

1 AN ACT

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

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 ARTICLE 2. DIVISION OF EMERGENCY MANAGEMENT

14 PART A. ORGANIZATION OF DIVISION

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

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

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

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

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

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

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

13 (1) a representative of the department;
14 (2) a representative of the division;
15 (3) a representative of the governor's office of
16 homeland security;

17 (4) the presiding officer of the Homeland Security
18 Council; and

19 (5) a state agency representative from the emergency
20 management council, selected by the chair of the emergency
21 management council. [~~The director shall appoint a state~~
22 ~~coordinator.~~]

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

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

27 (1) the governor;

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

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

8 (b) If a gift, grant, or loan is accepted by the state, the
9 governor, or the emergency management council or chief of the
10 division ~~[state coordinator]~~ if designated by the governor, may
11 dispense the gift, grant, or loan directly to accomplish the
12 purpose for which it was made or may allocate and transfer to a
13 political subdivision services, equipment, supplies, materials, or
14 funds in the amount the governor or the governor's designee may
15 determine.

16 PART B. OTHER AMENDMENTS, INCLUDING CONFORMING AMENDMENTS

17 REFLECTING DIVISION'S NAME CHANGE

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

20 Sec. 12.0012. NOTIFICATION. The department shall, upon
21 submission for publication, notify the Texas Division of Emergency
22 Management ~~[division of emergency management in the office of the~~
23 ~~governor]~~ of each quarantine it adopts. The department shall
24 thereafter cooperate with the Texas Division of Emergency
25 Management ~~[division of emergency management]~~ in implementing any
26 necessary safeguards to protect the state's agricultural resources
27 from potential economic, health, or ecological disaster that may

1 result from the quarantined pest or disease.

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

4 (a) Notwithstanding any other law, during any period in
5 which Texas Task Force 1 is activated by the Texas Division of
6 Emergency Management [~~governor's division of emergency~~
7 ~~management~~], or during any training session sponsored or sanctioned
8 by Texas Task Force 1, a participating nongovernment member or
9 local government employee member is included in the coverage
10 provided under Chapter 501, Labor Code, in the same manner as an
11 employee, as defined by Section 501.001, Labor Code.

12 (d) Notwithstanding Section 412.0123, Labor Code, as added
13 by Chapter 1098, Acts of the 75th Legislature, Regular Session,
14 1997, the Texas Division of Emergency Management [~~governor's~~
15 ~~division of emergency management~~] shall reimburse the State Office
16 of Risk Management for the actual medical and indemnity benefits
17 paid on behalf of a covered member of Texas Task Force 1 at the
18 beginning of the next state fiscal year occurring after the date the
19 benefits are paid.

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

22 (e) An executive order or proclamation shall be
23 disseminated promptly by means intended to bring its contents to
24 the attention of the general public. An order or proclamation shall
25 be filed promptly with the division [~~of emergency management~~], the
26 secretary of state, and the county clerk or city secretary in each
27 area to which it applies unless the circumstances attendant on the

1 disaster prevent or impede the filing.

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

4 SUBCHAPTER C. TEXAS DIVISION OF EMERGENCY MANAGEMENT

5 SECTION 2B.05. Section 418.073(d), Government Code, is
6 amended to read as follows:

7 (d) The [~~governor's~~] division [~~of emergency management~~]
8 shall administer the disaster contingency fund and shall develop
9 and implement rules and procedures for providing emergency
10 assistance from the fund. The division shall annually report to the
11 speaker of the house of representatives and the lieutenant governor
12 expenditures from the fund, the overall status of the fund, and any
13 changes to rules and procedures regarding the fund.

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

16 Sec. 418.050. REENTRY CREDENTIALING PILOT PROGRAM. (a)
17 The division shall consider implementing a pilot program for a
18 reentry credentialing process for reentry into areas previously
19 evacuated because of a disaster or threat of disaster.

20 SECTION 2B.06. Section 421.021(a), Government Code, is
21 amended to read as follows:

22 (a) The Homeland Security Council is composed of the
23 governor or the governor's designee, the speaker of the house of
24 representatives or the speaker's designee, the lieutenant governor
25 or the lieutenant governor's designee, and one representative of
26 each of the following entities, appointed by the single statewide
27 elected or appointed governing officer, administrative head, or

1 chair, as appropriate, of the entity:

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

- 1 (23) Texas Education Agency;
- 2 (24) Texas Commission on Fire Protection;
- 3 (25) Parks and Wildlife Department;
- 4 (26) Texas Forest Service; and
- 5 (27) Texas Water Development Board.

6 SECTION 2B.07. Section 661.907(b), Government Code, is
7 amended to read as follows:

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

14 SECTION 2B.08. Section 661.919(b), Government Code, is
15 amended to read as follows:

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

22 SECTION 2B.09. Section 501.001(5), Labor Code, is amended
23 to read as follows:

- 24 (5) "Employee" means a person who is:
 - 25 (A) in the service of the state pursuant to an
 - 26 election, appointment, or express oral or written contract of hire;
 - 27 (B) paid from state funds but whose duties

1 require that the person work and frequently receive supervision in
2 a political subdivision of the state;

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

6 (i) Article 2.12, Code of Criminal
7 Procedure; or

8 (ii) Articles 14.03(d) and (g), Code of
9 Criminal Procedure;

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

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

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

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

25 (b) The drought preparedness council is created and shall
26 meet as necessary to carry out the provisions of this section. The
27 council is composed of one representative from each of the

1 following entities, appointed by the administrative head of that
2 entity:

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

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

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

25 SECTION 2B.12. A reference in law or a rule to the
26 "governor's division of emergency management" or the "division of
27 emergency management in the office of the governor" means the Texas

1 Division of Emergency Management in the Department of Public Safety
2 of the State of Texas.

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

5 SECTION 3.01. Section 524.039, Transportation Code, is
6 amended to read as follows:

7 Sec. 524.039. APPEARANCE OF TECHNICIANS AT HEARING. (a)
8 Not [~~Notwithstanding Section 524.038, if not~~] later than the fifth
9 day before the date of a scheduled hearing, [~~the department~~
10 ~~receives from~~] the person who requested a hearing may apply to the
11 State Office of Administrative Hearings to issue a subpoena for the
12 attendance [~~written notice, including a facsimile transmission,~~
13 ~~requesting the presence at the hearing~~] of the breath test operator
14 who took the specimen of the person's breath to determine alcohol
15 concentration or the certified breath test technical supervisor
16 responsible for maintaining and directing the operation of the
17 breath test instrument used to analyze the specimen of the person's
18 breath, or both [~~, each requested person must appear at the~~
19 ~~hearing~~]. The State Office of Administrative Hearings shall issue
20 the subpoena only on a showing of good cause.

21 (b) The department may reschedule a hearing once not less
22 than 48 hours before the hearing if a [~~the~~] person subpoenaed
23 [~~requested to attend~~] under Subsection (a) is unavailable. The
24 department may also reschedule the hearing on showing good cause
25 that a [~~the~~] person subpoenaed [~~requested~~] under Subsection (a) is
26 not available at the time of the hearing.

27 SECTION 3.02. The changes in law made by this article by the

1 amendment of Section 524.039, Transportation Code, apply only to a
2 hearing conducted on or after September 1, 2009. A hearing
3 conducted before September 1, 2009, is covered by the law in effect
4 immediately before that date, and the former law is continued in
5 effect for that purpose.

6 SECTION 3.03. This article takes effect September 1, 2009.

7 ARTICLE 4. CHANGES TO PRIVATE SECURITY ACT

8 SECTION 4.01. Section 1702.002, Occupations Code, is
9 amended by amending Subdivisions (2), (3), (5), (11), (12), (13),
10 (17), (19), (20), and (21) and adding Subdivision (6-b) to read as
11 follows:

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

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

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

17 (3) "Branch office license" means a permit issued by
18 the board [~~commission~~] that entitles a person to operate at a branch
19 office as a security services contractor or investigations company.

20 (5) "Commissioned security officer" means a security
21 officer to whom a security officer commission has been issued by the
22 board [~~commission~~].

23 (6-b) "Endorsement" means a permit entitling an
24 individual holding a registration to perform a service regulated by
25 this chapter for an appropriately licensed company.

26 (11) "Letter of authority" means a permit issued by
27 the board [~~commission~~] that entitles the security department of a

1 private business or a political subdivision to employ a
2 commissioned security officer.

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

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

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

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

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

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

19 SECTION 4.02. Section 1702.004, Occupations Code, is
20 amended to read as follows:

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

24 (1) licenses investigations companies and security
25 services contractors;

26 (2) issues commissions to certain security officers;

27 (3) issues endorsements [~~authorizations~~] to certain

1 security officers engaged in the personal protection of
2 individuals;

3 (4) registers and endorses:

4 (A) certain individuals connected with a license
5 holder; and

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

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

10 (b) The board shall adopt rules necessary to comply with
11 Chapter 53 [~~does not apply to this chapter or to any licensing,~~
12 ~~regulatory, or disciplinary determinations made under this~~
13 ~~chapter~~]. In its rules under this section, the board shall list the
14 specific offenses for each category of regulated persons for which
15 a conviction would constitute grounds for the board to take action
16 under Section 53.021.

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

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

20 SECTION 4.04. Section 1702.021, Occupations Code, is
21 amended to read as follows:

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

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

27 (2) one member who is licensed under this chapter as a

1 private investigator;

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

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

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

9 [~~(c) On presentation by a commission member of the
10 constitutional oath taken by the member, together with the
11 certificate of appointment, the secretary of state shall issue a
12 commission to the member as evidence of the member's authority to
13 act as a commission member.]~~

14 SECTION 4.05. Section 1702.023, Occupations Code, is
15 amended to read as follows:

16 Sec. 1702.023. ELIGIBILITY OF PUBLIC MEMBERS. The board's
17 [~~commission's~~] public members must be representatives of the
18 general public. A person may not be a public member of the board
19 [~~commission~~] if the person or the person's spouse:

20 (1) is registered, commissioned, certified, or
21 licensed by a regulatory agency in the field of private
22 investigations or private security;

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

26 (3) owns or controls, directly or indirectly, more
27 than a 10 percent interest in a business entity or other

1 organization regulated by or receiving money from the board
2 [~~commission~~]; or

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

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

9 (b) A person may not be a board [~~commission~~] member, and may
10 not be a department [~~commission~~] employee whose primary duties
11 include private security regulation and who is employed in a "bona
12 fide executive, administrative, or professional capacity," as that
13 phrase is used for purposes of establishing an exemption to the
14 overtime provisions of the federal Fair Labor Standards Act of 1938
15 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, if:

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

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

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

27 SECTION 4.07. Section 1702.027, Occupations Code, is

1 amended to read as follows:

2 Sec. 1702.027. GROUND FOR REMOVAL. (a) It is a ground for
3 removal from the board [~~commission~~] that a member:

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

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

8 (3) is ineligible for membership under Section
9 1702.023 or 1702.024;

10 (4) cannot, because of illness or disability,
11 discharge the member's duties for a substantial part of the member's
12 term; or

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

17 (b) The validity of an action of the board [~~commission~~] is
18 not affected by the fact that it is taken when a ground for removal
19 of a board [~~commission~~] member exists.

20 (c) If the chief administrator [~~director~~] has knowledge
21 that a potential ground for removal exists, the chief administrator
22 [~~director~~] shall notify the presiding officer of the board
23 [~~commission~~] of the potential ground. The presiding officer shall
24 then notify the governor and the attorney general that a potential
25 ground for removal exists. If the potential ground for removal
26 involves the presiding officer, the chief administrator [~~director~~]
27 shall notify the next highest ranking officer of the board

1 ~~[commission]~~, who shall then notify the governor and the attorney
2 general that a potential ground for removal exists.

3 SECTION 4.08. Section 1702.028, Occupations Code, is
4 amended to read as follows:

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

9 (b) A member is entitled to reimbursement for travel
10 ~~[transportation]~~ expenses incurred while conducting board
11 business, including expenses for transportation, meals, and
12 lodging, as prescribed by the General Appropriations Act. [~~A~~
13 ~~member may not receive compensation for travel expenses, including~~
14 ~~expenses for meals and lodging, other than transportation~~
15 ~~expenses.~~]

16 SECTION 4.09. Section 1702.029, Occupations Code, is
17 amended to read as follows:

18 Sec. 1702.029. MEETINGS. The board ~~[commission]~~ shall meet
19 at regular intervals to be decided by the board ~~[commission]~~.

20 SECTION 4.10. Section 1702.030, Occupations Code, is
21 amended to read as follows:

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

27 (b) The training program must provide the person with

1 information regarding:

2 (1) this chapter;

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

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

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

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

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

11 (7) the requirements of:

12 (A) the open meetings law, Chapter 551,
13 Government Code;

14 (B) the public information law, Chapter 552,
15 Government Code;

16 (C) the administrative procedure law, Chapter
17 2001, Government Code; and

18 (D) other laws relating to public officials,
19 including conflict of interest laws; and

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

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

27 SECTION 4.11. The heading to Subchapter C, Chapter 1702,

1 Occupations Code, is amended to read as follows:

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

3 SECTION 4.12. Section 1702.041, Occupations Code, is
4 amended to read as follows:

5 Sec. 1702.041. CHIEF ADMINISTRATOR [~~DIRECTOR~~]. (a) The
6 [~~director is the~~] chief administrator is responsible for the
7 administration of this chapter under the direction of the board
8 [~~commission~~]. The chief administrator [~~director~~] shall perform
9 duties as prescribed by the board and the department [~~commission~~].

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

13 SECTION 4.13. Section 1702.042, Occupations Code, is
14 amended to read as follows:

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

18 (1) have a financial or business interest, contingent
19 or otherwise, in a security services contractor or investigations
20 company; or

21 (2) be licensed under this chapter.

22 SECTION 4.14. Section 1702.043, Occupations Code, is
23 amended to read as follows:

24 Sec. 1702.043. DIVISION OF RESPONSIBILITIES. The board
25 [~~commission~~] shall develop and implement policies that clearly
26 separate the policy-making responsibilities of the board
27 [~~commission~~] and the management responsibilities of the chief

1 administrator [~~director~~] and staff of the department [~~commission~~].

2 SECTION 4.15. Section 1702.044, Occupations Code, is
3 amended to read as follows:

4 Sec. 1702.044. QUALIFICATIONS AND STANDARDS OF CONDUCT
5 INFORMATION. The chief administrator [~~director~~] or the chief
6 administrator's [~~director's~~] designee shall provide to board
7 [~~commission~~] members and to agency employees, as often as
8 necessary, information regarding the requirements for office or
9 employment under this chapter, including information regarding a
10 person's responsibilities under applicable laws relating to
11 standards of conduct for state officers or employees.

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

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

15 SECTION 4.17. Section 1702.061, Occupations Code, is
16 amended to read as follows:

17 Sec. 1702.061. GENERAL POWERS AND DUTIES OF BOARD
18 [~~COMMISSION~~]. (a) The board [~~Texas Commission on Private~~
19 ~~Security~~] shall perform the functions and duties provided by this
20 chapter.

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

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

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

1 (1) determine the qualifications of license holders,
2 registrants, endorsement holders, and commissioned security
3 officers;

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

6 (3) adopt rules necessary to implement this chapter;
7 and

8 (4) establish and enforce standards governing the
9 safety and conduct of each person licensed, registered, or
10 commissioned under this chapter.

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

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

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

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

22 (1) negotiated rulemaking procedures under Chapter
23 2008, Government Code, for the adoption of board rules; and

24 (2) appropriate alternative dispute resolution
25 procedures under Chapter 2009, Government Code, to assist in the
26 resolution of internal and external disputes under the board's
27 jurisdiction.

