federal judge, a state judge, or the spouse of a federal or state judge becomes inapplicable [moves from the address shown on the license or certificate held by the person]; or</u> (3) changes the person's name by marriage or otherwise. (b) A person subject to this section shall notify the department of the change not later than the 30th day after the date on which the change takes effect and apply for a duplicate license or certificate as provided by Section 521.146. <u>The duplicate license must include the person's current residence address.</u>	SECTION __. Sections 521.054(a) and (b), Transportation Code, are amended to read as follows: (a) This section applies to a person who: (1) after applying for <u>or being issued a [the] license or certificate moves to a new residence [from the] address [stated in the person's application for a license or certificate];</u> (2) <u>has used the procedure under Section 521.121(c) and whose status as a federal judge, a state judge, or the spouse of a federal or state judge becomes inapplicable [moves from the address shown on the license or certificate held by the person]; or</u> (3) changes the person's name by marriage or otherwise. (b) A person subject to this section shall notify the department of the change not later than the 30th day after the date on which the change takes effect and apply for a duplicate license or certificate as provided by Section 521.146. <u>The duplicate license must include the person's current residence address.</u>	Same as House.
SECTION 13.03. Section 521.121, Transportation Code, is amended by	SECTION __. Section 521.121, Transportation Code, is amended by	Same as House.

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amending Subsection (a) and adding Subsection (d) to read as follows:

- (a) The driver's license must include:
- (1) a distinguishing number assigned by the department to the license holder;
 - (2) a color photograph of the entire face of the holder;
 - (3) the full name and[,] date of birth[~~, and residence address~~] of the holder; ~~[and]~~
 - (4) a brief description of the holder; and
 - (5) the license holder's residence address or, for a license holder using the procedure under Subsection (d), the street address of the courthouse in which the license holder or license holder's spouse serves as a federal judge or state judge.
- (d) The department shall establish a procedure for a federal judge, a state judge, or the spouse of a federal or state judge to omit the license holder's residence address on the license and to include, in lieu of that address, the street address of the courthouse in which the license holder or license holder's spouse serves as a federal judge or state judge. In establishing the procedure, the department shall require sufficient documentary evidence to establish the license holder's status as a federal judge, state judge, or the spouse of a federal or state judge.

SECTION 13.04. Amends Section 521.142(c), Transportation Code.

- (c) The application must state:
- (1) the sex of the applicant;
 - (2) the residence address of the applicant, or if the applicant is a federal judge, a state judge, or the spouse of a federal or state judge using the procedure developed under Section 521.121(d), the street address of the courthouse in which the applicant or the applicant's spouse serves as a federal judge or a state judge;
 - (3) whether the applicant has been licensed to drive a motor vehicle before;
 - (4) if previously licensed, when and by what state or country;
 - (5) whether that license has been suspended or revoked or a license application denied;
 - (6) the date and reason for the suspension, revocation, or denial;
 - (7) whether the applicant is a citizen of the United States; and
 - (8) the county of residence of the applicant.

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amending Subsection (a) and adding Subsection (c) to read as follows:

- (a) The driver's license must include:
- (1) a distinguishing number assigned by the department to the license holder;
 - (2) a color photograph of the entire face of the holder;
 - (3) the full name and[,] date of birth[~~, and residence address~~] of the holder; ~~[and]~~
 - (4) a brief description of the holder; and
 - (5) the license holder's residence address or, for a license holder using the procedure under Subsection (c), the street address of the courthouse in which the license holder or license holder's spouse serves as a federal judge or state judge.
- (c) The department shall establish a procedure for a federal judge, a state judge, or the spouse of a federal or state judge to omit the license holder's residence address on the license and to include, in lieu of that address, the street address of the courthouse in which the license holder or license holder's spouse serves as a federal judge or state judge. In establishing the procedure, the department shall require sufficient documentary evidence to establish the license holder's status as a federal judge, state judge, or the spouse of a federal or state judge.

SECTION __. Amends Section 521.142(c), Transportation Code.

- (c) The application must state:
- (1) the sex of the applicant;
 - (2) the residence address of the applicant, or if the applicant is a federal judge, a state judge, or the spouse of a federal or state judge using the procedure developed under Section 521.121(c), the street address of the courthouse in which the applicant or the applicant's spouse serves as a federal judge or a state judge;
 - (3) whether the applicant has been licensed to drive a motor vehicle before;
 - (4) if previously licensed, when and by what state or country;
 - (5) whether that license has been suspended or revoked or a license application denied;
 - (6) the date and reason for the suspension, revocation, or denial;
 - (7) whether the applicant is a citizen of the United States; and
 - (8) the county of residence of the applicant.

CONFERENCE

Same as House.

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ARTICLE 14. OPERATION OF MOTOR VEHICLES	No equivalent provision.	Same as Senate.
<p>SECTION 14.01. Amends Section 545.413(e), Transportation Code.</p> <p>(e) It is a defense to prosecution under this section that:</p> <p>(1) the person possesses a written statement from a licensed physician stating that for a medical reason the person should not wear a safety belt;</p> <p>(2) the person presents to the court, not later than the 10th day after the date of the offense, a statement from a licensed physician stating that for a medical reason the person should not wear a safety belt;</p> <p>(3) the person is employed by the United States Postal Service and performing a duty for that agency that requires the operator to service postal boxes from a vehicle or that requires frequent entry into and exit from a vehicle;</p> <p>(4) the person is engaged in the actual delivery of newspapers from a vehicle or is performing newspaper delivery duties that require frequent entry into and exit from a vehicle;</p> <p>(5) the person is employed by a public or private utility company and is engaged in the reading of meters or performing a similar duty for that company requiring the operator to frequently enter into and exit from a vehicle; [øf]</p> <p>(6) <u>the [The] person is operating a commercial vehicle registered as a farm vehicle under the provisions of Section 502.163 that does not have a gross weight, registered weight, or gross weight rating of 48,000 pounds or more; or</u></p> <p><u>(7) the person is the operator of or a passenger in a vehicle used exclusively to transport solid waste and performing duties that require frequent entry into and exit from the vehicle.</u></p>	No equivalent provision.	Same as Senate.
<p>SECTION 14.02. The change in law made by this article to Section 545.413(e), Transportation Code, as amended by this article, applies only to an offense under Section 545.413(a) of that code, regardless of whether the offense was committed before, on, or after the effective date of this Act.</p>	No equivalent provision.	Same as Senate.
No equivalent provision.	<p>SECTION 11.22. The changes in law made by Sections 411.171, 411.1711, 411.172, and 411.201(c), Government Code, as amended by this article, apply only to the eligibility of a person for the issuance, modification, or renewal of a license, the application for which is made on or after the effective date of</p>	Same as Senate.

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No equivalent provision.	this article. A holder of a license that was issued, modified, or renewed before the effective date of this article is not disqualified from holding that license solely by reason of this article.	
No equivalent provision.	SECTION 11.23. The changes in law made by Sections 411.174, 411.176, 411.177, 411.1882, 411.184, 411.185, 411.188, and 411.201(d), Government Code, as amended by this article, and by the repeal of Sections 411.175, and 411.189, Government Code, apply only to an application for the issuance, modification, or renewal of a license that is submitted to the Department of Public Safety on or after the effective date of this article. An application submitted before the effective date of this article is governed by the law in effect when the application was submitted, and the former law is continued in effect for that purpose.	Same as Senate.
No equivalent provision.	SECTION 11.24. The changes in law made by this article to Sections 411.186 and 411.187, Government Code, Article 17.292, Code of Criminal Procedure, and Section 85.022, Family Code, apply only to an administrative or judicial determination concerning the revocation or suspension of a license to carry a concealed handgun that is made on or after the effective date of this article. An administrative or judicial determination made before the effective date of this article is covered by the law in effect when the determination was made, and the former law is continued in effect for that purpose.	Same as Senate.
No equivalent provision.	SECTION 11.25. The change in law made by Section 411.208, Government Code, as amended by this article, applies only to a cause of action that accrues on or after the effective date of this article. A cause of action that accrued before the effective date of this article is governed by the law in effect immediately before the effective date of this article, and the former law is continued in effect for that purpose.	Same as Senate.
No equivalent provision.	ARTICLE 12. DRIVER EDUCATION AND DRIVER'S LICENSING REQUIREMENTS FOR MINORS	Same as Senate.
No equivalent provision.	SECTION 12.01. This article shall be known as the Less Tears More Years Act.	Same as Senate.

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No equivalent provision.

SECTION 12.02. Section 29.902, Education Code, is amended by adding Subsection (c) to read as follows:
(c) A school district shall consider offering a driver education and traffic safety course during each school year. If the district offers the course, the district may:
(1) conduct the course and charge a fee for the course in the amount determined by the agency to be comparable to the fee charged by a driver education school that holds a license under Chapter 1001; or
(2) contract with a driver education school that holds a license under Chapter 1001 to conduct the course.

Same as Senate.

No equivalent provision.

SECTION 12.03. Amends Section 1001.101, Education Code.
Sec. 1001.101. DRIVER EDUCATION COURSE CURRICULUM AND TEXTBOOKS. (a) The commissioner by rule shall establish or approve the curriculum and designate the textbooks to be used in a driver education course, including a driver education course conducted by a school district, driver education school, or parent or other individual under Section 521.205, Transportation Code.
(b) A driver education course must require the student to complete:
(1) 7 hours of behind-the-wheel instruction in the presence of a person who holds a driver education instructor license or who meets the requirements imposed under Section 521.205, Transportation Code;
(2) 7 hours of observation instruction in the presence of a person who holds a driver education instructor license or who meets the requirements imposed under Section 521.205, Transportation Code; and
(3) 20 hours of behind-the-wheel instruction, including at least 10 hours of instruction that takes place at night, in the presence of an adult who meets the requirements of Section 521.222(d)(2), Transportation Code.

Same as Senate.

No equivalent provision.

SECTION 12.04. Subchapter F, Chapter 1001, Education Code, is amended by adding Section 1001.257 to read as follows:
Sec. 1001.257. DENIAL OF LICENSE. The commissioner may not issue or renew a driver education instructor license, including a temporary license, to a person who has six or more points assigned to the person's driver's license under Subchapter B, Chapter 708, Transportation Code.

Same as Senate.

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No equivalent provision.	<p>SECTION 12.05. Section 521.165, Transportation Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:</p> <p>(c) <u>Except as provided by Subsection (d), in [It]</u> issuing a driver's license for certain types of vehicles, the director may waive a driving test for an applicant who has successfully completed and passed the training and testing conducted by a person certified under Subsection (a).</p> <p><u>(d) The director may not waive the driving test required by Section 521.161 for an applicant who is under 18 years of age.</u></p>	Same as Senate.
No equivalent provision.	<p>SECTION 12.06. Amends Section 521.204(a), Transportation Code.</p> <p>(a) The department may issue a Class C driver's license to an applicant under 18 years of age only if the applicant:</p> <p>(1) is 16 years of age or older;</p> <p>(2) has submitted to the department a driver education certificate issued under Section 9A, Texas Driver and Traffic Safety Education Act (Article 4413(29c), Vernon's Texas Civil Statutes), that states that the person has completed and passed a driver education course approved by the department under Section 521.205 or by the Texas Education Agency;</p> <p>(3) has obtained a high school diploma or its equivalent or is a student:</p> <p>(A) enrolled in a public school, home school, or private school who attended school for at least 80 days in the fall or spring semester preceding the date of the driver's license application; or</p> <p>(B) who has been enrolled for at least 45 days, and is enrolled as of the date of the application, in a program to prepare persons to pass the high school equivalency exam; and</p> <p><u>(4) has submitted to the department written parental or guardian permission for the department to access the applicant's school enrollment records maintained by the Texas Education Agency; and</u></p> <p><u>(5) has passed the examination required by Section 521.161.</u></p>	Same as Senate.
No equivalent provision.	<p>SECTION 12.07. Amends Section 521.205(a), Transportation Code.</p> <p>(a) The department by rule shall provide for approval of a driver education course conducted by the parent, stepparent, <u>foster parent</u>, legal guardian, step-grandparent, or grandparent of a person who is required to complete a driver education course to obtain a Class C license. The rules must provide that:</p> <p>(1) the person conducting the course possess a valid license for the preceding</p>	Same as Senate.

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three years that ~~and the license~~ has not been suspended, revoked, or forfeited in the past three years for an offense that involves the operation of a motor vehicle ~~[traffic-related-violations]~~;

(2) the student driver spend a minimum number of hours in:

(A) classroom instruction; and

(B) behind-the-wheel instruction;

(3) the person conducting the course not be convicted of:

(A) criminally negligent homicide; or

(B) driving while intoxicated; ~~and~~

(4) the person conducting the course not be disabled because of mental illness; ~~and~~

(5) the person conducting the course not have six or more points assigned to the person's driver's license under Subchapter B, Chapter 708, at the time the person begins conducting the course.

No equivalent provision.

SECTION 12.08. Subchapter J, Chapter 521, Transportation Code, is amended by adding Section 521.206 to read as follows:

Sec. 521.206. COLLISION RATE STATISTICS PUBLICATION. (a) The department shall collect data regarding collisions of students taught by public schools, driver education schools licensed under Chapter 1001, Education Code, and other entities that offer driver education courses to students for which a uniform certificate of course completion is issued. The collision rate is computed by determining the number of an entity's students who complete a driver education course during a state fiscal year, dividing that number by the number of collisions that involved students who completed such a course and that occurred in the 12-month period following their licensure, and expressing the quotient as a percentage.

(b) The department shall collect data regarding the collision rate of students taught by course instructors approved under Section 521.205. The collision rate is computed by determining the number of students who completed a course approved under Section 521.205 during a state fiscal year, dividing that number by the number of collisions that involved students who completed such a course and that occurred in the 12-month period following their licensure, and expressing the quotient as a percentage.

(c) Not later than October 1 of each year, the department shall issue a publication listing the collision rate for students taught by each driver education entity and the collision rate for students taught by a course

Same as Senate.

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	<u>instructor approved under Section 521.205, noting the severity of collisions involving students of each entity and each type of course.</u>	
No equivalent provision.	SECTION 12.09. Amends Section 521.271, Transportation Code by amending Subsection (a) and adding Subsection (a-1). Specifies that a provisional license and instruction permit expire on the 18th birthday of the license holder. Requires DPS and TEA to enter into an MOU under which DPS may access TEA electronic enrollment records to verify a student's enrollment in a public school.	Same as Senate.
No equivalent provision.	SECTION 12.10. Amends Section 521.421(c), Transportation Code. Increases provision license or instruction permit fee from \$5 to \$15.	Same as Senate.
No equivalent provision.	SECTION 12.11. Amends Section 545.424, Transportation Code by amending Subsections (a), (b), and (c) and adding Subsection (f). Specifies certain conditions under which a youth under 18 may not operate a motor vehicle during the 12-month period following issuance of an original driver license.	Same as Senate.
No equivalent provision.	SECTION 12.12. Specifies that data collected under Section 521.206 applies to driver education entities and courses approved during fiscal year 2010.	Same as Senate.
No equivalent provision.	SECTION 12.13. Requires DPS to appoint a task force regarding the effectiveness of TEA-provided driver education course material.	Same as Senate.
No equivalent provision.	SECTION 12.14. Specifies that Section 29.902(c), Education Code, applies beginning with the 2010-2011 school year, requires the commissioner of education to adopt required rules by January 1, 2010, and specifies other instructional provisions.	Same as Senate.

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No equivalent provision.	ARTICLE 13. REGULATION OF DRIVER'S LICENSES AND PERSONAL IDENTIFICATION CERTIFICATES BY DEPARTMENT	Same as Senate.
No equivalent provision.	SECTION 13.01. Amends Section 521.029, Transportation Code. Increases the maximum number of days that a new Texas resident is allowed to operate a vehicle without a Texas driver license.	Same as Senate.
No equivalent provision.	SECTION 13.02. Amends Subchapter C, Chapter 521, Transportation Code, by adding Section 521.060. Requires DPS to establish a system to verify that driver license and ID certificate applicants actually live at the address they provide to DPS.	Same as Senate.
No equivalent provision.	SECTION 13.03. Amends Section 521.101, Transportation Code, by adding Subsection (j). Prohibits DPS from issuing a personal ID certificate to a person who has not established a domicile in this state.	Same as Senate.
No equivalent provision.	SECTION 13.04. Amends Subchapter G, Chapter 521, Transportation Code, by adding Sections 521.1426 and 521.1427. Prohibits DPS from issuing a driver license or personal ID certificate to a person who has not established a domicile in this state. Requires DPS to adopt rules for determining whether a domicile has been established. Specifies that a person may not receive a driver license or personal ID certificate at a post office box unless the applicant has provided DPS with the physical address where the applicant resides, with some exceptions.	Same as Senate.
No equivalent provision.	SECTION 13.05. Subchapter C, Chapter 522, Transportation Code, is amended by adding Sections 522.0225 and 522.0226 to read as follows: <u>Sec. 522.0225. VERIFICATION OF DOMICILE. (a) The department shall adopt rules for determining whether a domicile has been established under Section 522.022, including rules prescribing the types of documentation the department may require from the applicant to determine the validity of the claimed domicile.</u> <u>(b) The department may contract with a third-party personal data verification service to assist the department in verifying a claim of domicile, including whether the physical address provided by the applicant is the applicant's actual</u>	Same as Senate.

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residence.

Sec. 522.0226. POST OFFICE BOX NOT VALID AS ADDRESS. (a) In this section, "post office box address" means a United States Postal Service post office box address or a private mailbox address.

(b) Unless an exception exists under state or federal law, an applicant may receive delivery of a commercial driver's license at a post office box address only if the applicant has provided the department the physical address where the applicant resides.

(c) The department may require the applicant to provide documentation that the department determines necessary to verify the validity of the physical address provided under Subsection (b).

(d) The department may contract with a third-party personal data verification service to assist the department in verifying whether the physical address provided by the applicant is the applicant's actual residence.

No equivalent provision.

SECTION 13.07. The Department of Public Safety of the State of Texas shall adopt rules required by the amendments of this article to Chapters 521 and 522, Transportation Code, as soon as practicable after the effective date of this article.

Same as Senate.

No equivalent provision.

SECTION 13.08. This article takes effect immediately if this Act 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 article takes effect September 1, 2009.

Same as Senate.

No equivalent provision.

ARTICLE 14. USE OF AN OFFENDER IDENTIFICATION CARD OR SIMILAR FORM OF IDENTIFICATION AS PROOF OF IDENTITY FOR AN APPLICANT FOR A DRIVER'S LICENSE OR COMMERCIAL DRIVER'S LICENSE

Same as Senate.

No equivalent provision.

SECTION 14.01. Amends Subsection (a), Section 521.142, Transportation Code.
Adds provision for supplemental verifiable records or documents that aid in establishing identity as part of the inmate identification verification pilot program.

Same as Senate.

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No equivalent provision.	SECTION 14.02. Amends Subchapter G, Chapter 521, Transportation Code by adding Section 521.1421. Requires DPS to participate in an inmate identification verification pilot program to issue driver licenses and ID cards to TDCJ inmates.	Same as Senate.
No equivalent provision.	SECTION 14.03. Amends Subsection (c-1), Section 522.021, Transportation Code. Adds provision for supplemental verifiable records or documents that aid in establishing identity as part of the inmate identification verification pilot program.	Same as Senate.
No equivalent provision.	SECTION 14.04. Provides for the transition to the inmate identification verification pilot program.	Same as Senate.
ARTICLE 15. MOTOR VEHICLE SAFETY RESPONSIBILITY	SECTION __. Same as House version.	Same as House.
SECTION 15.01. Section 601.053, Transportation Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows: (b) <u>Except as provided by Subsection (c), an [Aa] operator who does not exhibit evidence of financial responsibility under Subsection (a) is presumed to have operated the vehicle in violation of Section 601.051.</u> (c) <u>Subsection (b) does not apply if the peace officer determines through use of the verification program established under Subchapter N that financial responsibility has been established for the vehicle.</u>	SECTION __. Same as House version.	Same as House.
SECTION 15.02. Subchapter N, Chapter 601, Transportation Code, as added by Chapter 1325 (H.B. 3588), Acts of the 78th Legislature, Regular Session, 2003, is repealed.	SECTION __. Same as House version.	Same as House.
No equivalent provision.	SECTION 15.05. Subchapter B, Chapter 708, Transportation Code, is amended by adding Section 708.056 to read as follows: <u>Sec. 708.056. DEDUCTION OF POINTS. The department by rule shall establish a procedure to provide for the deduction of one point accumulated by a person under this subchapter to account for each year that the person has not</u>	Same as Senate.