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

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

6 (1) coordinate the implementation of the policy
7 adopted under Subsection (a);

8 (2) serve as a resource for any training needed to
9 implement the procedures for negotiated rulemaking or alternative
10 dispute resolution; and

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

13 SECTION 4.19. Section 1702.062, Occupations Code, is
14 amended to read as follows:

15 Sec. 1702.062. FEES. (a) The board [~~commission~~] by rule
16 shall establish reasonable and necessary fees that produce
17 sufficient revenue to administer this chapter. The fees may not
18 produce unnecessary fund balances. [~~and may not exceed the~~
19 ~~following amounts:~~

20	[Class A license	_____	\$350 (original and renewal)
21	[Class B license	_____	\$400 (original and renewal)
22	[Class C license	_____	\$540 (original and renewal)
23	[Class D license	_____	\$400 (original and renewal)
24	[Reinstate suspended license	_____	\$150
25	[Assignment of license	_____	\$150
26	[Change name of license	_____	\$ 75
27	[Delinquency fee	_____	_____

1	[Branch office certificate and renewal	_____	\$300
2	[Registration fee for private investigator, manager, branch		
3	office manager, locksmith, electronic access control device		
4	installer, and alarm systems installer	\$ 30 (original and renewal)	
5	[Registration fee for noncommissioned security officer	_____	\$ 30
6	(original and renewal)		
7	[Registration fee for security salesperson	_____	\$ 30
8	[Registration fee for alarm systems monitor	_____	\$ 30
9	[Registration fee for dog trainer	_____	\$ 30
10	[Registration fee for owner, officer, partner, or		
11	shareholder of a license holder	_____	\$ 50
12	[Registration fee for security consultant	_____	\$300
13	[Registration fee for employee of license holder	_____	\$ 30
14	[Security officer commission fee	_____	\$ 50
15	(original and renewal)		
16	[School instructor fee	_____	\$100
17	(original and renewal)		
18	[School approval fee	_____	\$350
19	(original and renewal)		
20	[Letter of authority fee for private business and political		
21	subdivision	_____	\$400
22	[Letter of authority renewal fee for private business and		
23	political subdivision	_____	\$225
24	[Letter of authority fee for commissioned officer,		
25	noncommissioned officer, or personal protection officer for		
26	political subdivision	_____	\$ 10
27	[FBI fingerprint check	_____	\$ 25

1	[Duplicate pocket card	_____	\$ 10
2	[Employee information update fee	_____	\$ 15
3	[Burglar alarm sellers renewal fee	_____	\$ 30
4	[Personal protection officer authorization	_____	\$ 50]

5 (b) The board ~~[In addition to other fees established under~~
6 ~~this chapter, the commission]~~ may charge a fee each time the board
7 ~~[commission]~~ requires a person regulated under this chapter to
8 resubmit a set of fingerprints for processing by the board
9 ~~[commission]~~ during the application process for a license,
10 registration, endorsement, or commission. The board ~~[commission]~~
11 shall set the fee in an amount that is reasonable and necessary to
12 cover the ~~[commission's]~~ administrative expenses related to
13 processing the fingerprints.

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

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

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

20 SECTION 4.21. Section 1702.0635, Occupations Code, is
21 amended to read as follows:

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

27 SECTION 4.22. Section 1702.064, Occupations Code, is

1 amended to read as follows:

2 Sec. 1702.064. RULES RESTRICTING ADVERTISING OR
3 COMPETITIVE BIDDING. (a) The board [~~commission~~] may not adopt
4 rules restricting advertising or competitive bidding by a person
5 regulated by the board [~~commission~~] except to prohibit false,
6 misleading, or deceptive practices by the person.

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

10 (1) restricts the person's use of any medium for
11 advertising;

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

14 (3) relates to the size or duration of an
15 advertisement by the person; or

16 (4) restricts the person's advertisement under a trade
17 name.

18 SECTION 4.23. Section 1702.0645, Occupations Code, is
19 amended to read as follows:

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

23 (b) Rules adopted under this section may:

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

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

4 SECTION 4.24. Section 1702.066, Occupations Code, is
5 amended to read as follows:

6 Sec. 1702.066. SERVICE OF PROCESS; SERVICE OF DOCUMENTS ON
7 BOARD [~~COMMISSION~~]. Legal process and documents required by law to
8 be served on or filed with the board [~~commission~~] must be served on
9 or filed with the chief administrator [~~director~~] at the designated
10 office of the board [~~commission~~].

11 SECTION 4.25. Section 1702.067, Occupations Code, is
12 amended to read as follows:

13 Sec. 1702.067. BOARD [~~COMMISSION~~] RECORDS; EVIDENCE. An
14 official record of the board [~~commission~~] or an affidavit by the
15 chief administrator [~~director~~] as to the content of the record is
16 prima facie evidence of a matter required to be kept by the board
17 [~~commission~~].

18 SECTION 4.26. Section 1702.068, Occupations Code, is
19 amended to read as follows:

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

23 SECTION 4.27. Section 1702.081, Occupations Code, is
24 amended to read as follows:

25 Sec. 1702.081. PUBLIC INTEREST INFORMATION. (a) The board
26 [~~commission~~] shall prepare information of interest to consumers or
27 recipients of services regulated under this chapter describing the

1 board's [~~commission's~~] regulatory functions and the procedures by
2 which complaints are filed with and resolved by the board
3 [~~commission~~].

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

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

8 (a) The board [~~commission by rule shall establish methods by~~
9 ~~which consumers and service recipients are notified of the name,~~
10 ~~mailing address, and telephone number of the commission for the~~
11 ~~purpose of directing complaints to the commission. The commission~~
12 ~~may provide for that notice.~~

13 [~~(1) on each registration form, application, or~~
14 ~~written contract for services of a person regulated under this~~
15 ~~chapter,~~

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

18 [~~(3) in a bill for services provided by a person~~
19 ~~regulated under this chapter.~~

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

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

25 [~~(2) the date the complaint is received by the~~
26 ~~commission,~~

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

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

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

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

8 (b) [(c)] The board ~~[commission]~~ shall make information
9 available describing its ~~[provide to the person filing the~~
10 ~~complaint a copy of the commission's policies and]~~ procedures for
11 ~~[relating to]~~ complaint investigation and resolution.

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

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

18 SECTION 4.29. Section 1702.083, Occupations Code, is
19 amended to read as follows:

20 Sec. 1702.083. PUBLIC PARTICIPATION. The board
21 ~~[commission]~~ shall develop and implement policies that provide the
22 public with a reasonable opportunity to appear before the board
23 ~~[commission]~~ and to speak on any issue under the board's
24 ~~[commission's]~~ jurisdiction.

25 SECTION 4.30. Section 1702.084, Occupations Code, is
26 amended to read as follows:

27 Sec. 1702.084. PUBLIC ACCESS TO CERTAIN RECORDS OF

1 DISCIPLINARY ACTIONS. (a) The board [~~commission~~] shall make
2 available to the public through a toll-free telephone number,
3 Internet website, or other easily accessible medium determined by
4 the board [~~commission~~] the following information relating to a
5 disciplinary action taken during the preceding three years
6 regarding a person regulated by the board [~~commission~~]:

7 (1) the identity of the person;

8 (2) the nature of the complaint that was the basis of
9 the disciplinary action taken against the person; and

10 (3) the disciplinary action taken by the board
11 [~~commission~~].

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

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

18 (d) The board [~~commission~~] shall maintain the
19 confidentiality of information regarding the identification of a
20 complainant.

21 SECTION 4.31. Section 1702.103, Occupations Code, is
22 amended to read as follows:

23 Sec. 1702.103. CLASSIFICATION AND LIMITATION OF LICENSES.

24 (a) The license classifications are:

25 (1) Class A: investigations company license, covering
26 operations of an investigations company;

27 (2) Class B: security services contractor license,

1 covering operations of a security services contractor;

2 (3) Class C: covering the operations included within
3 Class A and Class B; ~~and~~

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

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

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

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

9 and

10 (8) Class T: telematics license [~~Class D: electronic~~
11 ~~access control device license, covering operations of an electronic~~
12 ~~access control device company~~].

13 (b) A [~~Class A, B, C, or D~~] license described by this chapter
14 does not authorize the license holder to perform a service for which
15 the license holder has not qualified. A person may not engage in an
16 operation outside the scope of that person's license. The board
17 [~~commission~~] shall indicate on the license the services the license
18 holder is authorized to perform. The license holder may not perform
19 a service unless it is indicated on the license.

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

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

24 (e) The board by rule may establish other license
25 classifications for activities expressly regulated by this chapter
26 and may establish qualifications and practice requirements
27 consistent with this chapter for those license classifications.

1 SECTION 4.32. Section 1702.104, Occupations Code, is
2 amended to read as follows:

3 Sec. 1702.104. INVESTIGATIONS COMPANY. (a) A person acts
4 as an investigations company for the purposes of this chapter if the
5 person:

6 (1) engages in the business of obtaining or
7 furnishing, or accepts employment to obtain or furnish, information
8 related to:

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

11 (B) the identity, habits, business, occupation,
12 knowledge, efficiency, loyalty, movement, location, affiliations,
13 associations, transactions, acts, reputation, or character of a
14 person;

15 (C) the location, disposition, or recovery of
16 lost or stolen property; or

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

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

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

26 (4) engages in the business of protecting, or accepts
27 employment to protect, an individual from bodily harm through the

1 use of a personal protection officer.

2 (b) For purposes of Subsection (a)(1), obtaining or
3 furnishing information includes information obtained or furnished
4 through the review and analysis of, and the investigation into the
5 content of, computer-based data not available to the public. The
6 repair or maintenance of a computer does not constitute an
7 investigation for purposes of this section and does not require
8 licensing under this chapter if:

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

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

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

15 SECTION 4.33. Section 1702.111, Occupations Code, is
16 amended to read as follows:

17 Sec. 1702.111. ISSUANCE OF BRANCH OFFICE LICENSE. (a) A
18 license holder, in accordance with Section 1702.129, shall notify
19 the board [~~commission~~] in writing of the establishment of a branch
20 office and file in writing with the board [~~commission~~] the address
21 of the branch office.

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

24 SECTION 4.34. Sections 1702.113(a) and (c), Occupations
25 Code, are amended to read as follows:

26 (a) An applicant for a license, certificate of
27 registration, endorsement, or security officer commission or the

1 applicant's manager must be at least 18 years of age and must not:

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

5 ~~[(2) have been convicted in any jurisdiction of any of~~
6 ~~the following:~~

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

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

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

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

21 (2) ~~[(5)]~~ have been found by a court to be incompetent
22 by reason of a mental defect or disease and not have been restored
23 to competency;

24 (3) ~~[(6)]~~ have been dishonorably discharged from the
25 United States armed services, discharged from the United States
26 armed services under other conditions determined by the board to be
27 prohibitive, or dismissed from the United States armed services if

1 a commissioned officer in the United States armed services; or

2 (4) [~~(7)~~] be required to register in this or any other
3 state as a sex offender, unless the applicant is approved by the
4 board under Section 1702.3615.

5 (c) For purposes of this section, an offense under the laws
6 of this state, another state, or the United States is considered[+

7 [~~(1)~~] ~~a felony if the offense:~~

8 [~~(A)~~] ~~at the time of conviction was designated by~~
9 ~~a law of this state as a felony, including a state jail felony,~~

10 [~~(B)~~] ~~contains all the elements of an offense~~
11 ~~designated by a law of this state as a felony, including a state~~
12 ~~jail felony, or~~

13 [~~(C)~~] ~~is punishable by confinement for one year or~~
14 ~~more in a penitentiary,~~

15 [~~(2)~~] ~~a Class A misdemeanor if the offense is not a~~
16 ~~felony and the offense:~~

17 [~~(A)~~] ~~at the time of conviction was designated by~~
18 ~~a law of this state as a Class A misdemeanor,~~

19 [~~(B)~~] ~~contains all the elements of an offense~~
20 ~~designated by a law of this state as a Class A misdemeanor, or~~

21 [~~(C)~~] ~~provides as a possible punishment~~
22 ~~confinement in a jail other than a state jail felony facility, or~~

23 [~~(3)~~] a Class B misdemeanor if the offense is not a
24 felony or Class A misdemeanor and the offense:

25 (1) [~~(A)~~] at the time of conviction was designated by
26 a law of this state as a Class B misdemeanor;

27 (2) [~~(B)~~] contains all the elements of an offense

1 designated by a law of this state as a Class B misdemeanor; or

2 (3) [~~C~~] provides as a possible punishment
3 confinement in a jail other than a state jail felony facility.

4 SECTION 4.35. Section 1702.114, Occupations Code, is
5 amended to read as follows:

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

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

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

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

18 SECTION 4.36. Section 1702.115, Occupations Code, is
19 amended to read as follows:

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

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

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

5 (2) determined to be adequate to qualify the applicant
6 to engage in the business of a security services contractor.

7 SECTION 4.37. Section 1702.116, Occupations Code, is
8 amended to read as follows:

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

12 (1) meet the requirements of Sections 1702.113 and
13 1702.115; and

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

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

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

25 SECTION 4.38. Sections 1702.117(a), (c), and (d),
26 Occupations Code, are amended to read as follows:

27 (a) The board [~~commission~~] shall require an applicant for a

1 license under this chapter or the applicant's manager to
2 demonstrate qualifications in the person's license classification,
3 including knowledge of applicable state laws and board [~~commission~~]
4 rules, by taking an examination to be determined by the board
5 [~~commission~~].

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

9 (d) The board [~~commission~~] shall develop and provide to a
10 person who applies to take the examination under Subsection (a)
11 material containing all applicable state laws and board
12 [~~commission~~] rules.

13 SECTION 4.39. Section 1702.118, Occupations Code, is
14 amended to read as follows:

15 Sec. 1702.118. EXAMINATION RESULTS. (a) Not later than the
16 30th day after the date a person takes a licensing examination under
17 this chapter, the board [~~commission~~] shall notify the person of the
18 examination results.

19 (b) If an examination is graded or reviewed by a testing
20 service:

21 (1) the board [~~commission~~] shall notify the person of
22 the examination results not later than the 14th day after the date
23 the board [~~commission~~] receives the results from the testing
24 service; and

25 (2) if notice of the examination results will be
26 delayed for longer than 90 days after the examination date, the
27 board [~~commission~~] shall notify the person of the reason for the

1 delay before the 90th day.

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

4 (d) If requested in writing by a person who fails a
5 licensing examination administered under this chapter, the board
6 [~~commission~~] shall furnish the person with an analysis of the
7 person's performance on the examination.

8 SECTION 4.40. Section 1702.1183, Occupations Code, is
9 amended to read as follows:

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

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

18 SECTION 4.41. Section 1702.1186, Occupations Code, is
19 amended to read as follows:

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

24 (1) has been licensed in good standing as an
25 investigations company or security services contractor for at least
26 two years in another jurisdiction, including a foreign country,
27 that has licensing requirements substantially equivalent to the

1 requirements of this chapter;

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

5 (3) is sponsored by a person licensed by the board
6 [~~commission~~] under this chapter with whom the provisional license
7 holder will practice during the time the person holds a provisional
8 license.

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

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

15 (2) the provisional license holder:

16 (A) passes the part of the examination under
17 Section 1702.117(a) that relates to the applicant's knowledge and
18 understanding of the laws and rules relating to the practice of an
19 investigations company or security services contractor in this
20 state;

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

24 (C) satisfies any other licensing requirements
25 under this chapter.

26 (c) The board [~~commission~~] must approve or deny a
27 provisional license holder's application for a license not later

1 than the 180th day after the date the provisional license is issued.
2 The board [~~commission~~] may extend the 180-day period if the results
3 of an examination have not been received by the board [~~commission~~]
4 before the end of that period.

5 (d) The board [~~commission~~] may establish a fee for
6 provisional licenses in an amount reasonable and necessary to cover
7 the cost of issuing the license.

8 SECTION 4.42. Section 1702.120(b), Occupations Code, is
9 amended to read as follows:

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

15 SECTION 4.43. Section 1702.122, Occupations Code, is
16 amended to read as follows:

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

23 SECTION 4.44. Section 1702.123, Occupations Code, is
24 amended to read as follows:

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

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

3 (c) The board [~~commission~~] may rescind the license
4 suspension if the license holder provides proof to the board
5 [~~commission~~] that the bond or the insurance coverage is still in
6 effect. The license holder must provide the proof in a form
7 satisfactory to the board [~~commission~~] not later than the 10th day
8 after the date the license is suspended.

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

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

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

19 SECTION 4.45. Section 1702.125, Occupations Code, is
20 amended to read as follows:

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

26 SECTION 4.46. Section 1702.129, Occupations Code, is
27 amended to read as follows:

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

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

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

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

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

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

12 (1) is established;

13 (2) is closed; or

14 (3) changes address or location.