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	<u>accumulated points under this subchapter.</u>	
No equivalent provision.	SECTION 15.06. The changes in law made by this article apply only to a surcharge that is assessed under Chapter 708, Transportation Code, on or after the effective date of this article. A surcharge that was assessed under that chapter before the effective date of this article is subject to the law in effect on the date the surcharge was assessed, and that law is continued in effect for that purpose.	Same as Senate.
No equivalent provision.	SECTION 15.07. This article takes effect September 1, 2011.	Same as Senate.
No equivalent provision.	ARTICLE 16. SUSPENSION OF A DRIVER'S LICENSE BY DEPARTMENT	Same as Senate.
No equivalent provision.	SECTION 16.01. Amends Section 521.341, Transportation Code. Sec. 521.341. REQUIREMENTS FOR AUTOMATIC LICENSE SUSPENSION. Except as provided by Sections 521.344(d)-(i), a license is automatically suspended on final conviction of the license holder of: (1) an offense under Section 19.05, Penal Code, committed as a result of the holder's criminally negligent operation of a motor vehicle; (2) an offense under Section 38.04, Penal Code, if the holder used a motor vehicle in the commission of the offense; (3) an offense under Section 49.04, 49.045, or 49.08, Penal Code; (4) an offense under Section 49.07, Penal Code, if the holder used a motor vehicle in the commission of the offense; (5) an offense punishable as a felony under the motor vehicle laws of this state; (6) an offense under Section 550.021; (7) an offense under Section 521.451 or 521.453; or (8) an offense under Section 19.04, Penal Code, if the holder used a motor vehicle in the commission of the offense.	Same as Senate.
No equivalent provision.	SECTION 16.02. Sections 521.342(a) and (b), Transportation Code, are amended to read as follows:	Same as Senate.

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(a) Except as provided by Section 521.344, the license of a person who was under 21 years of age at the time of the offense, other than an offense classified as a misdemeanor punishable by fine only, is automatically suspended on conviction of:

(1) an offense under Section 49.04, ~~49.045~~, or 49.07, Penal Code, committed as a result of the introduction of alcohol into the body;

(2) an offense under the Alcoholic Beverage Code, other than an offense to which Section 106.071 of that code applies, involving the manufacture, delivery, possession, transportation, or use of an alcoholic beverage;

(3) a misdemeanor offense under Chapter 481, Health and Safety Code, for which Subchapter P does not require the automatic suspension of the license;

(4) an offense under Chapter 483, Health and Safety Code, involving the manufacture, delivery, possession, transportation, or use of a dangerous drug; or

(5) an offense under Chapter 485, Health and Safety Code, involving the manufacture, delivery, possession, transportation, or use of an abusable volatile chemical.

(b) The department shall suspend for one year the license of a person who is under 21 years of age and is convicted of an offense under Section 49.04, ~~49.045~~, 49.07, or 49.08, Penal Code, regardless of whether the person is required to attend an educational program under Section 13(h), Article 42.12, Code of Criminal Procedure, that is designed to rehabilitate persons who have operated motor vehicles while intoxicated, unless the person is placed under community supervision under that article and is required as a condition of the community supervision to not operate a motor vehicle unless the vehicle is equipped with the device described by Section 13(i) of that article. If the person is required to attend such a program and does not complete the program before the end of the person's suspension, the department shall suspend the person's license or continue the suspension, as appropriate, until the department receives proof that the person has successfully completed the program. On the person's successful completion of the program, the person's instructor shall give notice to the department and to the community supervision and corrections department in the manner provided by Section 13(h), Article 42.12, Code of Criminal Procedure.

No equivalent provision.

SECTION 16.03. Sections 521.344(a), (c), and (i), Transportation Code, are amended to read as follows:

Same as Senate.

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(a) Except as provided by Sections 521.342(b) and 521.345, and by Subsections (d)-(i), if a person is convicted of an offense under Section 49.04, 49.045, or 49.07, Penal Code, the license suspension:

(1) begins on a date set by the court that is not earlier than the date of the conviction or later than the 30th day after the date of the conviction, as determined by the court; and

(2) continues for a period set by the court according to the following schedule:

(A) not less than 90 days or more than one year, if the person is punished under Section 49.04, 49.045, or 49.07, Penal Code, except that if the person's license is suspended for a second or subsequent offense under Section 49.07 committed within five years of the date on which the most recent preceding offense was committed, the suspension continues for a period of one year;

(B) not less than 180 days or more than two years, if the person is punished under Section 49.09(a) or (b), Penal Code; or

(C) not less than one year or more than two years, if the person is punished under Section 49.09(a) or (b), Penal Code, and is subject to Section 49.09(h) of that code.

(c) The court shall credit toward the period of suspension a suspension imposed on the person for refusal to give a specimen under Chapter 724 if the refusal followed an arrest for the same offense for which the court is suspending the person's license under this chapter. The court may not extend the credit to a person:

(1) who has been previously convicted of an offense under Section 49.04, 49.045, 49.07, or 49.08, Penal Code; or

(2) whose period of suspension is governed by Section 521.342(b).

(i) On the date that a suspension order under Section 521.343(c) is to expire, the period of suspension or the corresponding period in which the department is prohibited from issuing a license is automatically increased to two years unless the department receives notice of successful completion of the educational program as required by Section 13, Article 42.12, Code of Criminal Procedure. At the time a person is convicted of an offense under Section 49.04 or 49.045, Penal Code, the court shall warn the person of the effect of this subsection. On the person's successful completion of the program, the person's instructor shall give notice to the department and to the community supervision and corrections department in the manner required by Section 13, Article 42.12, Code of Criminal Procedure. If the department

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receives proof of completion after a period has been extended under this subsection, the department shall immediately end the suspension or prohibition.

No equivalent provision.

SECTION 16.04. Sections 13(h) and (n), Article 42.12, Code of Criminal Procedure, are amended to read as follows:

Same as Senate.

(h) If a person convicted of an offense under Sections 49.04-49.08, Penal Code, is placed on community supervision, the judge shall require, as a condition of the community supervision, that the defendant attend and successfully complete before the 181st day after the day community supervision is granted an educational program jointly approved by the Texas Commission on Alcohol and Drug Abuse, the Department of Public Safety, the Traffic Safety Section of the Texas Department of Transportation, and the community justice assistance division of the Texas Department of Criminal Justice designed to rehabilitate persons who have driven while intoxicated. The Texas Commission on Alcohol and Drug Abuse shall publish the jointly approved rules and shall monitor, coordinate, and provide training to persons providing the educational programs. The Texas Commission on Alcohol and Drug Abuse is responsible for the administration of the certification of approved educational programs and may charge a nonrefundable application fee for the initial certification of approval and for renewal of a certificate. The judge may waive the educational program requirement or may grant an extension of time to successfully complete the program that expires not later than one year after the beginning date of the person's community supervision, however, if the defendant by a motion in writing shows good cause. In determining good cause, the judge may consider but is not limited to: the defendant's school and work schedule, the defendant's health, the distance that the defendant must travel to attend an educational program, and the fact that the defendant resides out of state, has no valid driver's license, or does not have access to transportation. The judge shall set out the finding of good cause for waiver in the judgment. If a defendant is required, as a condition of community supervision, to attend an educational program or if the court waives the educational program requirement, the court clerk shall immediately report that fact to the Department of Public Safety, on a form prescribed by the department, for inclusion in the person's driving record. If the court grants an extension of time in which the person may complete the program, the court clerk shall immediately report that fact to the Department of Public Safety on

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a form prescribed by the department. The report must include the beginning date of the person's community supervision. Upon the person's successful completion of the educational program, the person's instructor shall give notice to the Department of Public Safety for inclusion in the person's driving record and to the community supervision and corrections department. The community supervision and corrections department shall then forward the notice to the court clerk for filing. If the Department of Public Safety does not receive notice that a defendant required to complete an educational program has successfully completed the program within the period required by this section, as shown on department records, the department shall revoke the defendant's driver's license, permit, or privilege or prohibit the person from obtaining a license or permit, as provided by Sections 521.344(e) and (f), Transportation Code. The Department of Public Safety may not reinstate a license suspended under this subsection unless the person whose license was suspended makes application to the department for reinstatement of the person's license and pays to the department a reinstatement fee of \$100 [~~\$50~~]. The Department of Public Safety shall remit all fees collected under this subsection to the comptroller for deposit in the general revenue fund. This subsection does not apply to a defendant if a jury recommends community supervision for the defendant and also recommends that the defendant's driver's license not be suspended.

(n) Notwithstanding any other provision of this section or other law, the judge who places on community supervision a defendant who was [~~is~~] younger than 21 years of age at the time of the offense and was convicted for an offense under Sections 49.04-49.08, Penal Code, shall:

- (1) order that the defendant's driver's license be suspended for 90 days beginning on the date that the person is placed on community supervision; and
- (2) require as a condition of community supervision that the defendant not operate a motor vehicle unless the vehicle is equipped with the device described by Subsection (i) of this section.

No equivalent provision.

SECTION 16.05. The changes in law made by this article to Sections 521.341, 521.342, and 521.344, Transportation Code, and Section 13, Article 42.12, Code of Criminal Procedure, apply only to an offense committed on or after the effective date of this article. For purposes of this section, an offense was committed before the effective date of this article if any element of the offense occurred before the effective date of this article.

Same as Senate.

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No equivalent provision.	SECTION 16.06. This article takes effect September 1, 2009.	Same as Senate.
No equivalent provision.	ARTICLE 17. SUBMISSION OF REPORTS ON CERTAIN CONVICTIONS OR ADJUDICATIONS RELATING TO THE OPERATION OF MOTOR VEHICLES TO THE DEPARTMENT	Same as Senate.
No equivalent provision.	SECTION 17.01. Subsections (a) and (b), Section 522.061, Transportation Code, are amended to read as follows: (a) A person who holds or is required to hold a commercial driver's license under this chapter and who is convicted in another state of violating a state law or local ordinance relating to motor vehicle traffic control shall notify the department in the manner specified by the department not later than the <u>seventh</u> [30th] day after the date of conviction. (b) A person who holds or is required to hold a commercial driver's license under this chapter and who is convicted in this state or another state of violating a state law or local ordinance relating to motor vehicle traffic control, including a law regulating the operation of vehicles on highways, shall notify the person's employer in writing of the conviction not later than the <u>seventh</u> [30th] day after the date of conviction.	Same as Senate.
No equivalent provision.	SECTION 17.02. Amends Section 543.203, Transportation Code. Sec. 543.203. SUBMITTING RECORD TO DEPARTMENT. Not later than the <u>seventh</u> [30th] day after the date of conviction or forfeiture of bail of a person on a charge of violating a law regulating the operation of a vehicle on a highway or conviction of a person of negligent homicide or a felony in the commission of which a vehicle was used, the magistrate, judge, or clerk of the court in which the conviction was had or bail was forfeited shall immediately submit to the department a written record of the case containing the information required by Section 543.202.	Same as Senate.
No equivalent provision.	SECTION 17.03. Amends Subsection (a), Section 543.204, Transportation Code. (a) A justice of the peace or municipal judge who defers further proceedings, suspends all or part of the imposition of the fine, and places a defendant on probation under Article 45.051, Code of Criminal Procedure, or a county court	Same as Senate.

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	judge who follows that procedure under Article 42.111, Code of Criminal Procedure, may not submit a written record to the department, except that if the justice or judge subsequently adjudicates the defendant's guilt, the justice or judge shall submit the record not later than the <u>seventh</u> [30th] day after the date on which the justice or judge adjudicates guilt .	
No equivalent provision.	SECTION 17.04. The change in law made by this article applies only to a conviction, forfeiture of bail, or adjudication of guilt that occurs on or after the effective date of this article.	Same as Senate.
No equivalent provision.	SECTION 17.05. This article takes effect September 1, 2009.	Same as Senate.
No equivalent provision.	ARTICLE 18. CIVIL CONSEQUENCES OF CERTAIN CONVICTIONS ON A PERSON WHO HOLDS A COMMERCIAL DRIVER'S LICENSE AND OF CERTAIN ADJUDICATIONS ON THE DRIVER'S LICENSE OR PERMIT OF A CHILD	Same as Senate.
No equivalent provision.	SECTION 18.01. Amends Section 522.081(d), Transportation Code. (d) A person is disqualified from driving a commercial motor vehicle for life: (1) if the person is convicted two or more times of an offense specified by Subsection (b)(2), or a combination of those offenses, arising from two or more separate incidents; (2) if the person uses a motor vehicle in the commission of a felony involving: (A) the manufacture, distribution, or dispensing of a controlled substance; or (B) possession with intent to manufacture, distribute, or dispense a controlled substance; [or] (3) for any combination of two or more of the following, arising from two or more separate incidents: (A) a conviction of the person for an offense described by Subsection (b)(2); (B) a refusal by the person described by Subsection (b)(3); and (C) an analysis of the person's blood, breath, or urine described by Subsection (b)(4); <u>or</u> <u>(4) if the person uses a motor vehicle in the commission of an offense under 8 U.S.C. Section 1324 that involves the transportation, concealment, or</u>	Same as Senate.

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No equivalent provision.	<p data-bbox="1026 321 1266 354"><u>harboring of an alien.</u></p> <p data-bbox="1026 391 1682 423">SECTION 18.02. Amends Section 54.042(a), Family Code.</p> <p data-bbox="1026 423 1817 456">(a) A juvenile court, in a disposition hearing under Section 54.04, shall:</p> <p data-bbox="1026 456 1892 570">(1) order the Department of Public Safety to suspend a child's driver's license or permit, or if the child does not have a license or permit, to deny the issuance of a license or permit to the child if the court finds that the child has engaged in conduct that:</p> <p data-bbox="1026 570 1892 634"><u>(A) violates a law of this state enumerated in Section 521.342(a), Transportation Code; or</u></p> <p data-bbox="1026 634 1892 724"><u>(B) violates a penal law of this state or the United States, an element or elements of which involve a severe form of trafficking in persons, as defined by 22 U.S.C. Section 7102; or</u></p> <p data-bbox="1026 724 1892 812">(2) notify the Department of Public Safety of the adjudication, if the court finds that the child has engaged in conduct that violates a law of this state enumerated in Section 521.372(a), Transportation Code.</p>	Same as Senate.
No equivalent provision.	<p data-bbox="1026 854 1892 1057">SECTION 18.03. (a) The change in law made by this article to Section 522.081, Transportation Code, applies only in connection with a conviction that becomes final on or after the effective date of this article. A conviction that became final before the effective date of this article is covered by Section 522.081, Transportation Code, as that section existed on the date the conviction became final, and the former law is continued in effect for that purpose.</p> <p data-bbox="1026 1057 1892 1211">(b) The change in law made by this article in amending Section 54.042, Family Code, applies only to conduct that occurs on or after the effective date of this article. Conduct that occurred before the effective date of this article is covered by the law in effect at the time the conduct occurred, and the former law is continued in effect for that purpose.</p>	Same as Senate.
No equivalent provision.	SECTION 18.04. This article takes effect September 1, 2009.	Same as Senate.
No equivalent provision.	ARTICLE 19. CIVIL AND CRIMINAL CONSEQUENCES OF OPERATING A MOTOR VEHICLE OR A WATERCRAFT WHILE INTOXICATED OR UNDER THE INFLUENCE OF ALCOHOL	Same as House.

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No equivalent provision.	SECTION 19.01. The heading to Section 106.041, Alcoholic Beverage Code. Sec. 106.041. <u>DRIVING OR OPERATING WATERCRAFT UNDER THE INFLUENCE OF ALCOHOL BY MINOR.</u>	Same as House.
No equivalent provision.	SECTION 19.02. Subsections (a) and (g), Section 106.041, Alcoholic Beverage Code, are amended to read as follows: (a) A minor commits an offense if the minor operates a motor vehicle in a public place, <u>or a watercraft</u> , while having any detectable amount of alcohol in the minor's system. (g) An offense under this section is not a lesser included offense under Section 49.04, <u>49.045, or 49.06</u> , Penal Code.	Same as House.
No equivalent provision.	SECTION 19.03. Subsection (j), Section 106.041, Alcoholic Beverage Code, is amended by adding Subdivision (4) to read as follows: (4) <u>"Watercraft" has the meaning assigned by Section 49.01, Penal Code.</u>	Same as House.
No equivalent provision.	SECTION 19.04. Amends Subdivision (3), Section 524.001, Transportation Code. (3) "Alcohol-related or drug-related enforcement contact" means a driver's license suspension, disqualification, or prohibition order under the laws of this state or another state resulting from: (A) a conviction of an offense prohibiting the operation of a motor vehicle <u>or watercraft</u> while: (i) intoxicated; (ii) under the influence of alcohol; or (iii) under the influence of a controlled substance; (B) a refusal to submit to the taking of a breath or blood specimen following an arrest for an offense prohibiting the operation of a motor vehicle <u>or an offense prohibiting the operation of a watercraft, if the watercraft was powered with an engine having a manufacturer's rating of 50 horsepower or more</u> , while: (i) intoxicated; (ii) under the influence of alcohol; or (iii) under the influence of a controlled substance; or (C) an analysis of a breath or blood specimen showing an alcohol concentration of a level specified by Section 49.01, Penal Code, following an	Same as House.

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No equivalent provision.

arrest for an offense prohibiting the operation of a motor vehicle or watercraft while intoxicated.

SECTION 19.05. Amends Subsection (a), Section 524.011, Transportation Code.

Same as House.

(a) An officer arresting a person shall comply with Subsection (b) if:

(1) the person is arrested for an offense under Section 49.04, 49.045, or 49.06, Penal Code, or an offense under Section 49.07 or 49.08 of that code involving the operation of a motor vehicle or watercraft, submits to the taking of a specimen of breath or blood and an analysis of the specimen shows the person had an alcohol concentration of a level specified by Section 49.01(2)(B), Penal Code; or

(2) the person is a minor arrested for an offense under Section 106.041, Alcoholic Beverage Code, or Section 49.04, 49.045, or 49.06, Penal Code, or an offense under Section 49.07 or 49.08, Penal Code, involving the operation of a motor vehicle or watercraft and:

(A) the minor is not requested to submit to the taking of a specimen; or

(B) the minor submits to the taking of a specimen and an analysis of the specimen shows that the minor had an alcohol concentration of greater than .00 but less than the level specified by Section 49.01(2)(B), Penal Code.

No equivalent provision.

SECTION 19.06. Amends Subsection (b), Section 524.012, Transportation Code.

Same as House.

(b) The department shall suspend the person's driver's license if the department determines that:

(1) the person had an alcohol concentration of a level specified by Section 49.01(2)(B), Penal Code, while operating a motor vehicle in a public place or while operating a watercraft; or

(2) the person was [is] a minor on the date that the breath or blood specimen was obtained and had any detectable amount of alcohol in the minor's system while operating a motor vehicle in a public place or while operating a watercraft.

No equivalent provision.

SECTION 19.07. Amends Subsection (b), Section 524.015, Transportation Code.

Same as House.

(b) A suspension may not be imposed under this chapter on a person who is

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acquitted of a criminal charge under Section 49.04, ~~49.045, 49.06,~~ 49.07, or 49.08, Penal Code, or Section 106.041, Alcoholic Beverage Code, arising from the occurrence that was the basis for the suspension. If a suspension was imposed before the acquittal, the department shall rescind the suspension and shall remove any reference to the suspension from the person's computerized driving record.

No equivalent provision.

SECTION 19.08. Amends Subsection (b), Section 524.022, Transportation Code.

Same as House.

(b) A period of suspension under this chapter for a minor is:

(1) 60 days if the minor has not been previously convicted of an offense under Section 106.041, Alcoholic Beverage Code, or Section 49.04, ~~49.045,~~ ~~49.06,~~ or 49.08, Penal Code, or an offense under Section 49.07 or 49.08, Penal Code, involving the operation of a motor vehicle or a watercraft;

(2) 120 days if the minor has been previously convicted once of an offense listed by Subdivision (1); or

(3) 180 days if the minor has been previously convicted twice or more of an offense listed by Subdivision (1).

No equivalent provision.

SECTION 19.09. Amends Section 524.023, Transportation Code.

Same as House.

Sec. 524.023. APPLICATION OF SUSPENSION UNDER OTHER LAWS.
(a) If a person is convicted of an offense under Section 106.041, Alcoholic Beverage Code, or Section 49.04, ~~49.045, 49.06,~~ 49.07, or 49.08, Penal Code, and if any conduct on which that conviction is based is a ground for a driver's license suspension under this chapter and Section 106.041, Alcoholic Beverage Code, Subchapter O, Chapter 521, or Subchapter H, Chapter 522, each of the suspensions shall be imposed.