15 SECTION 4.47. Section 1702.131, Occupations Code, is
16 amended to read as follows:

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

21 SECTION 4.48. Section 1702.161(b), Occupations Code, is
22 amended to read as follows:

23 (b) An individual employed as a security officer may not
24 knowingly carry a firearm during the course of performing duties as
25 a security officer unless the board [~~commission~~] has issued a
26 security officer commission to the individual.

27 SECTION 4.49. Section 1702.162, Occupations Code, is

1 amended to read as follows:

2 Sec. 1702.162. EMPLOYER'S APPLICATION FOR SECURITY OFFICER
3 COMMISSION. The employer of a security officer who applies for a
4 security officer commission for the officer must submit an
5 application to the board [~~commission~~] on a form provided by the
6 board [~~commission~~].

7 SECTION 4.50. Section 1702.165, Occupations Code, is
8 amended to read as follows:

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

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

14 (2) shall issue a security officer commission to a
15 qualified employee of an armored car company that is a carrier
16 conducting the armored car business under a federal or state permit
17 or certificate.

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

21 SECTION 4.51. Section 1702.167, Occupations Code, is
22 amended to read as follows:

23 Sec. 1702.167. TERMINATION OF EMPLOYMENT AS COMMISSIONED
24 SECURITY OFFICER; TRANSFER OF COMMISSION. The holder of a security
25 officer commission who terminates employment with one employer may
26 transfer the individual's commission to a new employer if, not
27 later than the 14th day after the date the individual begins the new

1 employment, the new employer notifies the board [~~commission~~] of the
2 transfer of employment on a form prescribed by the board
3 [~~commission~~], accompanied by payment of the employee information
4 update fee.

5 SECTION 4.52. Sections 1702.1675(a), (b), (c), (d), (e),
6 (f), and (i), Occupations Code, are amended to read as follows:

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

- 10 (1) general security officer training issues;
- 11 (2) classroom instruction on handgun proficiency; and
- 12 (3) range instruction on handgun proficiency.

13 (b) The course must be offered and taught by schools and
14 instructors approved by the board [~~commission~~]. To receive board
15 [~~commission~~] approval, a school or an instructor must submit an
16 application to the board [~~commission~~] on a form provided by the
17 board [~~commission~~].

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

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

- 22 (1) board [~~commission~~] rules and applicable state
23 laws;
- 24 (2) field note taking and report writing; and
- 25 (3) any other topics of security officer training
26 curriculum the board [~~commission~~] considers necessary.

27 (e) The board [~~commission~~] shall develop a commissioned

1 security officer training manual that contains applicable state
2 laws and board [~~commission~~] rules to be used in the instruction and
3 training of commissioned security officers.

4 (f) The board [~~commission~~] shall adopt rules necessary to
5 administer the provisions of this section concerning the training
6 requirements of this chapter.

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

11 SECTION 4.53. Section 1702.168, Occupations Code, is
12 amended to read as follows:

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

- 18 (1) physical and mental standards;
19 (2) standards of good moral character; and
20 (3) other requirements that relate to the competency
21 and reliability of individuals to carry firearms.

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

25 SECTION 4.54. Sections 1702.1685(b) and (d), Occupations
26 Code, are amended to read as follows:

27 (b) Only a board-approved [~~commission-approved~~] instructor

1 may administer the handgun proficiency examination.

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

5 SECTION 4.55. Section 1702.171, Occupations Code, is
6 amended to read as follows:

7 Sec. 1702.171. SECURITY OFFICER COMMISSION RECORDS. The
8 board [~~commission~~] shall adopt rules for the maintenance of records
9 relating to an individual to whom the board [~~commission~~] has issued
10 a security officer commission.

11 SECTION 4.56. Section 1702.183, Occupations Code, is
12 amended to read as follows:

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

19 SECTION 4.57. The heading to Subchapter I, Chapter 1702,
20 Occupations Code, is amended to read as follows:

21 SUBCHAPTER I. PERSONAL PROTECTION OFFICER ENDORSEMENT
22 [~~AUTHORIZATION~~] REQUIREMENTS

23 SECTION 4.58. Section 1702.203, Occupations Code, is
24 amended to read as follows:

25 Sec. 1702.203. APPLICATION FOR PERSONAL PROTECTION OFFICER
26 ENDORSEMENT [~~AUTHORIZATION~~]. An applicant for a personal
27 protection officer endorsement [~~authorization~~] must submit a

1 written application on a form prescribed by the board [~~commission~~].

2 SECTION 4.59. Section 1702.204, Occupations Code, is
3 amended to read as follows:

4 Sec. 1702.204. PERSONAL PROTECTION OFFICER ENDORSEMENT
5 [~~AUTHORIZATION~~]; QUALIFICATIONS. (a) An applicant for a personal
6 protection officer endorsement [~~authorization~~] must be at least 21
7 years of age and must provide:

8 (1) a certificate of completion of the basic security
9 officer training course;

10 (2) proof that the applicant:

11 (A) has been issued a security officer
12 commission;

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

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

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

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

25 SECTION 4.60. Section 1702.205(a), Occupations Code, is
26 amended to read as follows:

27 (a) The board [~~commission~~] shall establish a 15-hour course

1 for a personal protection officer consisting of training in
2 nonlethal self-defense or defense of a third person.

3 SECTION 4.61. Section 1702.221, Occupations Code, is
4 amended to read as follows:

5 Sec. 1702.221. REGISTRATION AND ENDORSEMENT REQUIRED. (a)
6 To perform any activity regulated by this chapter, the individual
7 must:

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

10 (2) obtain the proper endorsement under Subsection
11 (b); and

12 (3) be employed by a company licensed under this
13 chapter.

14 (b) An individual must obtain the appropriate endorsement
15 [~~register~~] in accordance with the requirements of this chapter and
16 related administrative rules if the individual:

17 (1) is employed as:

18 (A) an alarm instructor;

19 (B) an alarm systems installer;

20 (C) an [] alarm systems monitor;

21 (D) an [] electronic access control device
22 installer;

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

24 (F) a [] locksmith;

25 (G) a [] dog trainer;

26 (H) a [] manager or branch office manager;

27 (I) a [] noncommissioned security officer;

- 1 (J) a level 4 personal protection instructor;
2 (K) a [r] private investigator;
3 (L) a [r] private security consultant;
4 (M) a [~~r~~] security salesperson; or
5 (N) an individual whose duties include
6 performing another activity for which an endorsement is required
7 under Subsection (e); or

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

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

17 (d) In addition to the services listed in Subsection (b), a
18 person holding a security officer commission must also obtain an
19 endorsement for personal protection if the individual performs the
20 services described by Section 1702.202.

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

24 SECTION 4.62. Section 1702.2226(b), Occupations Code, is
25 amended to read as follows:

26 (b) A person registered as an electronic access control
27 device installer may not install alarm systems unless the person

1 holds an endorsement [~~is registered~~] under this chapter as an alarm
2 systems installer.

3 SECTION 4.63. The heading to Subchapter J, Chapter 1702,
4 Occupations Code, is amended to read as follows:

5 SUBCHAPTER J. REGISTRATION AND ENDORSEMENT REQUIREMENTS;

6 [~~REGISTRANT~~] DUTIES OF REGISTRANT AND ENDORSEMENT HOLDER

7 SECTION 4.64. Section 1702.228, Occupations Code, is
8 amended to read as follows:

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

13 SECTION 4.65. The heading to Section 1702.230, Occupations
14 Code, is amended to read as follows:

15 Sec. 1702.230. APPLICATION FOR REGISTRATION OR
16 ENDORSEMENT.

17 SECTION 4.66. Section 1702.230(a), Occupations Code, is
18 amended to read as follows:

19 (a) An application for registration or endorsement must be
20 verified and include:

21 (1) the applicant's full name, residence address,
22 residence telephone number, date and place of birth, and social
23 security number;

24 (2) a statement that:

25 (A) lists each name used by the applicant, other
26 than the name by which the applicant is known at the time of
27 application, and an explanation stating each place where each name

1 was used, the date of each use, and a full explanation of the
2 reasons the name was used; or

3 (B) states that the applicant has never used a
4 name other than the name by which the applicant is known at the time
5 of application;

6 (3) the name and address of the applicant's employer
7 and, if applicable, the applicant's consulting firm;

8 (4) the date the employment commenced;

9 (5) a letter from the license holder requesting that
10 the applicant be registered or endorsed;

11 (6) the title of the position occupied by the
12 applicant and a description of the applicant's duties; and

13 (7) any other information, evidence, statement, or
14 document required by the board [~~commission~~].

15 SECTION 4.67. Section 1702.2305, Occupations Code, is
16 amended to read as follows:

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

21 (1) has been registered in good standing in the field
22 in which the registration is sought for at least two years in
23 another jurisdiction, including a foreign country, that has
24 registration requirements substantially equivalent to the
25 requirements of this chapter;

26 (2) has passed a national or other examination
27 recognized by the board [~~commission~~] relating to practice in the

1 field in which the registration is sought; and

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

6 (b) A provisional registration is valid until the date the
7 board [~~commission~~] approves or denies the provisional registration
8 holder's application for a registration. The board [~~commission~~]
9 shall issue a registration under this chapter to the provisional
10 registration holder if the provisional registration holder is
11 eligible to be registered under this chapter.

12 (c) The board [~~commission~~] must approve or deny a
13 provisional registration holder's application for a registration
14 not later than the 180th day after the date the provisional
15 registration is issued. The board [~~commission~~] may extend the
16 180-day period if the results of an examination have not been
17 received by the board [~~commission~~] before the end of that period.

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

21 SECTION 4.68. Section 1702.232, Occupations Code, is
22 amended to read as follows:

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

27 (b) The board [~~commission~~] shall determine the size,

1 design, and content of the pocket card.

2 (c) The pocket card must:

3 (1) state the name of the registrant;

4 (2) contain a color photograph, affixed to the pocket
5 card by the board at the time the card is issued, and the signature
6 of the registrant; ~~and~~

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

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

11 SECTION 4.69. Section 1702.234, Occupations Code, is
12 amended to read as follows:

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

21 SECTION 4.70. Section 1702.235, Occupations Code, is
22 amended to read as follows:

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

27 SECTION 4.71. Section 1702.236, Occupations Code, is

1 amended to read as follows:

2 Sec. 1702.236. EXAMINATION AND TRAINING REQUIREMENTS FOR
3 ELECTRONIC ACCESS CONTROL DEVICE INSTALLERS. (a) The board
4 [~~commission~~] shall require an individual who applies for an
5 endorsement [~~registration~~] as an electronic access control device
6 installer to pass an examination given by the board [~~commission~~] or
7 a person approved by the board [~~commission~~]. The examination must
8 cover material related to access control.

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

15 SECTION 4.72. Sections 1702.239(a), (b), and (d),
16 Occupations Code, are amended to read as follows:

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

1 (b) The board [~~commission~~] may require an individual who has
2 completed a training program under Subsection (a) to pass an
3 examination given by the board [~~commission~~] or by a person approved
4 by the board [~~commission~~]. The board [~~commission~~] may approve
5 examinations in conjunction with training programs approved under
6 Subsection (a). The individual's performance on the examination
7 must demonstrate the individual's qualifications to perform the
8 duties allowed by the individual's endorsement [~~registration~~].

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

21 SECTION 4.73. Section 1702.240(b), Occupations Code, is
22 amended to read as follows:

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

26 SECTION 4.74. Subchapter J, Chapter 1702, Occupations Code,
27 is amended by adding Section 1702.241 to read as follows:

1 Sec. 1702.241. JURISPRUDENCE EXAMINATION. (a) The board
2 may develop and administer at least twice each calendar year a
3 jurisprudence examination to determine the knowledge that an
4 applicant for an endorsement has of this chapter, board rules, and
5 any other applicable laws of this state affecting the applicant's
6 activities regulated under this chapter.

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

14 SECTION 4.75. Sections 1702.282(c) and (e), Occupations
15 Code, are amended to read as follows:

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

20 (e) On receipt of notice that a check of the applicant's
21 criminal record has uncovered an unresolved and potentially
22 disqualifying arrest that occurred before the 10th anniversary of
23 the date the application is filed, the applicant must provide a
24 letter of reference from the county sheriff, prosecuting attorney,
25 or judge of the county in which the applicant was arrested stating
26 that a record of a disposition related to the arrest does not exist,
27 and to the best of the county sheriff's, prosecuting attorney's, or

1 judge's knowledge the applicant is free of any disqualifying
2 convictions. If the applicant fails to provide either the letter of
3 reference or documentary proof of the final disposition of the
4 arrest, the application is considered incomplete and the applicant
5 may not be issued a license, commission, endorsement, or
6 certificate of registration under this chapter.

7 SECTION 4.76. Section 1702.283, Occupations Code, is
8 amended to read as follows:

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

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

14 (2) may not be employed to work with dogs as a security
15 officer by a security services contractor or security department of
16 a private business that uses dogs to protect individuals or
17 property or to conduct investigations.

18 SECTION 4.77. Section 1702.285, Occupations Code, is
19 amended to read as follows:

20 Sec. 1702.285. FALSE REPRESENTATION. A person may not
21 represent falsely that the person:

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

23 (2) is licensed, registered, endorsed, or
24 commissioned under this chapter.

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

27 (c) A personal protection officer endorsement

1 [~~authorization~~] expires on the expiration date of the security
2 officer commission under which the individual's endorsement
3 [~~authorization~~] is issued.

4 (d) Endorsement [~~Registration~~] as a private investigator,
5 manager, branch office manager, alarm systems installer, security
6 consultant, security salesperson, alarm systems monitor, or dog
7 trainer expires on the second anniversary of the date of
8 endorsement [~~registration~~].

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

12 (f) Endorsement [~~Registration~~] as a noncommissioned
13 security officer expires on the second anniversary of the date of
14 endorsement [~~registration~~].

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

18 (h) A license, ~~or~~ registration, or endorsement issued
19 under this chapter, other than one specified in this section,
20 expires on the date specified by this chapter or by board
21 [~~commission~~] rule.

22 SECTION 4.79. Section 1702.302, Occupations Code, is
23 amended to read as follows:

24 Sec. 1702.302. LICENSE RENEWAL. (a) A person who is
25 otherwise eligible to renew a license may renew an unexpired
26 license by paying the required renewal fee to the board
27 [~~commission~~] before the expiration date of the license. A person

1 whose license has expired may not engage in activities that require
2 a license until the license has been renewed.

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

7 (c) A person whose license has been expired for longer than
8 90 days but less than one year may renew the license by paying to the
9 board [~~commission~~] a renewal fee that is equal to two times the
10 normally required renewal fee.

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

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

20 SECTION 4.80. Section 1702.303, Occupations Code, is
21 amended to read as follows:

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

1 two times the normally required renewal fee for the license.

2 SECTION 4.81. Section 1702.304, Occupations Code, is
3 amended to read as follows:

4 Sec. 1702.304. STAGGERED RENEWAL; PRORATION OF LICENSE FEE.

5 The board [~~commission~~] by rule may adopt a system under which
6 licenses expire on various dates during the year. For the year in
7 which the expiration date of a license is changed, the board
8 [~~commission~~] shall prorate license fees on a monthly basis so that
9 each license holder pays only that portion of the license fee that
10 is allocable to the number of months during which the license is
11 valid. On renewal of the license on the new expiration date, the
12 total license renewal fee is payable.

13 SECTION 4.82. Section 1702.307, Occupations Code, is
14 amended to read as follows:

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

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

26 (c) An individual whose registration has been expired for
27 more than 90 days but less than one year may renew the registration

1 by paying to the board [~~commission~~] a renewal fee that is equal to
2 two times the normally required renewal fee.

3 (d) An individual whose registration has been expired for
4 one year or more may not renew the registration. The individual may
5 obtain a new registration by complying with the requirements and
6 procedures, including any examination required by the board
7 [~~commission~~], for obtaining an original registration.

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

15 (f) Not later than the 30th day before the expiration date
16 of an individual's registration, the board [~~commission~~] shall send
17 written notice of the impending expiration to the individual at the
18 individual's last known address according to board [~~commission~~]
19 records.

20 SECTION 4.83. Sections 1702.308(b) and (c), Occupations
21 Code, are amended to read as follows:

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

1 (c) A license holder, commissioned security officer, or
2 endorsement holder [~~registrant~~] must participate in the programs to
3 the extent required by the board [~~commission~~] to keep the person's
4 license, commission, or endorsement [~~registration~~]. A license
5 holder, commissioned security officer, or endorsement holder
6 [~~registrant~~] shall submit evidence of compliance with the board's
7 [~~commission's~~] continuing education requirements in a manner
8 prescribed by the board [~~commission~~].

9 SECTION 4.84. Section 1702.309(a), Occupations Code, is
10 amended to read as follows:

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

17 SECTION 4.85. Sections 1702.321(b), (c), and (e),
18 Occupations Code, are amended to read as follows:

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

27 (c) The board [~~commission~~] may not charge a fee for issuing

1 a commission to an officer under Subsection (b). The board
2 [~~commission~~] shall issue to the officer a pocket card designating
3 the political subdivision that employs the officer.

4 (e) The board [~~commission~~] may approve a security officer
5 training program conducted by the political subdivision in
6 accordance with Sections 1702.1675 and 1702.168.

7 SECTION 4.86. Section 1702.324(b), Occupations Code, is
8 amended to read as follows:

9 (b) This chapter does not apply to:

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

12 (2) a person engaged exclusively in the business of
13 obtaining and providing information to:

14 (A) determine creditworthiness;

15 (B) collect debts; or

16 (C) ascertain the reliability of information
17 provided by an applicant for property, life, or disability
18 insurance or an indemnity or surety bond;

19 (3) a person engaged exclusively in the business of
20 repossessing property that is secured by a mortgage or other
21 security interest;

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

26 (5) a person who:

27 (A) is engaged in obtaining information that is a

1 public record under Chapter 552, Government Code, regardless of
2 whether the person receives compensation;

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

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

8 (6) a licensed engineer practicing engineering or
9 directly supervising engineering practice under Chapter 1001,
10 including forensic analysis, burglar alarm system engineering, and
11 necessary data collection;

12 (7) an employee of a cattle association who inspects
13 livestock brands under the authority granted to the cattle
14 association by the Grain Inspection, Packers and Stockyards
15 Administration of the United States Department of Agriculture;

16 (8) a landman performing activities in the course and
17 scope of the landman's business;

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

19 (10) a person who obtains a document for use in
20 litigation under an authorization or subpoena issued for a written
21 or oral deposition;

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

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

27 (A) installs, changes, or repairs a mechanical

1 security device;

2 (B) repairs an electronic security device; or

3 (C) cuts or makes a key for a security device;

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

7 (14) a person or firm licensed as an accountant or
8 accounting firm under Chapter 901, an owner of an accounting firm,
9 or an employee of an accountant or accounting firm while performing
10 services regulated under Chapter 901; [~~or~~]

11 (15) a retailer, wholesaler, or other person who sells
12 mechanical security devices, including locks and deadbolts, but who
13 does not:

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

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

17 (16) an employee while performing investigative
18 services that would otherwise be subject to this chapter for an
19 entity regulated by the:

20 (A) Texas Department of Insurance;

21 (B) Office of Thrift Supervision;

22 (C) Securities and Exchange Commission;

23 (D) Federal Deposit Insurance Corporation;

24 (E) National Association of Securities Dealers;

25 or

26 (F) Financial Industry Regulatory Authority.

27 SECTION 4.87. Section 1702.361(b), Occupations Code, is

1 amended to read as follows:

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

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

6 (A) violated this chapter or a rule adopted under
7 this chapter;

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

13 (C) engaged in fraud, deceit, or
14 misrepresentation;

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

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

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

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

26 (ii) performed the service for a company
27 licensed under this chapter that was not listed on the individual's

1 registration without informing the board of the individual's
2 employment with the company within a reasonable period; or

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

7 (A) engaged in fraud or deceit while employed by
8 the license holder; or

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

11 SECTION 4.88. Section 1702.362, Occupations Code, is
12 amended to read as follows:

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

18 SECTION 4.89. Section 1702.363, Occupations Code, is
19 amended to read as follows:

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

27 SECTION 4.90. Sections 1702.364(a), (d), (f), and (h),

1 Occupations Code, are amended to read as follows:

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

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

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

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

17 (d) At a preliminary hearing, the person must show cause
18 why:

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

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

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

24 (f) The dismissal of a complaint, information, or
25 indictment or an acquittal releases the person from automatic
26 grounds for a summary denial of an application or summary
27 suspension of a registration, endorsement, or security officer

1 commission under this section. A conviction for the offense giving
2 rise to a summary suspension is automatic grounds for immediate,
3 summary revocation.

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

8 SECTION 4.91. Section 1702.365, Occupations Code, is
9 amended to read as follows:

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

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

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

26 SECTION 4.92. Sections 1702.367(c), (d), and (e),
27 Occupations Code, are amended to read as follows:

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

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

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

22 SECTION 4.93. Section 1702.368, Occupations Code, is
23 amended to read as follows:

24 Sec. 1702.368. NOTIFICATION OF CONVICTION FOR CERTAIN
25 OFFENSES. The department [~~Texas Department of Public Safety~~] shall
26 notify the board [~~commission~~] and the police department of the
27 municipality and the sheriff's department of the county in which a

1 person licensed, registered, or commissioned under this chapter
2 resides of the conviction of the person for a Class B misdemeanor or
3 equivalent offense or a greater offense.

4 SECTION 4.94. Subchapter O, Chapter 1702, Occupations Code,
5 is amended by adding Section 1702.372 to read as follows:

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

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

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

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

15 SECTION 4.95. Section 1702.381(b), Occupations Code, is
16 amended to read as follows:

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

25 SECTION 4.96. Section 1702.386(a), Occupations Code, is
26 amended to read as follows:

27 (a) A person commits an offense if the person contracts with

1 or employs a person who is required to hold a license, registration,
2 endorsement [~~certificate~~], or commission under this chapter
3 knowing that the person does not hold the required license,
4 registration, endorsement [~~certificate~~], or commission or who
5 otherwise, at the time of contract or employment, is in violation of
6 this chapter.

7 SECTION 4.97. Section 1702.3863(a), Occupations Code, is
8 amended to read as follows:

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

13 (1) a peace officer;

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

17 (3) a commissioned security officer employed by a
18 licensed guard company.

19 SECTION 4.98. Section 1702.387(a), Occupations Code, is
20 amended to read as follows:

21 (a) A person commits an offense if the person fails to
22 surrender or immediately return to the board [~~commission~~] the
23 person's registration, commission, pocket card, or other
24 identification issued to the person by the board [~~commission~~] on
25 notification of a summary suspension or summary denial under
26 Section 1702.364.

27 SECTION 4.99. Section 1702.388(b), Occupations Code, is

1 amended to read as follows:

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

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

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

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

15 SECTION 4.101. Section 1702.406(b), Occupations Code, is
16 amended to read as follows:

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

21 SECTION 4.102. The following provisions of the Occupations
22 Code are repealed:

- 23 (1) Section 1702.002(4);
24 (2) Section 1702.003;
25 (3) Section 1702.045;
26 (4) Section 1702.046;
27 (5) Section 1702.065;

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

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

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

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

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

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

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

27 (g) The holder of a Class D license under Chapter 1702,

1 Occupations Code, as amended by this article, shall be considered
2 to hold a Class B license on the effective date of this article. On
3 the expiration of the Class D license, the license holder may renew
4 the license as a Class B license.

5 SECTION 4.104. This article takes effect September 1, 2009.

6 ARTICLE 4A [Blank]

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

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

11 (1-a) For purposes of Subdivision (1), the term "alarm
12 system" does not include a telephone entry system, an operator for
13 opening or closing a residential or commercial gate or door, or an
14 accessory used only to activate a gate or door, if the system,
15 operator, or accessory is not connected to a computer or data
16 processor that records or archives the voice, visual image, or
17 identifying information of the user [~~an alarm system~~].

18 (16-a) "Personal protection officer" means a person
19 who performs the activities described by Section 1702.202.

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

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

24 Sec. 1702.047. ADMINISTRATIVE STAFF. The department shall
25 designate a department employee who shall report directly to the
26 board. The employee designated under this section shall provide
27 administrative assistance to [~~assist~~] the board in the performance

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

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

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

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

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

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

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

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

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

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

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

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

8 (1) the full name and business address of the
9 applicant;

10 (2) the name under which the applicant intends to do
11 business;

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

14 (4) a statement as to the classification for which the
15 applicant requests qualification;

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

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

26 (7) a verified statement of the applicant's experience
27 qualifications in the particular classification in which the

1 applicant is applying;

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

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

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

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

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

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

20 (1) the name of the license holder;

21 (2) the name under which the license holder is to
22 operate; [~~and~~]

23 (3) the license number and the date the license was
24 issued; and

25 (4) a photograph of the license holder, affixed to the
26 license at the time the license is issued by the board.

27 SECTION 4B.08. Section 1702.121, Occupations Code, is

1 amended to read as follows:

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

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

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

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

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

25 (d) A license holder shall maintain records required under
26 this chapter at a physical address within this state and provide
27 that address to the board.

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

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

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

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

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

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

19 [(-1) has been issued a security officer commission to
20 carry a concealed firearm, and

21 [(-2)] provides to another [an] individual personal
22 protection from bodily harm.

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

25 Sec. 1702.206. LIMITED AUTHORITY TO CARRY [CONCEALED]
26 FIREARMS. (a) An individual acting as a personal protection
27 officer may not carry a [concealed] firearm unless the officer:

1 (1) is either:

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

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

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

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

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

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

26 (1) the date the application is submitted; or

27 (2) the date the applicant begins to perform the

1 duties of employment that require registration.

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

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

7 (a) The board shall conduct a criminal history check,
8 including a check of any criminal history record information
9 maintained by the Federal Bureau of Investigation, in the manner
10 provided by Subchapter F, Chapter 411, Government Code, on each
11 applicant for a license, registration, security officer
12 commission, letter of approval, permit, endorsement, or
13 certification. As part of its criminal history check, the board may
14 request that the applicant provide certified copies of relevant
15 court documents or other records. The failure to provide the
16 requested records within a reasonable time as determined by the
17 board may result in the application being considered incomplete.

18 An applicant is not eligible for a license, registration,
19 commission, letter of approval, permit, endorsement, or
20 certification if the check reveals that the applicant has committed
21 an act that constitutes grounds for the denial of the license,
22 registration, commission, letter of approval, permit, endorsement,
23 or certification. Except as provided by Subsection (d), each
24 applicant shall include in the application two complete sets of
25 fingerprints on forms prescribed by the board accompanied by the
26 fee set by the board.

27 SECTION 4B.16. Section 1702.286, Occupations Code, as added

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

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

9 (1) shows the locksmith company or locksmith a
10 government-issued identification; and

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

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

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

19 Sec. 1702.322. LAW ENFORCEMENT PERSONNEL. This chapter
20 does not apply to:

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

25 (A) is employed in an employee-employer
26 relationship or employed on an individual contractual basis
27 directly by the recipient of the services;

1 (B) is not in the employ of another peace
2 officer;

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

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

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

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

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

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

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

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

27 (2) reprimand a license holder, registrant, or

1 commissioned security officer; or

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

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

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

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

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

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

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

26 (1) disclose that the subpoena has been issued;

27 (2) identify or describe any records requested by the

1 subpoena; or

2 (3) disclose whether records have been furnished in
3 response to the subpoena.

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

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

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

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

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

20 (1) a member of the armed forces or national guard;

21 (2) a guard employed by a penal institution; or

22 (3) a security officer commissioned by the Texas
23 [~~Board of Private Investigators and~~] Private Security Board
24 [~~Agencies~~] if:

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

26 and

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

1 (4) [(5)] a security officer who holds a personal
2 protection authorization under Chapter 1702, Occupations Code,
3 provided that the officer is either:

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

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

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

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

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

21 (2) is traveling;

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

27 (4) holds a security officer commission issued by the

1 Texas Private Security Board, if the person[+]

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

6 [~~(B)~~] is [~~either~~]

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

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

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

17 (B) is either:

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

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

24 (6) [~~(5)~~] is carrying a concealed handgun and a valid
25 license issued under Subchapter H, Chapter 411, Government Code, to
26 carry a concealed handgun of the same category as the handgun the
27 person is carrying;

1 (7) [~~(6)~~] holds an alcoholic beverage permit or
2 license or is an employee of a holder of an alcoholic beverage
3 permit or license if the person is supervising the operation of the
4 permitted or licensed premises; or

5 (8) [~~(7)~~] is a student in a law enforcement class
6 engaging in an activity required as part of the class, if the weapon
7 is a type commonly used in the activity and the person is:

8 (A) on the immediate premises where the activity
9 is conducted; or

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

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

21 SECTION 4B.24. To the extent of any conflict, this article
22 prevails over another Act of the 81st Legislature, Regular Session,
23 2009, relating to nonsubstantive additions to and corrections in
24 enacted codes.

25 SECTION 4B.25. 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

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 5.06. The heading to Section 411.005, Government
8 Code, is amended to read as follows:

9 Sec. 411.005. DIRECTOR, DEPUTY DIRECTORS, AND ASSISTANT
10 DIRECTORS [~~DIRECTOR~~].

11 SECTION 5.07. Section 411.005, Government Code, is amended
12 by amending Subsections (a), (b), and (c) to read as follows:

13 (a) The commission shall appoint a citizen of the United
14 States [~~this state~~] as public safety director. The director serves
15 until removed by the commission.

16 (b) The director may appoint, with the advice and consent of
17 the commission, deputy directors and assistant directors who shall
18 perform the duties that the director designates. Deputy directors
19 and [~~An~~] assistant directors serve [~~director serves~~] until removed
20 by the director.

21 (c) The commission shall select the director, and the
22 director shall select deputy directors and assistant directors [~~an~~
23 ~~assistant director~~], on the basis of the person's training,
24 experience, and qualifications for the position. [~~The director and~~
25 ~~an assistant director must have five years' experience, preferably~~
26 ~~in police or public administration.~~] The director, [~~and an~~
27 ~~assistant director~~] deputy directors, and assistant directors are

1 entitled to annual salaries as provided by the legislature.

2 SECTION 5.08. Section 411.015(b), Government Code, is
3 amended to read as follows:

4 (b) ~~[The number of divisions may not exceed the number of~~
5 ~~divisions existing on August 22, 1957.]~~ The division relating to
6 the Texas Rangers may not be abolished.

7 SECTION 5.09. Sections 411.0195(a), (b), and (c),
8 Government Code, are amended to read as follows:

9 (a) The department shall maintain a system to promptly and
10 efficiently act on ~~[prepare information of public interest~~
11 ~~describing the functions of the department and the department's~~
12 ~~procedures by which]~~ complaints ~~[are]~~ filed with ~~[and resolved by]~~
13 the department. The department shall maintain ~~[make the]~~
14 information about parties to the complaint, the subject matter of
15 the complaint, a summary of the results of the review or
16 investigation of the complaint, and its disposition ~~[available to~~
17 ~~the public and appropriate state agencies]~~.

18 (b) The department shall make information available
19 describing its procedures for complaint investigation and
20 resolution ~~[director by rule shall establish methods by which~~
21 ~~consumers and service recipients are notified of the name, mailing~~
22 ~~address, and telephone number of the department for the purpose of~~
23 ~~directing complaints to the department]~~.

24 (c) The department shall periodically notify the complaint
25 parties of the status of the complaint until final disposition
26 ~~[maintain a file on each written complaint filed with the~~
27 ~~department. The file must include.~~

1 ~~[(1) the name of the person who filed the complaint,~~
2 ~~[(2) the date the complaint is received by the~~
3 ~~department,~~
4 ~~[(3) the subject matter of the complaint,~~
5 ~~[(4) the name of each person contacted in relation to~~
6 ~~the complaint,~~
7 ~~[(5) a summary of the results of the review or~~
8 ~~investigation of the complaint, and~~
9 ~~[(6) an explanation of the reason the file was closed,~~
10 ~~if the agency closed the file without taking action other than to~~
11 ~~investigate the complaint].~~

12 SECTION 5.10. Section 411.188, Government Code, is amended
13 by adding Subsection (j) to read as follows:

14 (j) The department may offer online, or allow a qualified
15 handgun instructor to offer online, the continuing education
16 instruction course and written section of the proficiency
17 examination required to renew a license.