(b) The court imposing a driver's license suspension under Section 106.041, Alcoholic Beverage Code, or Chapter 521 or 522 as required by Subsection (a) shall credit a period of suspension imposed under this chapter toward the period of suspension required under Section 106.041, Alcoholic Beverage Code, or Subchapter O, Chapter 521, or Subchapter H, Chapter 522, unless the person was convicted of an offense under Article 67011-1, Revised Statutes, as that law existed before September 1, 1994, Section 19.05(a)(2), Penal Code, as that law existed before September 1, 1994, Section 49.04, ~~49.045, 49.06,~~ 49.07, or 49.08, Penal Code, or Section 106.041, Alcoholic

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No equivalent provision.

Beverage Code, before the date of the conviction on which the suspension is based, in which event credit may not be given.

SECTION 19.10. Subsections (a) and (d), Section 524.035, Transportation Code, are amended to read as follows:

Same as House.

(a) The issues that must be proved at a hearing by a preponderance of the evidence are:

(1) whether:

(A) the person had an alcohol concentration of a level specified by Section 49.01(2)(B), Penal Code, while operating a motor vehicle in a public place or while operating a watercraft; or

(B) the person was [is] a minor on the date that the breath or blood specimen was obtained and had any detectable amount of alcohol in the minor's system while operating a motor vehicle in a public place or while operating a watercraft; and

(2) whether reasonable suspicion to stop or probable cause to arrest the person existed.

(d) An administrative law judge may not find in the affirmative on the issue in Subsection (a)(1) if:

(1) the person is an adult and the analysis of the person's breath or blood determined that the person had an alcohol concentration of a level below that specified by Section 49.01, Penal Code, at the time the specimen was taken; or

(2) the person was [is] a minor on the date that the breath or blood specimen was obtained and the administrative law judge does not find that the minor had any detectable amount of alcohol in the minor's system when the minor was arrested.

No equivalent provision.

SECTION 19.11. Amends Subsection (a), Section 524.042, Transportation Code.

Same as House.

(a) A suspension of a driver's license under this chapter is stayed on the filing of an appeal petition only if:

(1) the person's driver's license has not been suspended as a result of an alcohol-related or drug-related enforcement contact during the five years preceding the date of the person's arrest; and

(2) the person has not been convicted during the 10 years preceding the date of the person's arrest of an offense under:

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	(A) Article 67011-1, Revised Statutes, as that law existed before September 1, 1994; (B) Section 19.05(a)(2), Penal Code, as that law existed before September 1, 1994; (C) Section 49.04, 49.045 , or 49.06, Penal Code; (D) Section 49.07 or 49.08, Penal Code, if the offense involved the operation of a motor vehicle <u>or a watercraft</u> ; or (E) Section 106.041, Alcoholic Beverage Code.	
No equivalent provision.	SECTION 19.12. The changes in law made by this article to Chapter 524, Transportation Code, apply only to an offense committed on or after the effective date of this article. An offense committed before the effective date of this article is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this article if any element of the offense was committed before that date.	Same as House.
No equivalent provision.	SECTION 19.13. This article takes effect September 1, 2009.	Same as House.
No equivalent provision.	ARTICLE 20. ADMINISTRATIVE FINE AND LATE PAYMENT FEE FOR A VIOLATION OF A PARKING RULE APPLICABLE TO THE CAPITOL COMPLEX	Same as Senate.
No equivalent provision.	SECTION 20.01. Subsections (a), (b), and (d), Section 411.067, Government Code, are amended to read as follows: (a) The department <u>may</u> [shall have authority to] adopt rules for the assessment of an administrative fine of <u>\$25</u> [\$10] for violations of the parking rules adopted under Section 411.063. Notwithstanding the provisions of Sections 411.065 and 411.066, the department may [in its discretion] issue an administrative citation for a parking violation. (b) Rules adopted under this section shall: (1) establish a system for enforcement of administrative citations, including [but not limited to] assessment of a late fee not to exceed <u>\$5</u> [\$2] and towing, impoundment, or immobilization of vehicles; and (2) provide [for] a procedure of administrative review within <u>the highway</u>	Same as Senate.

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~~patrol district that includes the Capitol Complex [capitol police district] and, on request of the person assessed an administrative fine, further judicial review by the department filing the appropriate citation or complaint in a court [of competent jurisdiction], as provided in Section 411.066.~~

(d) The department shall remit to the comptroller for deposit in the general revenue fund each [any] administrative fine and late fee collected [received] under this section. The money deposited [Such revenues] may be appropriated only to the department for ~~[capitol police]~~ security and parking in the highway patrol district that includes the Capitol Complex.

No equivalent provision.

SECTION 20.02. This article takes effect September 1, 2009.

Same as Senate.

ARTICLE 16. EFFECTIVE DATE

ARTICLE 21. Same as House version.

Same as House.

SECTION 16.01. Except as otherwise provided by this Act, 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, 2009.

SECTION 21.01. Except as otherwise provided by this Act, this Act takes effect September 1, 2009.

Same as Senate.

No equivalent provision.

SECTION __. This Act does not make an appropriation. This Act takes effect only if a specific appropriation for the implementation of the Act is provided in a general appropriations act of the 81st Legislature.

Same as House.

No equivalent provision.

ARTICLE __. USE OR DISPLAY UNDER CERTAIN CIRCUMSTANCES OF AN EXPIRED LICENSE TO CARRY A CONCEALED HANDGUN

Same as House.

No equivalent provision.

SECTION __. Section 46.15, Penal Code, is amended by adding Subsection (g) to read as follows:
(g) For purposes of Subsection (b)(6), a valid license includes an expired license if, before the expiration date of the license, the license holder submitted a timely and sufficient application for renewal of the license to the

Same as House.

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Department of Public Safety in accordance with Section 411.185, Government Code, and has not received notice that the application for renewal has been finally determined as provided by Government Code Section 2001.054.

No equivalent provision

ARTICLE __. CRIMINAL HISTORY REPORTING

Same as Senate.

No equivalent provision.

SECTION __. Amends Chapter 60, Code of Criminal Procedure by adding Article 60.10.
Requires certain counties to establish a local data advisory board to plan for the adequate collection and transmission of disposition records under rules to be established by the DPS director. Specifies that the article expires September 1, 2013.

Same as Senate.

No equivalent provision.

SECTION __. Article 60.21, Code of Criminal Procedure, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:
Requires DPS to submit additional information in annual reports to the lieutenant governor and others that contains disposition completeness percentages for each county in the state.

Same as Senate.

No equivalent provision.

ARTICLE __. CRIMINAL HISTORY BACKGROUND CHECKS FOR CERTAIN EMPLOYEES OF INSTITUTIONS OF HIGHER EDUCATION

Same as House.

No equivalent provision.

SECTION __. Amends Subchapter B, Chapter 51, Education Code.
SUBCHAPTER B. CRIMINAL HISTORY BACKGROUND CHECKS FOR POTENTIAL AND CURRENT EMPLOYEES [GENERAL PROPERTY DEPOSITS; INVESTMENT AND USES]
Sec. 51.051. DEFINITIONS. In this subchapter:
(1) "National criminal history record information" means criminal history record information obtained from the Department of Public Safety under Subchapter F, Chapter 411, Government Code, and the Federal Bureau of Investigation under Section 411.087, Government Code.
(2) "Governing board" and "institution of higher education" have the meanings assigned by Section 61.003.
Sec. 51.052. APPLICABILITY. This subchapter does not apply to an applicant for employment at or employee of an institution of higher education

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who is or will be a student enrolled in the institution during the person's employment. This section does not prohibit an institution from conducting a criminal history background check of a student applicant for a security-sensitive position at the institution.

Sec. 51.053. ACCESS TO NATIONAL CRIMINAL HISTORY RECORD INFORMATION BY INSTITUTION. (a) An institution of higher education shall subscribe to the criminal history clearinghouse as provided by Section 411.0845, Government Code.

(b) An institution may obtain from a law enforcement or criminal justice agency any criminal history record information, including information contained in a closed criminal investigation file, that relates to a specific applicant for employment with or an employee of the institution.

Sec. 51.054. PREEMPLOYMENT NATIONAL CRIMINAL HISTORY BACKGROUND CHECKS; RESTRICTIONS ON EMPLOYMENT. (a) An institution of higher education shall condition an offer of employment on obtaining acceptable national criminal history record information under Section 51.053.

(b) An institution of higher education shall reject an application for employment if:

(1) the applicant fails to consent to a national criminal history background check or provide fingerprints necessary to obtain national criminal history record information; or

(2) the applicant's national criminal history record information indicates that the applicant has been convicted of:

(A) a felony of the second degree, a felony of the first degree, or a capital felony under the laws of this state or of an equivalent offense under the laws of another jurisdiction; or

(B) an offense for which registration as a sex offender is required under Chapter 62, Code of Criminal Procedure.

(c) If an applicant's national criminal history record information indicates that the applicant has been convicted of an offense, other than an offense listed under Subsection (b)(2), or arrested for any offense, the institution of higher education shall conduct an analysis under Section 51.058 to determine whether to employ the applicant.

(d) After an analysis under Section 51.058, an institution of higher education may employ an applicant whose national criminal history record information indicates that the applicant has been convicted of a felony, other than an

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offense listed under Subsection (b)(2), only if employment of the applicant is:
(1) recommended by the person in charge of the department or division to which the applicant has applied; and

(2) approved by the chief executive officer of the institution or the officer's designee.

Sec. 51.055. POST-EMPLOYMENT NATIONAL CRIMINAL HISTORY BACKGROUND CHECKS; TERMINATION OF EMPLOYMENT FOR FAILURE TO PROVIDE INFORMATION. (a) An institution of higher education shall conduct a national criminal history background check of an employee on promotion or transfer of the employee within the institution if the institution has not previously conducted a national criminal history background check of the employee. An institution may conduct additional criminal history background checks as necessary to maintain the integrity of the institution's faculty and staff.

(b) The institution of higher education shall require that every employee of the institution provide the identification information and fingerprints necessary to conduct a national criminal history background check. The institution may immediately terminate the employment of an employee who fails to provide the information or fingerprints.

Sec. 51.056. FALSIFICATION OF CRIMINAL HISTORY; DISCIPLINARY AND OTHER ACTION. (a) An institution of higher education shall reject an application for employment if the applicant knowingly fails to provide or falsifies criminal history record information on an application.

(b) An institution of higher education may take disciplinary action, including termination of employment, against an employee if the employee knowingly failed to provide or falsified criminal history record information on the employee's application for employment, a promotion, or a transfer.

(c) An institution of higher education may make a decision to reject an application for employment under Subsection (a) or take disciplinary action against an employee under Subsection (b) without conducting an analysis under Section 51.058.

Sec. 51.057. INFORMATION REQUIRED TO BE REPORTED BY APPLICANTS AND EMPLOYEES; DISCIPLINARY ACTION. (a) An institution of higher education shall require:

(1) an applicant for employment to report an arrest made after the applicant has submitted the application to the institution and before the institution has

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notified the applicant of a decision about employment of the applicant; and
(2) an employee to report to a supervisor, within 24 hours of the arrest, charge, or conviction, or at the earliest practicable opportunity after that 24-hour period, the employee's criminal arrest, charge, or conviction, other than for a misdemeanor traffic offense punishable by a fine only.
(b) A supervisor who receives a report from an employee under Subsection (a)(2) shall report the information to the person in charge of the department or division to which the employee is assigned and to the institution's human resources department.
(c) An institution of higher education may take disciplinary action, including termination of employment, against an employee who fails to report as required by Subsection (a)(2).
(d) An institution of higher education's human resources department or, in the case of a faculty member, the provost or provost's designee shall conduct an analysis under Section 51.058 and assist the department or division to which the employee is assigned in determining, for an arrest, charge, or conviction reported under Subsection (a)(2), the appropriate disciplinary action to take against the employee, which may include termination of employment.
(e) An institution of higher education, on learning of an arrest, charge, or conviction reported under Subsection (a)(2), may immediately suspend with pay the employee pending the outcome of an administrative review under Subsection (d).
Sec. 51.058. ANALYSIS OF CRIMINAL HISTORY RECORD INFORMATION AND SUBSEQUENT ACTIONS. (a) Except as provided by Section 51.054(b)(2), before rejecting an application for employment or taking disciplinary action against an employee on the basis of a criminal conviction, an institution of higher education must:
(1) consider the following factors:
(A) the nature and gravity of the offense;
(B) the amount of time that has passed since:
(i) the conviction; and
(ii) the completion of a sentence imposed based on the conviction;
(C) the nature of the job sought or held;
(D) the number of convictions; and
(E) the institution's interest in protecting the safety and welfare of its employees, the general public, state property, and the integrity of the institution; and

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(2) determine that:

(A) the conviction is job-related; and

(B) the rejection of the application or disciplinary action against the employee is necessary to properly administer the institution.

(b) Before rejecting an application for employment or taking disciplinary action against an employee on the basis of a criminal arrest, an institution of higher education must:

(1) consider the following factors:

(A) the nature and gravity of the activity resulting in the arrest;

(B) the amount of time that has passed since the arrest;

(C) the nature of the job sought or held;

(D) the number of arrests;

(E) the institution's interest in protecting the safety and welfare of its employees, the general public, state property, and the integrity of the institution;

(F) an explanation of the arrest by the applicant or employee; and

(G) whether the reason for arrest violates an institutional rule, policy, or procedure, regardless of whether the arrest resulted in a conviction; and

(2) determine that:

(A) the alleged misconduct is job-related;

(B) the rejection of an application or disciplinary action is necessary to properly administer the institution; and

(C) the applicant or employee is likely to have engaged in the misconduct that caused the arrest.

Sec. 51.059. APPEALS; DETERMINATION. (a) An applicant for employment may appeal a decision of an institution of higher education under this subchapter to refuse to employ the applicant only on the basis that the institution discriminated against the applicant for an unlawful reason, including the applicant's race, color, national origin, religion, sex, disability, or age.

(b) An applicant alleging unlawful discrimination by the institution of higher education must, not later than the 10th business day after the date an application is rejected, present written data or documentation of the specific actions or basis of the allegation to the appropriate institution employee responsible for equal employment opportunity or the employee's designee.

(c) On receiving the data or documentation, the employee responsible for equal employment opportunity or the employee's designee shall investigate

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the complaint and issue a written report of findings to the chief executive officer of the institution or the officer's designee.

(d) If the chief executive officer or the officer's designee approves the report under Subsection (b), the officer or designee shall provide a copy of the report to the rejected applicant not later than the 14th day after the date the report is approved.

(e) The governing board of an institution of higher education may adopt a separate appeals process under this section or may use an existing process regarding employee discipline and termination of employment.

Sec. 51.060. USE AND DESTRUCTION OF NATIONAL CRIMINAL HISTORY RECORD INFORMATION. An institution of higher education shall:

(1) use national criminal history record information obtained under this subchapter exclusively to verify employability; and

(2) destroy all national criminal history record information obtained under this subchapter as soon as practicable, consistent with the following:

(A) for an applicant for employment, after the position for which the applicant applied has been filled and the applicant that was hired reports for the first day of work; or

(B) for an employee, after the national criminal history record information has been analyzed and any resulting administrative action has been taken.

Sec. 51.061. POLICIES. Each governing board of an institution of higher education shall adopt policies as necessary for the institution to comply with this subchapter.

Sec. 51.062. NAME-BASED CRIMINAL HISTORY BACKGROUND CHECKS. (a) An institution of higher education may, in lieu of obtaining information under Section 51.053, contract with a private vendor to conduct name-based criminal history background checks on any current employee for which the institution has not previously conducted a national criminal history background check for the sole purpose of verifying continued employability.

(b) An institution of higher education shall destroy name-based criminal history background check information obtained under Subsection (a) as soon as practicable after the information has been analyzed and any resulting administrative action has been taken.

No equivalent provision.

SECTION __. Amends Section 411.081(i), Government Code.

(i) A criminal justice agency may disclose criminal history record

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information that is the subject of an order of nondisclosure to the following noncriminal justice agencies or entities only:

- (1) the State Board for Educator Certification;
- (2) a school district, charter school, private school, regional education service center, commercial transportation company, or education shared service arrangement;
- (3) the Texas Medical Board;
- (4) the Texas School for the Blind and Visually Impaired;
- (5) the Board of Law Examiners;
- (6) the State Bar of Texas;
- (7) a district court regarding a petition for name change under Subchapter B, Chapter 45, Family Code;
- (8) the Texas School for the Deaf;
- (9) the Department of Family and Protective Services;
- (10) the Texas Youth Commission;
- (11) the Department of Assistive and Rehabilitative Services;
- (12) the Department of State Health Services, a local mental health service, a local mental retardation authority, or a community center providing services to persons with mental illness or retardation;
- (13) the Texas Private Security Board;
- (14) a municipal or volunteer fire department;
- (15) the Texas Board of Nursing;
- (16) a safe house providing shelter to children in harmful situations;
- (17) a public or nonprofit hospital or hospital district;
- (18) the Texas Juvenile Probation Commission;
- (19) the securities commissioner, the banking commissioner, the savings and mortgage lending commissioner, or the credit union commissioner;
- (20) the Texas State Board of Public Accountancy;
- (21) the Texas Department of Licensing and Regulation;
- (22) the Health and Human Services Commission;
- (23) the Department of Aging and Disability Services; ~~and~~
- (24) the Texas Education Agency; and
- (25) an institution of higher education, as defined by Section 411.094(a)(1)(A).

No equivalent provision.

SECTION __. Section 411.094, Government Code, is amended by adding Subsection (f) to read as follows:

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(f) Notwithstanding Subsection (c), an institution of higher education, as defined by Subsection (a)(1)(A), is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is employed by or is an applicant for employment at the institution, to the extent the information is necessary for the institution to administer the institution's duties under Subchapter B, Chapter 51, Education Code.

No equivalent provision.

SECTION ___. Section 51.215, Education Code, is repealed.

Same as House.

No equivalent provision.

SECTION ___. As soon as practicable after the effective date of this Act, the governing board of a public institution of higher education shall adopt policies required by Section 51.061, Education Code, as added by this article.

Same as House.

No equivalent provision.

SECTION ___. Subchapter A, Chapter 411, Government Code, is amended by adding a new Section 411.0161 to read as follows:
DONATION OF ACCRUED COMPENSATORY TIME OR ACCRUED ANNUAL LEAVE FOR LEGISLATIVE PURPOSES. Section 411.0161 (a) The director shall allow a department employee to voluntarily transfer to a legislative leave pool up to eight hours of compensatory time or annual leave per year earned by the employee.
(b) The director or designee shall administer the legislative leave pool.
(c) The Public Safety Commission shall adopt rules and prescribe procedures relating to the operation of the legislative leave pool.
(d) The director or designee shall credit the legislative leave pool with the amount of time contributed by an employee and deduct a corresponding amount of time from the employee's earned compensatory time or annual leave as if the employee had used the time for personal purposes.
(e) An employee is entitled to use time contributed to the legislative leave pool if the employee uses the time for legislative leave on behalf of a law enforcement association of at least 1,000 active or retired members governed by a board of directors.
(f) The director of the pool administrator shall transfer time from the pool to the employee and credit the time to the employee.
(g) An employee may only withdraw time from the legislative leave pool in

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coordination and with the consent of the president or designee of the law enforcement association described in subsection (e), and may not draw more than 80 hours of time from the pool in a 160-hour work cycle with the maximum time taken not to exceed 480 hours per fiscal year.

(h) In addition to subsection (g), the use of any time from the legislative leave pool must also be in accordance with rules adopted by the Public Safety Commission.

No equivalent provision.

ARTICLE __. ALTERNATIVE METHODS OF OBTAINING CRIMINAL HISTORY INFORMATION AND REGISTRATION OF PRIVATE VENDORS TO OBTAIN CRIMINAL HISTORY INFORMATION

Same as Senate: *HOUSE*

No equivalent provision.

SECTION __. Subchapter F, Chapter 411, Government Code, is amended by adding Section 411.0852 to read as follows:

Sec. 411.0852. STUDY REGARDING PRIVATE VENDORS PROVIDING CRIMINAL HISTORY RECORD INFORMATION. (a) Not later than December 31, 2010, the department shall conduct a study and report to the governor, lieutenant governor, speaker of the house, and the House and Senate standing committees with jurisdiction over this issue regarding allowing an entity authorized or required under the laws of this state to obtain criminal history record information, including national criminal history record information, regarding whether a person may elect, as an alternative, to contract with a private vendor to obtain both the criminal history record information and identity verification through electronic-based data records.

Same as Senate: *HOUSE*

No equivalent provision.

SECTION __. Subchapter C, Chapter 521, Transportation Code, is amended by adding Section 521.060 to read as follows:

Sec. 521.060. DRIVER RECORD MONITORING PILOT PROGRAM. (a) The department by rule may establish a driver record monitoring pilot program. The term of the pilot program may not exceed one year.