18 SECTION 5.11. 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
21 renew certification under Subsection (d) from any county in this
22 state by using an online format to complete the required retraining
23 courses 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 the

1 certificate.

2 SECTION 5.12. The heading to Section 411.244, Government
3 Code, is amended to read as follows:

4 Sec. 411.244. OFFICE OF INSPECTOR GENERAL [~~INTERNAL~~
5 ~~AFFAIRS~~].

6 SECTION 5.13. Section 411.244, Government Code is amended
7 by amending Subsections (a), (b), (d), (e), and (f), and by adding
8 Subsection (g) to read as follows:

9 (a) The commission [~~director~~] shall establish the office of
10 inspector general, which is responsible for:

11 (1) acting to prevent and detect serious breaches of
12 departmental policy, fraud, and abuse of office, including any acts
13 of criminal conduct within the department; and

14 (2) independently and objectively reviewing,
15 investigating, delegating an investigation, and overseeing the
16 investigation of administrative and all other allegations of
17 conduct referred to in (a)(1) above and the following:

18 (A) criminal activity occurring in all divisions
19 of the department;

20 (B) allegations of wrongdoing by department
21 employees;

22 (C) crimes committed on department property; and

23 (D) serious breaches of department policy
24 [~~internal affairs~~].

25 (b) The office of inspector general [~~internal affairs~~] has
26 [~~original~~] departmental jurisdiction for oversight and
27 coordination over all investigations occurring on department

1 property or involving department employees. The office shall
2 coordinate and provide oversight, but need not conduct, all
3 investigations under this section. The inspector general shall
4 delegate criminal allegations arising under this section to the
5 Texas Ranger division or the Criminal Law Enforcement division of
6 the department for investigation or referral back to the inspector
7 general for further action. However the inspector general shall
8 continually monitor referred matters and report to the commission
9 along with any other division investigating a matter on its status
10 while pending.

11 (d) The commission has direct oversight over the office of
12 inspector general, including decisions regarding budget and
13 staffing. The commission [director] shall appoint the inspector
14 general [head of the office of internal affairs]. The inspector
15 general [head of the office of internal affairs] serves until
16 removed by the commission [director]. The commission shall
17 establish policies to ensure that the commission continues to
18 oversee the office of inspector general as required by this
19 subsection and to ensure that the office of inspector general
20 retains and exercises its original jurisdiction under Subsection
21 (b).

22 (e) The inspector general [head of the office of internal
23 affairs] shall report directly to the commission [director]
24 regarding performance of and activities related to investigations,
25 report to the director for administrative purposes, and provide the
26 director with information regarding investigations as appropriate.

27 (f) The inspector general [head of the office of internal

1 ~~affairs]~~ shall present at each regularly scheduled commission
2 meeting and at other appropriate times:

3 (1) reports of investigations; and

4 (2) a summary of information relating to
5 investigations conducted under this section that includes analysis
6 of the number, type, and outcome of investigations, trends in the
7 investigations, and recommendations to avoid future complaints.

8 (g) This chapter or other law related to the operation of
9 the department's office of inspector general does not preempt the
10 authority of the state auditor to conduct an audit or investigation
11 under Chapter 321 or other law.

12 SECTION 5.14. Section 662.005(b), Government Code, is
13 amended to read as follows:

14 (b) Except as provided by Section 662.010, and
15 notwithstanding Section 659.015 or another law, a state employee
16 who is a peace officer commissioned by a state officer or state
17 agency listed under Article 2.12, Code of Criminal Procedure, or
18 who is employed by the Department of Public Safety either to perform
19 communications or dispatch services related to traffic law
20 enforcement or as a public security officer, as that term is defined
21 by Section 1701.001, Occupations Code, and who is required to work
22 on a national or state holiday that falls on a Saturday or Sunday is
23 entitled to compensatory time off at the rate of one hour for each
24 hour worked on the holiday.

25 SECTION 5.15. Sections 411.0195(d) and (e), Government
26 Code, are repealed.

27 SECTION 5.16. The changes in law made by this article by the

1 amendment of Section 411.0035, Government Code, apply only to a
2 person first appointed to the Public Safety Commission or employed
3 by the Department of Public Safety of the State of Texas on or after
4 the effective date of this Act. A person first appointed or
5 employed before the effective date of this Act is governed by the
6 law in effect immediately before that date, and the former law is
7 continued in effect for that purpose.

8 SECTION 5.17. The changes in law made by this article by the
9 amendment of Section 411.0195, Government Code, apply only to a
10 complaint filed on or after the effective date of this Act. A
11 complaint filed before the effective date of this Act is governed by
12 the law in effect when the complaint was filed, and the former law
13 is continued in effect for that purpose.

14 SECTION 5.18. The Department of Public Safety of the State
15 of Texas shall take action as necessary to ensure that an applicant
16 may renew a qualified handgun instructor certification from any
17 county in this state, as required by Section 411.190(d-1),
18 Government Code, as added by this Act, not later than March 1, 2010.

19 SECTION 5.19. The Department of Public Safety shall develop
20 customer service training requirements that at a minimum must be
21 completed by the staff of the driver license division that interact
22 with the public. Each new employee of the division that is required
23 to complete this training, as a condition of employment, must do so
24 by the end of the third month of employment. Thereafter, each
25 employee that the training applies to shall participate annually in
26 this training.

27 SECTION 5.20. The Department of Public Safety shall develop

1 cultural diversity training requirements to be completed by all
2 staff of the drivers license division. Each new employee of the
3 division, as a condition of employment, must complete the training
4 by the end of the third month of employment. Thereafter, each
5 employee in the division shall participate annually in the
6 diversity training.

7 SECTION 5.21. The Department of Public Safety shall develop
8 training requirements regarding proof of citizenship documents. At
9 a minimum, this training must be completed by all staff in the
10 drivers license division. Each new employee of this division, as a
11 condition of employment, must complete the training by the end of
12 the third month of employment. Thereafter, each employee of the
13 division shall participate annually in this training.

14 ARTICLE 6. ADDITIONAL PROVISIONS

15 SECTION 6.01. Section 411.00755(b), Government Code, is
16 amended to read as follows:

17 (b) The [~~Notwithstanding Chapter 552, the~~] personnel
18 records of a commissioned officer of the department may not be
19 disclosed or otherwise made available to the public, except the
20 department shall release in accordance with Chapter 552:

21 (1) any letter, memorandum, or document relating to:

22 (A) a commendation, congratulation, or honor
23 bestowed on the officer for an action, duty, or activity that
24 relates to the officer's official duties; and

25 (B) misconduct by the officer, if the letter,
26 memorandum, or document resulted in disciplinary action;

27 (2) the state application for employment submitted by

- 1 the officer, but not including any attachments to the application;
- 2 (3) any reference letter submitted by the officer;
- 3 (4) any letter of recommendation for the officer;
- 4 (5) any employment contract with the officer;
- 5 (6) any periodic evaluation of the officer by a
6 supervisor;
- 7 (7) any document recording a promotion or demotion of
8 the officer;
- 9 (8) any request for leave by the officer;
- 10 (9) any request by the officer for transfers of shift
11 or duty assignments;
- 12 (10) any documents presented to the commission in
13 connection with a public hearing under Section 411.007(f);
- 14 (11) the officer's:
- 15 (A) name;
- 16 (B) age;
- 17 (C) dates of employment;
- 18 (D) positions held; and
- 19 (E) gross salary; and
- 20 (12) information about the location of the officer's
21 department duty assignments.

22 SECTION 6.02. Subchapter A, Chapter 411, Government Code,
23 is amended by adding Section 411.0161 to read as follows:

24 Sec. 411.0161. DONATION OF ACCRUED COMPENSATORY TIME OR
25 ACCRUED ANNUAL LEAVE FOR LEGISLATIVE PURPOSES. (a) The director
26 shall allow a department employee to voluntarily transfer to a
27 legislative leave pool up to eight hours of compensatory time or

1 annual leave per year earned by the employee.

2 (b) The director or designee shall administer the
3 legislative leave pool.

4 (c) The Public Safety Commission shall adopt rules and
5 prescribe procedures relating to the operation of the legislative
6 leave pool.

7 (d) The director or designee shall credit the legislative
8 leave pool with the amount of time contributed by an employee and
9 deduct a corresponding amount of time from the employee's earned
10 compensatory time or annual leave as if the employee had used the
11 time for personal purposes.

12 (e) An employee is entitled to use time contributed to the
13 legislative leave pool if the employee uses the time for
14 legislative leave on behalf of a law enforcement association of at
15 least 1,000 active or retired members governed by a board of
16 directors.

17 (f) The director of the pool administrator shall transfer
18 time from the pool to the employee and credit the time to the
19 employee.

20 (g) An employee may only withdraw time from the legislative
21 leave pool in coordination and with the consent of the president or
22 designee of the law enforcement association described in Subsection
23 (e), and may not draw more than 80 hours of time from the pool in a
24 160-hours work cycle with the maximum time taken not to exceed 480
25 hours per fiscal year.

26 (h) In addition to Subsection (g), the use of any time from
27 the legislative leave pool must also be in accordance with rules

1 adopted by the Public Safety Commission.

2 SECTION 6.03. Section 411.192, Government Code, is amended
3 by amending Subsections (a) and (d) and adding Subsection (e) to
4 read as follows:

5 (a) The department shall disclose to a criminal justice
6 agency information contained in its files and records regarding
7 whether a named individual or any individual named in a specified
8 list is licensed under this subchapter. Information on an
9 individual subject to disclosure under this section includes the
10 individual's name, date of birth, gender, race, ~~and~~ zip code,
11 telephone number, e-mail address, and Internet website address.
12 Except as otherwise provided by this section and by Section
13 411.193, all other records maintained under this subchapter are
14 confidential and are not subject to mandatory disclosure under the
15 open records law, Chapter 552.

16 (d) The ~~[This section does not prohibit the]~~ department
17 shall make ~~[from making]~~ public and distribute ~~[distributing]~~ to
18 the public at no cost lists of individuals who are certified as
19 qualified handgun instructors by the department and who request to
20 be included as provided by Subsection (e). The department shall
21 include on the lists each individual's name, telephone number,
22 e-mail address, and Internet website address. The department shall
23 make the list available on the department's Internet website.

24 (e) An individual who is certified as a qualified handgun
25 instructor may request in writing that the department disclose all
26 or part of the information described by Subsection (d) regarding
27 the individual. The department shall include all or part of the

1 individual's information on the list as requested.

2 SECTION 6.04. 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 6.05. 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 by amending the section heading and
21 Subsections (a) and (c) and by adding Subsections (a-1) and (a-2) to
22 read as follows:

23 Sec. 614.152. PHYSICAL FITNESS PROGRAMS AND STANDARDS. (a)
24 Each [~~Out of appropriated funds, each~~] law enforcement agency shall
25 adopt physical fitness programs that a law enforcement officer must
26 participate in and physical fitness standards that a law
27 enforcement officer must meet [~~to continue employment with the~~

1 ~~agency as a law enforcement officer~~]. The standards as applied to
2 an officer must directly relate to the officer's job duties and
3 shall include individual fitness goals specific to the officer's
4 age and gender. A law enforcement agency shall use the services of
5 a consultant to aid the agency in developing the standards.

6 (a-1) Each law enforcement agency shall adopt a reward
7 policy that provides for reward incentives to officers who
8 participate in the program and meet the standards adopted under
9 Subsection (a). The reward incentives under the policy must be an
10 amount of administrative leave of not more than four days per year.

11 (a-2) An agency may adopt physical readiness standards
12 independent of other law enforcement agencies.

13 (c) A law enforcement agency may exempt a law enforcement
14 officer from participating in a program or meeting a standard under
15 Subsection (a) based on the facts and circumstances of the
16 individual case, including whether an officer was injured in the
17 line of duty.

18 SECTION 6.06. Section 411.171(4), Government Code, is
19 amended to read as follows:

20 (4) "Convicted" means an adjudication of guilt or,
21 except as provided in Section 411.1711, an order of deferred
22 adjudication entered against a person by a court of competent
23 jurisdiction whether or not the imposition of the sentence is
24 subsequently probated and the person is discharged from community
25 supervision. The term does not include an adjudication of guilt or
26 an order of deferred adjudication that has been subsequently:

27 (A) expunged; [~~or~~]

1 (B) pardoned under the authority of a state or
2 federal official; or

3 (C) otherwise vacated, set aside, annulled,
4 invalidated, voided, or sealed under any state or federal law.

5 SECTION 6.07. Subchapter C, Chapter 521, Transportation
6 Code, is amended by adding Section 521.060 to read as follows:

7 Sec. 521.060. DRIVER RECORD MONITORING PILOT PROGRAM.

8 (a) The department by rule may establish a driver record
9 monitoring pilot program. The term of the pilot program may not
10 exceed one year.

11 (b) Under the pilot program, the department may enter into a
12 contract with a person to provide driver record monitoring
13 services, as described by Subsection (c), and certain information
14 from the department's driver's license records to the person, if the
15 person:

16 (1) is an employer, an insurer, an insurance support
17 organization, an employer support organization, or an entity that
18 self-insures its motor vehicles; and

19 (2) is eligible to receive the information under
20 Chapter 730.

21 (c) A contract entered into by the department must require:

22 (1) the department, during the term of the contract,
23 to:

24 (A) monitor the driver record of each holder of a
25 driver's license issued by the department that is requested by the
26 person with whom the department has contracted;

27 (B) identify any change in the status of a

1 driver's license or any conviction for a traffic offense reported
2 to the department during the monitoring period; and

3 (C) periodically, as specified in the contract,
4 provide reports of those individuals identified as having a change
5 in status or convictions to the person with whom the department has
6 contracted; and

7 (2) the person with whom the department has
8 contracted:

9 (A) to purchase under Section 521.046 a copy of
10 the driver record of each individual identified in a report
11 provided under Subdivision (1)(C);

12 (B) to warrant that:

13 (i) the person will not directly or
14 indirectly disclose information received from the department under
15 the contract to a third party without the express written consent of
16 the department, except as required by law or legal process; and

17 (ii) if a disclosure is required by law or
18 legal process, the person will immediately notify the department so
19 that the department may seek to oppose, limit, or restrict the
20 required disclosure; and

21 (C) if the person is an insurance support
22 organization, to warrant that the person will not seek to obtain
23 information about a holder of a driver's license under the contract
24 unless the license holder is insured by a client of the
25 organization, and that the person will provide the department with
26 the name of each client to whom the insurance support organization
27 provides information received from the department under the

1 contract.

2 (d) The attorney general may file a suit against a person
3 with whom the department has contracted under this section for:

4 (1) injunctive relief to prevent or restrain the
5 person from violating a term of the contract or from directly or
6 indirectly disclosing information received from the department
7 under the contract in a manner that violates the terms of the
8 contract; or

9 (2) a civil penalty in an amount not to exceed \$2,000
10 for each disclosure in violation of those terms.

11 (e) If the attorney general brings an action against a
12 person under Subsection (d) and an injunction is granted against
13 the person or the person is found liable for a civil penalty, the
14 attorney general may recover reasonable expenses, court costs,
15 investigative costs, and attorney's fees. Each day a violation
16 continues or occurs is a separate violation for purposes of
17 imposing a penalty under Subsection (d).

18 (f) A violation of the terms of a contract entered into with
19 the department by the person with whom the department has
20 contracted is a false, misleading, or deceptive act or practice
21 under Subchapter E, Chapter 17, Business & Commerce Code.

22 (g) A civil action brought under this section shall be filed
23 in a district court:

24 (1) in Travis County; or

25 (2) in any county in which the violation occurred.

26 (h) A person with whom the department has contracted under
27 this section commits an offense if the person directly or

1 indirectly discloses information received from the department
2 under the contract in a manner that violates the terms of the
3 contract. An offense under this subsection is a Class B
4 misdemeanor. If conduct constituting an offense under this
5 subsection also constitutes an offense under another law, the actor
6 may be prosecuted under this subsection, the other law, or both.