(b) Under the pilot program, the department may enter into a contract with a person to provide driver record monitoring services, as described by Subsection (c), and certain information from the department's driver's license records to the person, if the person:

(1) is an employer, an insurer, an insurance support organization, an employer support organization, or an entity that self-insures its motor

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vehicles; and

(2) is eligible to receive the information under Chapter 730.

(c) A contract entered into by the department must require:

(1) the department, during the term of the contract, to:

(A) monitor the driver record of each holder of a driver's license issued by the department that is requested by the person with whom the department has contracted;

(B) identify any change in the status of a driver's license or any conviction for a traffic offense reported to the department during the monitoring period; and

(C) periodically, as specified in the contract, provide reports of those individuals identified as having a change in status or convictions to the person with whom the department has contracted; and

(2) the person with whom the department has contracted:

(A) to purchase under Section 521.046 a copy of the driver record of each individual identified in a report provided under Subdivision (1)(C); and

(B) to warrant that:

(i) the person will not directly or indirectly disclose information received from the department under the contract to a third party without the express written consent of the department, except as required by law or legal process;

and

(ii) if a disclosure is required by law or legal process, the person will immediately notify the department so that the department may seek to oppose, limit, or restrict the required disclosure; and

(C) if the person is an insurance support organization, to warrant that the person will not seek to obtain information about a holder of a driver's license under the contract unless the license holder is insured by a client of the organization, and that the person will provide the department with the name of each client to whom the insurance support organization provides information received from the department under the contract.

(d) The attorney general may file a suit against a person with whom the department has contracted under this section for:

(1) injunctive relief to prevent or restrain the person from violating a term of the contract or from directly or indirectly disclosing information received from the department under the contract in a manner that violates the terms of the contract; or

(2) a civil penalty in an amount not to exceed \$2,000 for each disclosure in violation of those terms.

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(e) If the attorney general brings an action against a person under Subsection (d) and an injunction is granted against the person or the person is found liable for a civil penalty, the attorney general may recover reasonable expenses, court costs, investigative costs, and attorney's fees. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty under Subsection (d).

(f) A violation of the terms of a contract entered into with the department by the person with whom the department has contracted is a false, misleading, or deceptive act or practice under Subchapter E, Chapter 17, Business & Commerce Code.

(g) A civil action brought under this section shall be filed in a district court:

(1) in Travis County; or

(2) in any county in which the violation occurred.

(h) A person with whom the department has contracted under this section commits an offense if the person directly or indirectly discloses information received from the department under the contract in a manner that violates the terms of the contract. An offense under this subsection is a Class B misdemeanor. If conduct constituting an offense under this subsection also constitutes an offense under another law, the actor may be prosecuted under this subsection, the other law, or both.

(i) The department shall impose a fee on each person with whom the department contracts under this section for the services provided by the department under the contract. The fee must be reasonable and be not less than the amount necessary to allow the department to recover all reasonable costs to the department associated with entering into the contract and providing services to the person under the contract, including direct, indirect, and administrative costs and costs related to the development and deployment of the pilot program.

(j) The department may establish a reasonable deadline by which a person must apply to enter into a contract with the department under this section and may not enter into a contract with a person who fails to apply before that deadline.

(k) To the fullest extent practicable, the services of the department under a contract entered into under this section shall be provided by, through, or in conjunction with the interactive system established under Section 521.055.

(l) At the conclusion of the term of the pilot program, and on the recommendation of the department, the commission may authorize the

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department to implement the pilot program as a permanent program.

(m) Before the department recommends that the pilot program be implemented as a permanent program, the department shall submit to the lieutenant governor, the speaker of the house of representatives, and each member of the legislature a report that contains an analysis of the scope, effectiveness, and cost benefits of the pilot program. The report must include:
(1) a list of each insurance support organization with which the department has contracted under this section; and
(2) a list of each client to whom the insurance support organization has provided information received from the department under this section.

No equivalent provision.

ARTICLE __. SCHOOL BUS MONITORING SYSTEM

Same as House.

No equivalent provision.

SECTION __. Section 545.066, Transportation Code, is amended by adding Subsection (g) to read as follows:

Same as House.

(g) An image recorded by the monitoring system authorized by Section 547.701(b)(3) may be used in the administrative adjudication of a violation under this section if the image:
(1) is otherwise admissible;
(2) clearly shows the vehicle, including the license plate attached to the vehicle, at the time the offense is alleged to have occurred; and
(3) is accompanied by an affidavit executed by a peace officer stating that the image is authentic and that establishes probable cause that a violation occurred.

No equivalent provision.

SECTION __. Chapter 545, Transportation Code, is amended by adding Subchapter J to read as follows:

Same as House.

SUBCHAPTER J. SCHOOL BUS MONITORING SYSTEM

Sec. 545.451. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a county that has a population of more than 325,000 and that is located adjacent to:

(1) an international border; and
(2) a county that has a population of more than 550,000.

Sec. 545.452. DEFINITIONS. In this subchapter:

(1) "Owner of a motor vehicle" means the owner of a motor vehicle as shown

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on the motor vehicle registration records of the Texas Department of Transportation or the analogous department or agency of another state or country.

(2) "Recorded image" means a live or recorded photographic, electronic, video, or digital image that depicts a motor vehicle.

(3) "School bus monitoring system" means a system authorized by Section 547.701(b)(3).

Sec. 545.453. AUTHORITY TO PROVIDE FOR PENALTY. (a) The board of trustees of a school district by resolution may impose a financial penalty on the registered owner of a vehicle that is operated in a manner that violates Section 545.066 within the school district.

(b) The resolution adopted under this section must:

(1) provide for a penalty of not less than \$1 or more than \$250;

(2) authorize an attorney employed by the school district or an attorney with whom the school district contracts to bring suit to collect the penalty;

(3) provide for notice of the violation to the registered owner of the motor vehicle that committed the violation;

(4) provide that a person against whom the school district seeks to impose a penalty is entitled to an administrative adjudication hearing;

(5) designate the department, agency, or office of the school district responsible for the enforcement and administration of the resolution or provide that the entity with which the school district enters into an interlocal agreement of understanding under Section 545.454(3) is responsible for the enforcement and administration of the resolution;

(6) provide regulations for the use of live or recorded images recorded by the school bus monitoring system; and

(7) provide for other procedures that the board determines are necessary for the imposition of any penalty authorized by this section.

(c) Except as otherwise provided:

(1) by this subchapter, an image recorded by the monitoring system authorized by Section 547.701(b)(3) that is not used in the prosecution of an offense under this section shall be destroyed by the owner of the school bus;
or

(2) by Section 545.066(g), an image recorded by the monitoring system authorized by Section 547.701(b)(3) may not be sold or distributed to another person.

(d) Penalties collected under this section may be used by a school district

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only to cover the cost of:

- (1) installing, operating, and maintaining the school bus monitoring system;
- (2) collecting a penalty imposed under this section;
- (3) developing and implementing a program that promotes student safety; and
- (4) complying with Section 547.701(e) relating to three point seatbelts for school buses.

Sec. 545.454. INSTALLATION AND OPERATION OF SCHOOL BUS MONITORING SYSTEM. A school district that implements a school bus monitoring system and adopts a resolution imposing a penalty under this subchapter may:

- (1) contract for the administration and enforcement of the system;
- (2) install and operate the system or contract for the installation or operation of the system;
- (3) enter into an interlocal agreement with a municipality or county in which the school district is located regarding administrative adjudication hearings required by a resolution adopted under this subchapter; or
- (4) enter into an interlocal agreement with another school district regarding the administration, enforcement, installation, or operation of the system.

Sec. 545.455. GENERAL SURVEILLANCE PROHIBITED; OFFENSE. (a) A school district shall operate a monitoring system authorized by Section 547.701(b)(3) only for the purpose of detecting a violation or suspected violation of Section 545.066 within the school district.

(b) A person commits an offense if the person uses a school bus monitoring system to produce a recorded image other than in the manner and for the purpose specified by a resolution adopted under Section 545.453.

(c) An offense under this section is a Class A misdemeanor.

Sec. 545.456. EFFECT ON OTHER ENFORCEMENT. (a) The implementation of a school bus monitoring system by a school district under this subchapter does not:

- (1) preclude the application or enforcement within the school district of Section 545.066 in the manner prescribed by Chapter 543; or
- (2) prohibit a peace officer from arresting a violator of Section 545.066 as provided by Chapter 543 or from issuing the violator a citation and notice to appear as provided by that chapter.

(b) A school district may not impose a penalty under this subchapter on the owner of a motor vehicle if the operator of the vehicle was arrested or issued a citation and notice to appear by a peace officer for the same violation of

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Section 545.066 recorded by the school bus monitoring system.

Sec. 545.457. NOTICE OF VIOLATION; CONTENTS. (a) The imposition of a penalty under this subchapter is initiated by the mailing of a notice of violation to the owner of the motor vehicle against whom the school district seeks to impose the penalty.

(b) Not later than the 30th day after the date the violation is alleged to have occurred, the designated department, agency, or office of the school district or the entity with which the school district enters into an interlocal agreement under Section 545.454(3) shall mail the notice of violation to the owner at:

(1) the owner's address as shown on the registration records of the Texas Department of Transportation; or

(2) if the vehicle is registered in another state or country, the owner's address as shown on the motor vehicle registration records of the department or agency of the other state or country analogous to the Texas Department of Transportation.

(c) The notice of violation must contain:

(1) a description of the violation alleged;

(2) the location where the violation occurred;

(3) the date and time of the violation;

(4) the name and address of the owner of the vehicle involved in the violation;

(5) the registration number displayed on the license plate of the vehicle involved in the violation;

(6) a copy of a recorded image of the violation that includes a depiction of the registration number displayed on the license plate of the vehicle involved in the violation;

(7) the amount of the penalty for which the owner is liable;

(8) the number of days the person has in which to pay or contest the imposition of the penalty;

(9) a statement that the owner of the vehicle in the notice of violation may elect to pay the penalty instead of appearing at the time and place of the administrative adjudication hearing; and

(10) information that informs the owner of the vehicle named in the notice of violation:

(A) of the owner's right to contest the imposition of the penalty against the person in an administrative adjudication hearing;

(B) that imposition of the penalty may be contested by submitting a written

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request for an administrative adjudication hearing before the expiration of the period specified under Subdivision (8); and

(C) that failure to pay the penalty or to contest liability for the penalty in a timely manner is an admission of liability.

(d) A notice of violation is presumed to have been received on the fifth day after the date the notice is mailed.

Sec. 545.458. PRESUMPTION. (a) It is presumed that the owner of the motor vehicle committed the violation alleged in the notice of violation mailed to the person if the motor vehicle depicted in a recorded image taken by a school bus monitoring system belongs to the owner of the motor vehicle.

(b) If, at the time of the violation alleged in the notice of violation, the motor vehicle depicted in a recorded image taken by a school bus monitoring system was owned by a person in the business of selling, renting, or leasing motor vehicles or by a person who was not the person named in the notice of violation, the presumption under Subsection (a) is rebutted on the presentation of evidence establishing that the vehicle was at that time:

(1) being test driven by another person;

(2) being rented or leased by the vehicle's owner to another person; or

(3) owned by a person who was not the person named in the notice of violation.

(c) Notwithstanding Section 545.459, the presentation of evidence under Subsection (b) by a person who is in the business of selling, renting, or leasing motor vehicles or did not own the vehicle at the time of the violation must be made by affidavit, through testimony at the administrative adjudication hearing under Section 545.459, or by a written declaration under penalty of perjury. The affidavit or written declaration may be submitted by mail to the school district or the entity with which the school district contracts under Section 545.454(1).

(d) If the presumption established by Subsection (a) is rebutted under Subsection (b), a penalty may not be imposed on the owner of the vehicle or the person named in the notice of violation, as applicable.

(e) If, at the time of the violation alleged in the notice of violation, the motor vehicle depicted in the recorded image taken by the school bus monitoring system was owned by a person in the business of renting or leasing motor vehicles and the vehicle was being rented or leased to an individual, the owner of the motor vehicle shall provide to the school district or the entity with which the school district contracts under Section 545.454(1) the name and

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address of the individual who was renting or leasing the motor vehicle depicted in the recorded image and a statement of the date and times during which that individual was renting or leasing the vehicle. The owner shall provide the information required by this subsection not later than the 30th day after the date the notice of violation is received. If the owner provides the required information, it is presumed that the individual renting or leasing the motor vehicle committed the violation alleged in the notice of violation and the school district or contractor may send a notice of violation to that individual at the address provided by the owner of the motor vehicle or from motor vehicle registration records.

Sec. 545.459. ADMINISTRATIVE ADJUDICATION HEARING. (a) A person who receives a notice of violation under this subchapter may contest the imposition of the penalty specified in the notice of violation by filing a written request for an administrative adjudication hearing. The request for a hearing must be filed on or before the date specified in the notice of violation, which may not be earlier than the 30th day after the date the notice of violation was mailed.

(b) On receipt of a timely request for an administrative adjudication hearing, the school district shall notify the person of the date and time of the hearing.

(c) An administrative adjudication hearing under this subchapter may be conducted by any justice of the peace court in a county where the alleged violation of Section 545.066 within the school district occurred. For purpose of establishing jurisdiction for justice of the peace courts to conduct administrative adjudication hearings under this subchapter only a violation of this subchapter in a case under Article 4.11(a), Code of Criminal Procedure.

(d) In an administrative adjudication hearing, the issues must be proven by a preponderance of the evidence.

(e) The reliability of the school bus monitoring system used to produce the recorded image of the motor vehicle involved in the violation may be attested to by affidavit of an officer or employee of the school district or of the entity with which the school district contracts under Section 545.454(1) who is responsible for inspecting and maintaining the system.

(f) An affidavit of an officer that alleges a violation based on an inspection of the applicable recorded image is:

(1) admissible in the administrative adjudication hearing; and

(2) evidence of the facts contained in the affidavit.

(g) At the conclusion of the administrative adjudication hearing, the hearing

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officer shall enter a finding of liability for the penalty or a finding of no liability for the penalty. A finding under this subsection must be in writing and be signed and dated by the hearing officer.

(h) A finding of liability for a penalty must specify the amount of the penalty for which the person is liable. If the hearing officer enters a finding of no liability, a penalty for the violation may not be imposed against the person.

(i) A finding of liability or a finding of no liability entered under this section may:

(1) be filed with a person designated by the board of trustees of the school district; and

(2) be recorded on microfilm or microfiche or using data processing techniques.

Sec. 545.460. IMPOSITION OF PENALTY NOT A CONVICTION. The imposition of a penalty under this subchapter is not a conviction and may not be considered a conviction for any purpose.

Sec. 545.461. FAILURE TO PAY PENALTY. (a) If the owner of the motor vehicle fails to timely pay the amount of the penalty imposed against the owner:

(1) an arrest warrant may not be issued for the owner; and

(2) the imposition of the penalty may not be recorded on the owner's driving record.

(b) Notice of Subsection (a) must be included in the notice of violation required by Section 545.456.

No equivalent provision.

SECTION __. Amends Subsection (b), Section 547.701, Transportation Code.

(b) A school bus may be equipped with:

(1) rooftop warning lamps:

(A) that conform to and are placed on the bus in accordance with specifications adopted under Section 34.002, Education Code; and

(B) that are operated under rules adopted by the school district; ~~and~~

(2) movable stop arms:

(A) that conform to regulations adopted under Section 34.002, Education Code; and

(B) that may be operated only when the bus is stopped to load or unload students; and

(3) a monitoring system that:

(A) is capable of taking live or recorded photographic, electronic, video, or

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digital images of vehicles that pass the bus when the bus is operating a visual signal as required by this section;

(B) conforms to regulations adopted under Section 34.002, Education Code; and

(C) is capable of producing a live or recorded visual image of a person inside the bus that may be viewed from another location or of taking photographic, electronic, video, or digital images of a person inside the bus.

(c) When a school bus is being stopped or is stopped on a highway to permit students to board or exit the bus, the operator of the bus shall activate all flashing warning signal lights and other equipment on the bus designed to warn other drivers that the bus is stopping to load or unload children. A person may not operate such a light or other equipment except when the bus is being stopped or is stopped on a highway to permit students to board or exit the bus.

(d) The exterior of a school bus may not bear advertising or another paid announcement directed at the public if the advertising or announcement distracts from the effectiveness of required safety warning equipment. The department shall adopt rules to implement this subsection. A school bus that violates this section or rules adopted under this section shall be placed out of service until it complies.

(e) In this subsection, "bus" includes a school bus and a school activity bus. A bus operated by or contracted for use by a school district for the transportation of schoolchildren shall be equipped with a three-point seat belt for each passenger, including the operator. This subsection applies to:

(1) each bus purchased by a school district on or after September 1, 2010, for the transportation of schoolchildren; and

(2) each school-chartered bus contracted for use by a school district on or after September 1, 2011, for the transportation of schoolchildren.

(f) A school district is required to comply with Subsection (e) only to the extent that the Texas Education Agency pays or commits to pay the district for expenses incurred in complying with that subsection. The Texas Education Agency may make grants of appropriated money for the purpose of paying school districts under this subsection.

No equivalent provision.

SECTION __. Section 5, Chapter 259 (H.B. 323), Acts of the 80th Legislature, Regular Session, 2007, is repealed.

Same as House.

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No equivalent provision.	SECTION __. Section 547.701(e), Transportation Code, as added by Chapter 259 (H.B. 323), Acts of the 80th Legislature, Regular Session, 2007, takes effect September 1, 2009.	Same as House.
No equivalent provision.	SECTION __. Except as provided by subsection (e) and (f) of Section 547.701, Transportation Code, this ARTICLE expires September 1, 2013	Same as House.
No equivalent provision.	SECTION __. Amends Section 548.005, Transportation Code. Sec. 548.005. INSPECTION ONLY BY STATE-CERTIFIED AND SUPERVISED INSPECTION STATION. A compulsory inspection under this chapter may be made only by an inspection station, except that the department may: (1) permit inspection to be made by an inspector under terms and conditions the department prescribes; [and] (2) authorize the acceptance in this state of a certificate of inspection and approval issued in another state having a similar inspection law; and (3) <u>authorize the acceptance in this state of a certificate of inspection and approval issued in compliance with 49 C.F.R. Part 396 to a motor bus, as defined by Section 502.001, that is registered in this state but is not domiciled in this state.</u>	Same as Senate.
No equivalent provision.	ARTICLE __. TRANSFER OF REGULATORY PROGRAMS RELATING TO DISPENSING CONTROLLED SUBSTANCES BY PRESCRIPTION	Same as Senate.
No equivalent provision.	SECTION __. (a) The director of the Department of Public Safety or the director's designee, the executive director of the Texas State Board of Pharmacy or the executive director's designee, and the executive director of the Texas Medical Board or the executive director's designee shall meet as an interagency council to develop a transition plan for the orderly transfer from the Department of Public Safety to the Texas State Board of Pharmacy of certain records and regulatory functions relating to dispensing controlled substances by prescription under Chapter 481, Health and Safety Code. (b) In developing the transition plan, the council shall: (1) consult with the Health and Human Services Commission, the Department of State Health Services, and other health and human services agencies that contract with a third party for data collection;	Same as Senate.

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- (2) specify the records and regulatory functions to be transferred;
 - (3) create a time frame within which the specified records and functions will be transferred;
 - (4) ensure the Department of Public Safety's continued access for law enforcement purposes to prescription drug information obtained under Chapter 481, Health and Safety Code;
 - (5) develop a plan for the transfer of relevant database information;
 - (6) make recommendations for improvements to data transmission, including examining the feasibility of implementing an electronic data transmission system for use by registrants and the Department of Public Safety or the Texas State Board of Pharmacy;
 - (7) estimate the fiscal impact of the transfer, including an estimate of the costs associated with any necessary staff increase;
 - (8) minimize disruptions to the professions affected by the transfer;
 - (9) identify any obstacles to the transfer and make recommendations to address those obstacles; and
 - (10) address any other consideration the council determines is appropriate.
- (c) Not later than January 1, 2011, the council shall submit its recommendations to the legislature on the transition plan developed by the council.
- (d) The Department of Public Safety may not enter into any contract or otherwise take any action that would prevent, delay, or hinder a potential transfer to the Texas State Board of Pharmacy occurring on or after September 1, 2011, of certain records and regulatory functions relating to dispensing controlled substances by prescription.
- (e) This section expires September 1, 2011.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 30, 2009

**TO: Honorable David Dewhurst , Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives**

FROM: John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB2730 by Kolkhorst (relating to the continuation and functions of the Department of Public Safety of the State of Texas and the Texas Private Security Board; providing a penalty.),
Conference Committee Report**

The fiscal implications of the bill cannot be determined at this time

Local Government Impact

The fiscal implications of the bill cannot be determined at this time

Source Agencies:

LBB Staff: JOB, KK