7 (i) The department shall impose a fee on each person with
8 whom the department contracts under this section for the services
9 provided by the department under the contract. The fee must be
10 reasonable and be not less than the amount necessary to allow the
11 department to recover all reasonable costs to the department
12 associated with entering into the contract and providing services
13 to the person under the contract, including direct, indirect, and
14 administrative costs and costs related to the development and
15 deployment of the pilot program.

16 (j) The department may establish a reasonable deadline by
17 which a person must apply to enter into a contract with the
18 department under this section and may not enter into a contract with
19 a person who fails to apply before that deadline.

20 (k) To the fullest extent practicable, the services of the
21 department under a contract entered into under this section shall
22 be provided by, through, or in conjunction with the interactive
23 system established under Section 521.055.

24 (l) At the conclusion of the term of the pilot program, and
25 on the recommendation of the department, the commission may
26 authorize the department to implement the pilot program as a
27 permanent program.

1 (m) Before the department recommends that the pilot program
2 be implemented as a permanent program, the department shall submit
3 to the lieutenant governor, the speaker of the house of
4 representatives, and each member of the legislature a report that
5 contains an analysis of the scope, effectiveness, and cost benefits
6 of the pilot program. The report must include:

7 (1) a list of each insurance support organization with
8 which the department has contracted under this section; and

9 (2) a list of each client to whom the insurance support
10 organization has provided information received from the department
11 under this section.

12 SECTION 6.08. Subchapter S, Chapter 521, Transportation
13 Code, is amended by adding Section 521.4565 to read as follows:

14 Sec. 521.4565. CONSPIRING TO MANUFACTURE COUNTERFEIT
15 LICENSE OR CERTIFICATE. (a) In this section:

16 (1) "Combination," "conspires to commit," "profits,"
17 and "criminal street gang" have the meanings assigned by Section
18 71.01, Penal Code.

19 (2) "Conspires to manufacture or produce" means that:

20 (A) a person agrees with one or more other
21 persons to engage in the manufacture or production of a forged or
22 counterfeit instrument; and

23 (B) the person and one or more of the other
24 persons perform an overt act in pursuance of the agreement.

25 (3) "Instrument" means a driver's license, commercial
26 driver's license, or personal identification certificate.

27 (4) "Public servant" has the meaning assigned by

1 Section 1.07, Penal Code.

2 (b) A person commits an offense if the person establishes,
3 maintains, or participates in or conspires to establish, maintain,
4 or participate in a combination or criminal street gang, or
5 participates in the profits of a combination or criminal street
6 gang, with the intent to manufacture or produce a forged or
7 counterfeit instrument for the purpose of selling, distributing, or
8 delivering the instrument. An agreement that constitutes
9 conspiring to manufacture or produce may be inferred from the acts
10 of the parties.

11 (c) An offense under this section is a state jail felony,
12 except that an offense committed by a public servant is a felony of
13 the third degree.

14 SECTION 6.09. Section 548.005, Transportation Code, is
15 amended to read as follows:

16 Sec. 548.005. INSPECTION ONLY BY STATE-CERTIFIED AND
17 SUPERVISED INSPECTION STATION. A compulsory inspection under this
18 chapter may be made only by an inspection station, except that the
19 department may:

20 (1) permit inspection to be made by an inspector under
21 terms and conditions the department prescribes; ~~and~~

22 (2) authorize the acceptance in this state of a
23 certificate of inspection and approval issued in another state
24 having a similar inspection law; and

25 (3) authorize the acceptance in this state of a
26 certificate of inspection and approval issued in compliance with 49
27 C.F.R. Part 396 to a motor bus, as defined by Section 502.001, that

1 is registered in this state but is not domiciled in this state.

2 SECTION 6.10. Section 708.157(c), Transportation Code, is
3 amended to read as follows:

4 (c) The department by rule shall [~~may~~] establish an
5 indigency program for holders of a driver's license on which a
6 surcharge has been assessed for certain offenses, as determined by
7 the department.

8 SECTION 6.11. Section 22.0834, Education Code, is amended
9 by adding Subsections (k), (l), (m), (n), (o), and (p) to read as
10 follows:

11 (k) The requirements of this section apply to an entity that
12 contracts directly with a school district, open-enrollment charter
13 school, or shared services arrangement and any subcontractor of the
14 entity.

15 (l) A contracting entity shall require that a
16 subcontracting entity obtain all criminal history record
17 information that relates to an employee to whom Subsection (a)
18 applies. If a contracting or subcontracting entity determines that
19 Subsection (a) does not apply to an employee, the contracting or
20 subcontracting entity shall make a reasonable effort to ensure that
21 the conditions or precautions that resulted in the determination
22 that Subsection (a) did not apply to the employee continue to exist
23 throughout the time that the contracted services are provided.

24 (m) A contracting entity complies with the requirements of
25 this section if the contracting entity obtains a written statement
26 from each subcontracting entity certifying that the subcontracting
27 entity has obtained the required criminal history record

1 information for employees of the subcontracting entity and the
2 subcontracting entity has obtained certification from each of the
3 subcontracting entity's subcontractors.

4 (n) A subcontracting entity must certify to the school
5 district, open-enrollment charter school, or shared services
6 arrangement and the contracting entity that the subcontracting
7 entity has obtained all criminal history record information that
8 relates to an employee to whom Subsection (a) applies and has
9 obtained similar written certifications from the subcontracting
10 entity's subcontractors.

11 (o) A contracting or subcontracting entity may not permit an
12 employee to whom Subsection (a) applies to provide services at a
13 school if the employee has been convicted of a felony or misdemeanor
14 offense that would prevent a person from obtaining certification as
15 an educator under Section 21.060.

16 (p) In this section:

17 (1) "Contracting entity" means an entity that
18 contracts directly with a school district, open-enrollment charter
19 school, or shared services arrangement to provide services to the
20 school district, open-enrollment charter school, or shared
21 services arrangement.

22 (2) "Subcontracting entity" means an entity that
23 contracts with another entity that is not a school district,
24 open-enrollment charter school, or shared services arrangement to
25 provide services to a school district, open-enrollment charter
26 school, or shared services arrangement.

27 ARTICLE 7. TEXAS RANGERS' UNSOLVED CRIMES INVESTIGATION TEAM

1 SECTION 7.01. The heading to Subchapter J, Chapter 411,
2 Government Code, is amended to read as follows:

3 SUBCHAPTER J. UNSOLVED CRIMES INVESTIGATION PROGRAM [~~TEAM~~]

4 SECTION 7.02. Section 411.262, Government Code, is amended
5 to read as follows:

6 Sec. 411.262. UNSOLVED CRIMES INVESTIGATION PROGRAM
7 [~~TEAM~~]. (a) The unsolved crimes investigation program [~~team~~] is
8 an investigative program [~~investigatory unit~~] within the
9 department.

10 (b) The program is a function [~~team will be located at the~~
11 ~~headquarters~~] of the Texas Rangers [~~in Austin, Texas,~~] and will be
12 commanded by the chief of the Texas Rangers.

13 (c) The director may employ commissioned peace officers and
14 noncommissioned employees to perform duties required of the program
15 [~~team~~].

16 (d) To be eligible for employment under this section, a
17 peace officer must be a sergeant or higher-ranked officer of the
18 Texas Rangers and must have [~~not less than four years of experience~~
19 ~~as a peace officer and,~~

20 [~~(1) a degree from an accredited institution of higher~~
21 ~~education in law, accounting, or computer science, or~~

22 [~~(2)~~] two or more years of experience in the
23 investigation of homicides or other major felonies.

24 (e) To be eligible for employment under this section, a
25 noncommissioned employee must meet the experience, training, and
26 educational qualifications set by the director as requirements for
27 investigating or assisting in the investigation of an unsolved

1 crime.

2 SECTION 7.03. Section 411.263, Government Code, is amended
3 to read as follows:

4 Sec. 411.263. ASSISTANCE ON REQUEST. On the request of an
5 attorney representing the state and with the approval of the
6 director, employees of the unsolved crimes investigation program
7 [~~team~~] of the department may assist local law enforcement in the
8 investigation of crime.

9 SECTION 7.04. This article takes effect immediately if this
10 Act receives a vote of two-thirds of all the members elected to each
11 house, as provided by Section 39, Article III, Texas Constitution.
12 If this Act does not receive the vote necessary for immediate
13 effect, this article takes effect September 1, 2009.

14 ARTICLE 8. DISSEMINATION OF EMERGENCY PUBLIC SERVICE MESSAGES

15 SECTION 8.01. Section 418.047, Government Code, is amended
16 by adding Subsection (a-1) to read as follows:

17 (a-1) The division shall coordinate with the Texas
18 Department of Transportation to establish additional methods for
19 disseminating emergency public service messages to motorists,
20 including:

21 (1) severe weather advisories;

22 (2) AMBER alerts under Subchapter L, Chapter 411; and

23 (3) silver alerts under Subchapter M, Chapter 411.

24 ARTICLE 9. AUTHORITY OF DEPARTMENT TO OBTAIN AND USE CRIMINAL
25 HISTORY RECORD INFORMATION FOR CERTAIN DEPARTMENTAL AUTHORIZATIONS

26 SECTION 9.01. Subchapter F, Chapter 411, Government Code,
27 is amended by adding Section 411.0891 to read as follows:

1 Sec. 411.0891. DEPARTMENT ACCESS TO CRIMINAL HISTORY RECORD
2 INFORMATION: CERTAIN DEPARTMENTAL AUTHORIZATIONS. (a) Subject to
3 Section 411.087, the department is authorized to obtain and use
4 criminal history record information maintained by the Federal
5 Bureau of Investigation or the department that relates to a person
6 who:

7 (1) is an applicant for or holds a registration issued
8 by the director under Subchapter C, Chapter 481, Health and Safety
9 Code, that authorizes the person to manufacture, distribute,
10 analyze, or conduct research with a controlled substance;

11 (2) is an applicant for or holds a chemical precursor
12 transfer permit issued by the director under Section 481.078,
13 Health and Safety Code;

14 (3) is an applicant for or holds a chemical laboratory
15 apparatus transfer permit issued by the director under Section
16 481.081, Health and Safety Code;

17 (4) is an applicant for certification by the
18 department as an inspection station or an inspector under
19 Subchapter G, Chapter 548, Transportation Code, holds an inspection
20 station or inspector certificate issued under that subchapter, or
21 is the owner of an inspection station operating under that chapter;
22 or

23 (5) is an applicant for approval or has been approved
24 as a program sponsor by the department under Chapter 662,
25 Transportation Code, is an applicant for certification by the
26 department as an instructor under that chapter, or holds an
27 instructor certificate issued under that chapter.

1 **(b) The department may release or disclose criminal history**
 2 **record information obtained or used by the department for a purpose**
 3 **described by Subsection (a) to another person or agency only:**

- 4 **(1) in a criminal proceeding;**
 5 **(2) in a hearing conducted by the department;**
 6 **(3) under an order from a court; or**
 7 **(4) with the consent of the person who is the subject**
 8 **of the criminal history record information.**

9 **(c) This section may not be construed to limit the authority**
 10 **of the department to disseminate criminal history record**
 11 **information as provided by Section 411.083.**

12 SECTION 9.02. This article takes effect immediately if this
 13 Act receives a vote of two-thirds of all the members elected to each
 14 house, as provided by Section 39, Article III, Texas Constitution.
 15 If this Act does not receive the vote necessary for immediate
 16 effect, this article takes effect September 1, 2009.

17 ARTICLE 9A. DISCLOSURE OF CRIMINAL HISTORY RECORD INFORMATION
 18 REGARDING PUBLIC SCHOOL EMPLOYEES

19 SECTION 9A.01. Section 411.084, Government Code, is amended
 20 by amending Subsection (a) and adding Subsections (a-1) and (c) to
 21 read as follows:

22 (a) Criminal history record information obtained from the
 23 department under this subchapter, including any identification
 24 information that could reveal the identity of a person about whom
 25 criminal history record information is requested and information
 26 that directly or indirectly indicates or implies involvement of a
 27 person in the criminal justice system:

1 (1) is for the exclusive use of the authorized
2 recipient of the information; and

3 (2) may be disclosed or used by the recipient only if,
4 and only to the extent that, disclosure or use is authorized or
5 directed by:

6 (A) this subchapter;

7 (B) another statute;

8 (C) a rule adopted under a statute; or

9 (D) an order of a court of competent
10 jurisdiction.

11 (a-1) The term "criminal history record" information under
12 Subsection (a) does not refer to any specific document produced to
13 comply with this subchapter but to the information contained,
14 wholly or partly, in a document's original form or any subsequent
15 form or use.

16 (c) An agency or individual may not confirm the existence or
17 nonexistence of criminal history record information to any person
18 that is not eligible to receive the information.

19 SECTION 9A.02. Sections 411.090(b) and (c), Government Code,
20 are amended to read as follows:

21 (b) Criminal history record information obtained by the
22 board in the original form or any subsequent form [~~under Subsection~~
23 ~~(a)~~]:

24 (1) may be used only for a [~~any~~] purpose related to the
25 issuance, denial, suspension, or cancellation of a certificate
26 issued by the board;

27 (2) may not be released to any person except:

1 (A) the person who is the subject of the
2 information;

3 (B) the Texas Education Agency;

4 (C) a local or regional educational entity as
5 provided by Section 411.097; or

6 (D) by ~~an~~ court order ~~[or with the consent of~~
7 ~~the applicant for a certificate]~~; ~~and]~~

8 (3) is not subject to disclosure as provided by
9 Chapter 552; and

10 (4) shall be destroyed by the board after the
11 information is used for the authorized purposes.

12 (c) The department shall notify the State Board for Educator
13 Certification of the arrest of any educator, as defined by Section
14 5.001, Education Code, who has fingerprints on file with the
15 department. Any record of the notification and any information
16 contained in the notification is not subject to disclosure as
17 provided by Chapter 552.

18 SECTION 9A.03. Section 411.0901, Government Code, is
19 amended to read as follows:

20 Sec. 411.0901. ACCESS TO CRIMINAL HISTORY RECORD
21 INFORMATION: TEXAS EDUCATION AGENCY. (a) The Texas Education
22 Agency is entitled to obtain criminal history record information
23 maintained by the department about a person who:

24 (1) is employed or is an applicant for employment by a
25 school district or open-enrollment charter school;

26 (2) is employed or is an applicant for employment by a
27 shared services arrangement, if the employee's or applicant's

1 duties are or will be performed on school property or at another
2 location where students are regularly present; or

3 (3) is employed or is an applicant for employment by an
4 entity that contracts with a school district, open-enrollment
5 charter school, or shared services arrangement if:

6 (A) the employee or applicant has or will have
7 continuing duties relating to the contracted services; and

8 (B) the employee or applicant has or will have
9 direct contact with students.

10 (b) Criminal history record information obtained by the
11 agency in the original form or any subsequent form:

12 (1) may be used only for a purpose authorized by the
13 Education Code;

14 (2) may not be released to any person except:

15 (A) the person who is the subject of the
16 information;

17 (B) the State Board for Educator Certification;

18 (C) a local or regional educational entity as
19 provided by Section 411.097; or

20 (D) by court order;

21 (3) is not subject to disclosure as provided by
22 Chapter 552; and

23 (4) shall be destroyed by the agency after the
24 information is used for the authorized purposes.

25 SECTION 9A.04. Section 411.097, Government Code, is amended
26 by amending Subsection (d) and adding Subsection (f) to read as
27 follows:

1 (d) Criminal history record information obtained by a
2 school district, charter school, private school, service center,
3 commercial transportation company, or shared services arrangement
4 in the original form or any subsequent form:

5 (1) [~~under Subsection (a), (b), or (c)~~] may not be
6 released [~~or disclosed~~] to any person except:

7 (A) [~~other than~~] the individual who is the
8 subject of the information;

9 (B) [~~]~~ the Texas Education Agency;

10 (C) [~~]~~ the State Board for Educator
11 Certification;

12 (D) [~~or~~] the chief personnel officer of the
13 transportation company, if the information is obtained under
14 Subsection (a)(2); or

15 (E) by court order;

16 (2) is not subject to disclosure as provided by
17 Chapter 552; and

18 (3) shall be destroyed by the school district, charter
19 school, private school, service center, commercial transportation
20 company, or shared services arrangement on the earlier of:

21 (A) the first anniversary of the date the
22 information was originally obtained; or

23 (B) the date the information is used for the
24 authorized purpose.

25 (f) An employee of a school district, charter school,
26 private school, regional education service center, commercial
27 transportation company, or education shared services arrangement

1 or an entity that contracts to provide services to a school
2 district, charter school, or shared services arrangement may
3 request from the employer a copy of any criminal history record
4 information relating to that employee that the employer has
5 obtained as provided by Subchapter C, Chapter 22, Education Code.
6 The employer may charge a fee to an employee requesting a copy of
7 the information in an amount not to exceed the actual cost of
8 copying the requested criminal history record information.

9 SECTION 9A.05. Subchapter C, Chapter 22, Education Code, is
10 amended by adding Section 22.08391 to read as follows:

11 Sec. 22.08391. CONFIDENTIALITY OF INFORMATION. (a)
12 Information collected about a person to comply with this
13 subchapter, including the person's name, address, phone number,
14 social security number, driver's license number, other
15 identification number, and fingerprint records:

16 (1) may not be released except:
17 (A) to comply with this subchapter;
18 (B) by court order; or
19 (C) with the consent of the person who is the
20 subject of the information;

21 (2) is not subject to disclosure as provided by
22 Chapter 552, Government Code; and

23 (3) shall be destroyed by the requestor or any
24 subsequent holder of the information not later than the first
25 anniversary of the date the information is received.

26 (b) Any criminal history record information received by the
27 State Board for Educator Certification as provided by this

1 subchapter is subject to Section 411.090(b), Government Code.

2 (c) Any criminal history record information received by the
3 agency as provided by this subchapter is subject to Section
4 411.0901(b), Government Code.

5 (d) Any criminal history record information received by a
6 school district, charter school, private school, regional
7 education service center, commercial transportation company, or
8 education shared services arrangement or an entity that contracts
9 to provide services to a school district, charter school, or shared
10 services arrangement as provided by this subchapter is subject to
11 Section 411.097(d), Government Code.

12 SECTION 9A.06. The change in law made by this article
13 applies to information collected, assembled, or maintained before,
14 on, or after the effective date of this article.

15 ARTICLE 10. COLLECTION, MAINTENANCE, AND TRANSFER AND OTHER
16 DISSEMINATION OF CRIMINAL HISTORY RECORD INFORMATION AND JUVENILE
17 JUSTICE INFORMATION

18 SECTION 10.01. Section 411.042(b), Government Code, as
19 amended by Chapters 70 (H.B. 76), 1306 (S.B. 839), and 1372 (S.B.
20 9), Acts of the 80th Legislature, Regular Session, 2007, is
21 reenacted and amended to read as follows:

22 (b) The bureau of identification and records shall:

23 (1) procure and file for record photographs, pictures,
24 descriptions, fingerprints, measurements, and other pertinent
25 information of all persons arrested for or charged with a criminal
26 offense or convicted of a criminal offense, regardless of whether
27 the conviction is probated;

1 (2) collect information concerning the number and
2 nature of offenses reported or known to have been committed in the
3 state and the legal steps taken in connection with the offenses, and
4 other information useful in the study of crime and the
5 administration of justice, including information that enables the
6 bureau to create a statistical breakdown of offenses in which
7 family violence was involved and a statistical breakdown of
8 offenses under Sections 22.011 and 22.021, Penal Code;

9 (3) make ballistic tests of bullets and firearms and
10 chemical analyses of bloodstains, cloth, materials, and other
11 substances for law enforcement officers of the state;

12 (4) cooperate with identification and crime records
13 bureaus in other states and the United States Department of
14 Justice;

15 (5) maintain a list of all previous background checks
16 for applicants for any position regulated under Chapter 1702,
17 Occupations Code, who have undergone a criminal history background
18 check under Section 411.119, if the check indicates a Class B
19 misdemeanor or equivalent offense or a greater offense;

20 (6) collect information concerning the number and
21 nature of protective orders and all other pertinent information
22 about all persons on active protective orders. Information in the
23 law enforcement information system relating to an active protective
24 order shall include:

25 (A) the name, sex, race, date of birth, personal
26 descriptors, address, and county of residence of the person to whom
27 the order is directed;

1 (B) any known identifying number of the person to
2 whom the order is directed, including the person's social security
3 number or driver's license number;

4 (C) the name and county of residence of the
5 person protected by the order;

6 (D) the residence address and place of employment
7 or business of the person protected by the order, unless that
8 information is excluded from the order under Section 85.007, Family
9 Code;

10 (E) the child-care facility or school where a
11 child protected by the order normally resides or which the child
12 normally attends, unless that information is excluded from the
13 order under Section 85.007, Family Code;

14 (F) the relationship or former relationship
15 between the person who is protected by the order and the person to
16 whom the order is directed; and

17 (G) the date the order expires; ~~and~~

18 (7) grant access to criminal history record
19 information in the manner authorized under Subchapter F;

20 (8) [(7)] collect and disseminate information
21 regarding offenders with mental impairments in compliance with
22 Chapter 614, Health and Safety Code; and

23 (9) record data and maintain a state database for a
24 computerized criminal history record system and computerized
25 juvenile justice information system that serves:

26 (A) as the record creation point for criminal
27 history record information and juvenile justice information

1 maintained by the state; and

2 (B) as the control terminal for the entry of
3 records, in accordance with federal law and regulations, federal
4 executive orders, and federal policy, into the federal database
5 maintained by the Federal Bureau of Investigation.

6 SECTION 10.02. Section 411.083(b), Government Code, is
7 amended to read as follows:

8 (b) The department shall grant access to criminal history
9 record information to:

10 (1) criminal justice agencies;

11 (2) noncriminal justice agencies authorized by
12 federal statute or executive order or by state statute to receive
13 criminal history record information;

14 (3) the person who is the subject of the criminal
15 history record information;

16 (4) a person working on a research or statistical
17 project that:

18 (A) is funded in whole or in part by state funds;

19 or

20 (B) meets the requirements of Part 22, Title 28,
21 Code of Federal Regulations, and is approved by the department;

22 (5) an individual or an agency that has a specific
23 agreement with a criminal justice agency to provide services
24 required for the administration of criminal justice under that
25 agreement, if the agreement:

26 (A) specifically authorizes access to
27 information;

1 (B) limits the use of information to the purposes
2 for which it is given;

3 (C) ensures the security and confidentiality of
4 the information; [~~and~~]

5 (D) provides for sanctions if a requirement
6 imposed under Paragraph (A), (B), or (C) is violated; and

7 (E) requires the individual or agency to perform
8 the applicable services in a manner prescribed by the department;

9 (6) an individual or an agency that has a specific
10 agreement with a noncriminal justice agency to provide services
11 related to the use of criminal history record information
12 disseminated under this subchapter, if the agreement:

13 (A) specifically authorizes access to
14 information;

15 (B) limits the use of information to the purposes
16 for which it is given;

17 (C) ensures the security and confidentiality of
18 the information; [~~and~~]

19 (D) provides for sanctions if a requirement
20 imposed under Paragraph (A), (B), or (C) is violated; and

21 (E) requires the individual or agency to perform
22 the applicable services in a manner prescribed by the department;

23 (7) a county or district clerk's office; and

24 (8) the Office of Court Administration of the Texas
25 Judicial System.

26 SECTION 10.03. Section 411.084(b), Government Code, is
27 amended to read as follows:

1 (b) Notwithstanding Subsection (a) or any other provision
2 in this subchapter, criminal history record information obtained
3 from the Federal Bureau of Investigation may be released or
4 disclosed only to a governmental entity or as authorized by federal
5 law and regulations [~~statute, federal rule~~], [~~or~~] federal executive
6 orders, and federal policy [~~order~~].

7 SECTION 10.04. Sections 411.0845(e), (i), and (k),
8 Government Code, are amended to read as follows:

9 (e) A person entitled to receive criminal history record
10 information under this section must provide the department with the
11 following information regarding the person who is the subject of
12 the criminal history record information requested:

13 (1) the person's full name, date of birth, sex, [~~Texas~~
14 ~~driver's license number or personal identification certificate~~
15 ~~number,~~] and social security number, and the number assigned to any
16 form of unexpired identification card issued by this state or
17 another state, the District of Columbia, or a territory of the
18 United States that includes the person's photograph;

19 (2) a recent electronic digital image photograph of
20 the person and a complete set of the person's fingerprints as
21 required by the department; and

22 (3) any other information required by the department.

23 (i) The release under this section of any criminal history
24 record information maintained by the Federal Bureau of
25 Investigation, including the computerized information submitted to
26 the federal database maintained by the Federal Bureau of
27 Investigation as described by Section 411.042(b)(9)(B), is subject

1 to federal law and regulations, federal executive orders, and
2 federal policy.

3 (k) A governmental agency may coordinate with the
4 department regarding the use of the fingerprinting fee collection
5 process to collect [~~collection of~~] a fee for the criminal history
6 record information and any other fees associated with obtaining a
7 person's fingerprints as required by the department [~~through the~~
8 ~~fingerprinting fee collection process~~].

9 SECTION 10.05. Section 411.085(a), Government Code, is
10 amended to read as follows:

11 (a) A person commits an offense if the person knowingly or
12 intentionally:

13 (1) obtains criminal history record information in an
14 unauthorized manner, uses the information for an unauthorized
15 purpose, or discloses the information to a person who is not
16 entitled to the information;

17 [~~(2) provides a person with a copy of the person's~~
18 ~~criminal history record information obtained from the department,~~]

19 or

20 (2) [~~(3)~~] violates a rule of the department adopted
21 under this subchapter.

22 SECTION 10.06. Section 411.094(d), Government Code, is
23 amended to read as follows:

24 (d) Criminal history record information received by an
25 institution of higher education under Subsection (b) may not be
26 released or disclosed to any person except on court order or with
27 the consent of the person who is the subject of the criminal history

1 record information.

2 SECTION 10.07. Section 411.0985(c), Government Code, is
3 amended to read as follows:

4 (c) The Texas Commission for the Blind may not release or
5 disclose information obtained under Subsection (a) except on court
6 order or with the consent of the person who is the subject of the
7 criminal history record information.

8 SECTION 10.08. Section 411.1005(b), Government Code, is
9 amended to read as follows:

10 (b) Information received by the state bar is confidential
11 and may be disseminated only:

12 (1) in a disciplinary action or proceeding conducted
13 by the state bar, the Board of Disciplinary Appeals, or any court;
14 or

15 (2) with the consent of the person who is the subject
16 of the criminal history record information.

17 SECTION 10.09. Section 411.1131(c), Government Code, is
18 amended to read as follows:

19 (c) The Texas Commission for the Deaf and Hard of Hearing
20 may not release or disclose information obtained under Subsection
21 (a), except on court order or with the consent of the person who is
22 the subject of the criminal history record information, and shall
23 destroy all criminal history record information obtained under
24 Subsection (a) after the information is used for its authorized
25 purpose.

26 SECTION 10.10. Section 411.1182(c), Government Code, is
27 amended to read as follows:

1 (c) Criminal history information obtained from the
2 department may not be released or disclosed except:

3 (1) as needed in protecting the security of a
4 commercial nuclear power plant;

5 (2) [~~or~~] as authorized by the United States Nuclear
6 Regulatory Commission, a court order, or a federal or state law or
7 order; or

8 (3) with the consent of the person who is the subject
9 of the criminal history record information.

10 SECTION 10.11. Section 411.120(b), Government Code, is
11 amended to read as follows:

12 (b) Criminal history record information obtained by a
13 county judge under Subsection (a) may not be released or disclosed
14 to any person except in a hearing held under Chapter 25 or 69,
15 Alcoholic Beverage Code, or with the consent of the person who is
16 the subject of the criminal history record information.

17 SECTION 10.12. Section 411.1236(b), Government Code, is
18 amended to read as follows:

19 (b) Criminal history record information obtained by the
20 Texas Commission on Fire Protection under Subsection (a) may not be
21 released to any person or agency except on court order or with the
22 consent of the person who is the subject of the criminal history
23 record information, or if [~~unless~~] the information is entered into
24 evidence by the board in an administrative, civil, or criminal
25 hearing under Chapter 419.

26 SECTION 10.13. Section 411.136(e), Government Code, is
27 amended to read as follows:

1 (e) All criminal history record information received by a
2 public or nonprofit hospital or hospital district under this
3 section is privileged, confidential, and intended for the exclusive
4 use of the entity that obtained the information. The hospital or
5 district may not release or disclose criminal history record
6 information to any person or agency except in a criminal
7 proceeding, in a hearing conducted by the hospital or district, to
8 another governmental entity as required by law, ~~or~~ as required by
9 court order, or with the consent of the person who is the subject of
10 the criminal history record information.

11 SECTION 10.14. Section 411.139(b), Government Code, is
12 amended to read as follows:

13 (b) Criminal history record information obtained by the
14 securities commissioner under this section may not be released by
15 any person or agency except on court order or with the consent of
16 the person who is the subject of the criminal history record
17 information, unless the information is entered into evidence by the
18 State Securities Board or a court at an administrative proceeding
19 or a civil or criminal action under The Securities Act (Article
20 581-1 et seq., Vernon's Texas Civil Statutes).

21 SECTION 10.15. Section 411.140(b), Government Code, is
22 amended to read as follows:

23 (b) Information received by the State Commission on
24 Judicial Conduct is confidential and may be disseminated only in an
25 investigation or proceeding conducted by the commission or with the
26 consent of the person who is the subject of the criminal history
27 record information.

1 SECTION 10.16. Section 411.1402(c), Government Code, is
2 amended to read as follows:

3 (c) The Employees Retirement System of Texas may not release
4 or disclose information obtained under Subsection (a) except on
5 court order or with the consent of the person who is the subject of
6 the criminal history record information.

7 SECTION 10.17. Section 411.1406(d), Government Code, as
8 added by Chapter 406 (S.B. 885), Acts of the 80th Legislature,
9 Regular Session, 2007, is amended to read as follows:

10 (d) The court may not release or disclose information
11 obtained under Subsection (b) except on order of a district court or
12 with the consent of the person who is the subject of the criminal
13 history record information.

14 SECTION 10.18. To the extent of any conflict, this article
15 prevails over another Act of the 81st Legislature, Regular Session,
16 2009, relating to nonsubstantive additions to and corrections in
17 enacted codes.

18 SECTION 10.19. This article takes effect immediately if
19 this Act receives a vote of two-thirds of all the members elected to
20 each house, as provided by Section 39, Article III, Texas
21 Constitution. If this Act does not receive the vote necessary for
22 immediate effect, this article takes effect September 1, 2009.

23 ARTICLE 11. ADMINISTRATION OF CERTAIN PROVISIONS AFFECTING THE
24 LICENSING OF PERSONS TO CARRY A CONCEALED HANDGUN

25 SECTION 11.01. Section 411.1711, Government Code, is
26 amended to read as follows:

27 Sec. 411.1711. CERTAIN EXEMPTIONS FROM CONVICTIONS. A

1 person is not convicted, as that term is defined by Section 411.171,
2 if an order of deferred adjudication was entered against the person
3 on a date not less than 10 years preceding the date of the person's
4 application for a license under this subchapter unless the order of
5 deferred adjudication was entered against the person for:

6 (1) a felony [~~an~~] offense under:

7 (A) Title 5, Penal Code;

8 (B) [~~or~~] Chapter 29, Penal Code;

9 (C) Section 25.07, Penal Code; or

10 (D) Section 30.02, Penal Code, if the offense is
11 punishable under Subsection (c)(2) or (d) of that section; or

12 (2) an offense under the laws of another state if the
13 offense contains elements that are substantially similar to the
14 elements of an offense listed in Subdivision (1).

15 SECTION 11.02. Section 411.171(4), Government Code, is
16 amended to read as follows:

17 (4) "Convicted" means an adjudication of guilt or,
18 except as provided in Section 411.1711, an order of deferred
19 adjudication entered against a person by a court of competent
20 jurisdiction whether or not the imposition of the sentence is
21 subsequently probated and the person is discharged from community
22 supervision. The term does not include an adjudication of guilt or
23 an order of deferred adjudication that has been subsequently:

24 (A) expunged; [~~or~~]

25 (B) pardoned under the authority of a state or
26 federal official; or

27 (C) otherwise vacated, set aside, annulled,

1 invalidated, voided, or sealed under any state or federal law.

2 SECTION 11.03. Section 411.172, Government Code, is amended
3 by amending Subsections (a), (b), (d), and (e) and adding
4 Subsection (b-1) to read as follows:

5 (a) A person is eligible for a license to carry a concealed
6 handgun if the person:

7 (1) is a legal resident of this state for the six-month
8 period preceding the date of application under this subchapter or
9 is otherwise eligible for a license under Section 411.173(a);

10 (2) is at least 21 years of age;

11 (3) has not been convicted of a felony;

12 (4) is not charged with the commission of a Class A or
13 Class B misdemeanor or equivalent offense, or of an offense under
14 Section 42.01, Penal Code, or equivalent offense, or of a felony
15 under an information or indictment;

16 (5) is not a fugitive from justice for a felony or a
17 Class A or Class B misdemeanor or equivalent offense;

18 (6) is not a chemically dependent person;

19 (7) is not incapable of exercising sound judgment with
20 respect to the proper use and storage of a handgun;

21 (8) has not, in the five years preceding the date of
22 application, been convicted of a Class A or Class B misdemeanor or
23 equivalent offense or of an offense under Section 42.01, Penal
24 Code, or equivalent offense;

25 (9) is fully qualified under applicable federal and
26 state law to purchase a handgun;

27 (10) has not been finally determined to be delinquent

1 in making a child support payment administered or collected by the
2 attorney general;

3 (11) has not been finally determined to be delinquent
4 in the payment of a tax or other money collected by the comptroller,
5 the tax collector of a political subdivision of the state, or any
6 agency or subdivision of the state;

7 (12) ~~[has not been finally determined to be in default~~
8 ~~on a loan made under Chapter 57, Education Code,~~

9 ~~[(13)]~~ is not currently restricted under a court
10 protective order or subject to a restraining order affecting the
11 spousal relationship, other than a restraining order solely
12 affecting property interests;

13 (13) ~~[(14)]~~ has not, in the 10 years preceding the
14 date of application, been adjudicated as having engaged in
15 delinquent conduct violating a penal law of the grade of felony; and

16 (14) ~~[(15)]~~ has not made any material
17 misrepresentation, or failed to disclose any material fact, in an
18 application submitted pursuant to Section 411.174 ~~[or in a request~~
19 ~~for application submitted pursuant to Section 411.175].~~

20 (b) For the purposes of this section, an offense under the
21 laws of this state, another state, or the United States is:

22 (1) except as provided by Subsection (b-1), a felony
23 if the offense, at the time the offense is committed ~~[of a person's~~
24 ~~application for a license to carry a concealed handgun]:~~

25 (A) is designated by a law of this state as a
26 felony;

27 (B) contains all the elements of an offense

1 designated by a law of this state as a felony; or

2 (C) is punishable by confinement for one year or
3 more in a penitentiary; and

4 (2) a Class A misdemeanor if the offense is not a
5 felony and confinement in a jail other than a state jail felony
6 facility is affixed as a possible punishment.

7 (b-1) An offense is not considered a felony for purposes of
8 Subsection (b) if, at the time of a person's application for a
9 license to carry a concealed handgun, the offense:

10 (1) is not designated by a law of this state as a
11 felony; and

12 (2) does not contain all the elements of any offense
13 designated by a law of this state as a felony.

14 (d) For purposes of Subsection (a)(7), a person is incapable
15 of exercising sound judgment with respect to the proper use and
16 storage of a handgun if the person:

17 (1) has been diagnosed by a licensed physician as
18 suffering from a psychiatric disorder or condition that causes or
19 is likely to cause substantial impairment in judgment, mood,
20 perception, impulse control, or intellectual ability;

21 (2) suffers from a psychiatric disorder or condition
22 described by Subdivision (1) that:

23 (A) is in remission but is reasonably likely to
24 redevelop at a future time; or

25 (B) requires continuous medical treatment to
26 avoid redevelopment;

27 (3) has been diagnosed by a licensed physician,

1 determined by a review board or similar authority, or declared by a
2 court to be incompetent to manage the person's own affairs; or

3 (4) has entered in a criminal proceeding a plea of not
4 guilty by reason of insanity.

5 (e) The following constitutes evidence that a person has a
6 psychiatric disorder or condition described by Subsection (d)(1):

7 (1) involuntary psychiatric hospitalization [~~in the~~
8 ~~preceding five-year period~~];

9 (2) psychiatric hospitalization [~~in the preceding~~
10 ~~two-year period~~];

11 (3) inpatient or residential substance abuse
12 treatment in the preceding five-year period;

13 (4) diagnosis in the preceding five-year period by a
14 licensed physician that the person is dependent on alcohol, a
15 controlled substance, or a similar substance; or

16 (5) diagnosis at any time by a licensed physician that
17 the person suffers or has suffered from a psychiatric disorder or
18 condition consisting of or relating to:

19 (A) schizophrenia or delusional disorder;

20 (B) bipolar disorder;

21 (C) chronic dementia, whether caused by illness,
22 brain defect, or brain injury;

23 (D) dissociative identity disorder;

24 (E) intermittent explosive disorder; or

25 (F) antisocial personality disorder.

26 SECTION 11.04. Sections 411.174(a) and (b), Government
27 Code, are amended to read as follows:

1 (a) An applicant for a license to carry a concealed handgun
2 must submit to the director's designee described by Section
3 411.176:

4 (1) a completed application on a form provided by the
5 department that requires only the information listed in Subsection
6 (b);

7 (2) one or more [~~two recent color passport~~]
8 photographs of the applicant that meet the requirements of the
9 department [~~, except that an applicant who is younger than 21 years~~
10 ~~of age must submit two recent color passport photographs in profile~~
11 ~~of the applicant~~];

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

14 (4) proof of residency in this state;

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

21 (6) a nonrefundable application and license fee of
22 \$140 paid to the department;

23 (7) evidence of [a] handgun proficiency, in the form
24 and manner required by the department [~~certificate described by~~
25 ~~Section 411.189~~];

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

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

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

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

11 (b) An applicant must provide on the application a statement
12 of the applicant's:

13 (1) full name and place and date of birth;

14 (2) race and sex;

15 (3) residence and business addresses for the preceding
16 five years;

17 (4) hair and eye color;

18 (5) height and weight;

19 (6) driver's license number or identification
20 certificate number issued by the department;

21 (7) criminal history record information of the type
22 maintained by the department under this chapter, including a list
23 of offenses for which the applicant was arrested, charged, or under
24 an information or indictment and the disposition of the offenses;
25 and

26 (8) history [~~during the preceding five years~~], if any,
27 of treatment received by, commitment to, or residence in:

1 (A) a drug or alcohol treatment center licensed
2 to provide drug or alcohol treatment under the laws of this state or
3 another state, but only if the treatment, commitment, or residence
4 occurred during the preceding five years; or

5 (B) a psychiatric hospital.

6 SECTION 11.05. Section 411.176, Government Code, is amended
7 to read as follows:

8 Sec. 411.176. REVIEW OF APPLICATION MATERIALS. (a) On
9 receipt of [~~the~~] application materials by the department at its
10 Austin headquarters, the department shall conduct the appropriate
11 criminal history record check of the applicant through its
12 computerized criminal history system. Not later than the 30th day
13 after the date the department receives the application materials,
14 the department shall forward the materials to the director's
15 designee in the geographical area of the applicant's residence so
16 that the designee may conduct the investigation described by
17 Subsection (b). For purposes of this section, the director's
18 designee may be a noncommissioned employee of the department.

19 (b) The director's designee as needed shall conduct an
20 additional criminal history record check of the applicant and an
21 investigation of the applicant's local official records to verify
22 the accuracy of the application materials. The director's designee
23 may access any records necessary for purposes of this subsection.
24 The scope of the record check and the investigation are at the sole
25 discretion of the department, except that the director's designee
26 shall complete the record check and investigation not later than
27 the 60th day after the date the department receives the application

1 materials. The department shall send a fingerprint card to the
2 Federal Bureau of Investigation for a national criminal history
3 check of the applicant. On completion of the investigation, the
4 director's designee shall return all materials and the result of
5 the investigation to the appropriate division of the department at
6 its Austin headquarters.

7 (c) The director's designee may submit to the appropriate
8 division of the department, at the department's Austin
9 headquarters, along with the application materials a written
10 recommendation for disapproval of the application, accompanied by
11 an affidavit stating personal knowledge or naming persons with
12 personal knowledge of a ground for denial under Section 411.172.
13 The director's designee [~~in the appropriate geographical area~~] may
14 also submit the application and the recommendation that the license
15 be issued.

16 (d) On receipt at the department's Austin headquarters of
17 the application materials and the result of the investigation by
18 the director's designee, the department shall conduct any further
19 record check or investigation the department determines is
20 necessary if a question exists with respect to the accuracy of the
21 application materials or the eligibility of the applicant, except
22 that the department shall complete the record check and
23 investigation not later than the 180th day after the date the
24 department receives the application materials from the applicant.

25 SECTION 11.06. Sections 411.177(a) and (b), Government
26 Code, are amended to read as follows:

27 (a) The department shall issue a license to carry a

1 concealed handgun to an applicant if the applicant meets all the
2 eligibility requirements and submits all the application
3 materials. The department may issue a license to carry handguns
4 only of the categories for which the applicant has demonstrated
5 proficiency in the form and manner required by the department
6 ~~[indicated on the applicant's certificate of proficiency issued~~
7 ~~under Section 411.189]~~. The department shall administer the
8 licensing procedures in good faith so that any applicant who meets
9 all the eligibility requirements and submits all the application
10 materials shall receive a license. The department may not deny an
11 application on the basis of a capricious or arbitrary decision by
12 the department.

13 (b) The department shall, not later than the 60th day after
14 the date of the receipt by the director's designee of the completed
15 application materials:

16 (1) issue the license;

17 (2) notify the applicant in writing that the
18 application was denied:

19 (A) on the grounds that the applicant failed to
20 qualify under the criteria listed in Section 411.172;

21 (B) based on the affidavit of the director's
22 designee submitted to the department under Section 411.176(c)
23 ~~[411.176(b)]~~; or

24 (C) based on the affidavit of the qualified
25 handgun instructor submitted to the department under Section
26 411.188(k) ~~[411.189(e)]~~; or

27 (3) notify the applicant in writing that the

1 department is unable to make a determination regarding the issuance
2 or denial of a license to the applicant within the 60-day period
3 prescribed by this subsection and include in that notification an
4 explanation of the reason for the inability and an estimation of the
5 amount of time the department will need to make the determination.

6 SECTION 11.07. Section 411.179(c), Government Code, as
7 added by Chapter 1222 (H.B. 2300), Acts of the 80th Legislature,
8 Regular Session, 2007, is amended to read as follows:

9 (c) In adopting the form of the license under Subsection
10 (a), the department shall establish a procedure for the license of a
11 qualified handgun instructor or of a judge, justice, prosecuting
12 attorney, or assistant prosecuting attorney, as described by
13 Section 46.15(a)(4) or (6), Penal Code, to indicate on the license
14 the license holder's status as a qualified handgun instructor or as
15 a judge, justice, district attorney, criminal district attorney, or
16 county attorney. In establishing the procedure, the department
17 shall require sufficient documentary evidence to establish the
18 license holder's status under this subsection.

19 SECTION 11.08. Sections 411.181(a) and (b), Government
20 Code, as amended by Chapters 594 (H.B. 41) and 1222 (H.B. 2300),
21 Acts of the 80th Legislature, Regular Session, 2007, are reenacted
22 and amended to read as follows:

23 (a) If a person who is a current license holder moves from
24 any residence [~~the~~] address stated on the license [~~to a new~~
25 ~~residence address~~], if the name of the person is changed by marriage
26 or otherwise, or if the person's status [~~as a judge, justice,~~
27 ~~district attorney, prosecuting attorney, or assistant prosecuting~~

1 ~~attorney, as a federal judge, a state judge, or the spouse of a~~
2 ~~federal judge or state judge,~~] becomes inapplicable for purposes of
3 the information required to be displayed on the license under
4 Section 411.179 [~~411.179(e)~~], the person shall, not later than the
5 30th day after the date of the address, name, or status change,
6 notify the department and provide the department with the number of
7 the person's license and, as applicable, the person's:

- 8 (1) former and new addresses; [~~or~~]
9 (2) former and new names; or
10 (3) former and new status.

11 (b) If the name of the license holder is changed by marriage
12 or otherwise, or if the person's status [~~as a federal judge or state~~
13 ~~judge, or the spouse of a federal judge or state judge~~] becomes
14 inapplicable as described by Subsection (a), the person shall apply
15 for a duplicate license. The duplicate license must reflect
16 [~~include~~] the person's current name, residence address, and status.

17 SECTION 11.09. Section 411.184(a), Government Code, is
18 amended to read as follows:

19 (a) To modify a license to allow a license holder to carry a
20 handgun of a different category than the license indicates, the
21 license holder must:

22 (1) complete a proficiency examination as provided by
23 Section 411.188(e);

24 [~~(2) obtain a handgun proficiency certificate under~~
25 ~~Section 411.189 not more than six months before the date of~~
26 ~~application for a modified license,~~] and

27 (2) [~~(3)~~] (2) submit to the department:

1 (A) an application for a modified license on a
2 form provided by the department;

3 (B) evidence of [a copy of the] handgun
4 proficiency, in the form and manner required by the department
5 [certificate];

6 (C) payment of a modified license fee of \$25; and

7 (D) one or more [two recent color passport]
8 photographs of the license holder that meet the requirements of the
9 department [except that an applicant who is younger than 21 years
10 of age must submit two recent color passport photographs in profile
11 of the applicant].

12 SECTION 11.10. Section 411.185(a), Government Code, is
13 amended to read as follows:

14 (a) To renew a license, a license holder must:

15 (1) complete a continuing education course in handgun
16 proficiency under Section 411.188(c) within the six-month period
17 preceding:

18 (A) the date of application for renewal, for a
19 first or second renewal; and

20 (B) the date of application for renewal or the
21 date of application for the preceding renewal, for a third or
22 subsequent renewal, to ensure that the license holder is not
23 required to complete the course more than once in any 10-year
24 period;

25 ~~[(2) obtain a handgun proficiency certificate under~~
26 ~~Section 411.189 within the six-month period preceding.~~

27 ~~[(A) the date of application for renewal, for a~~

1 ~~first or second renewal, and~~

2 [~~(B) the date of application for renewal or the~~
3 ~~date of application for the preceding renewal, for a third or~~
4 ~~subsequent renewal, to ensure that the license holder is not~~
5 ~~required to obtain the certificate more than once in any 10-year~~
6 ~~period,~~] and

7 (2) ~~(3)~~ submit to the department:

8 (A) an application for renewal on a form provided
9 by the department;

10 (B) evidence of [~~a copy of the~~] handgun
11 proficiency, in the form and manner required by the department
12 [~~certificate~~];

13 (C) payment of a nonrefundable renewal fee as set
14 by the department; and

15 (D) one or more [~~two recent color passport~~]
16 photographs of the applicant that meet the requirements of the
17 department.

18 SECTION 11.11. Section 411.186(a), Government Code, is
19 amended to read as follows:

20 (a) The department shall revoke a [A] license [~~may be~~
21 ~~revoked~~] under this section if the license holder:

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

24 (2) made a material misrepresentation or failed to
25 disclose a material fact in an application submitted under this
26 subchapter [~~gave false information on the application~~];

27 (3) subsequently becomes ineligible for a license

1 under Section 411.172, unless the sole basis for the ineligibility
2 is that the license holder is charged with the commission of a Class
3 A or Class B misdemeanor or equivalent offense, or of an offense
4 under Section 42.01, Penal Code, or equivalent offense, or of a
5 felony under an information or indictment;

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

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

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

18 SECTION 11.12. Sections 411.187(a) and (c), Government
19 Code, are amended to read as follows:

20 (a) The department shall suspend a [A] license [~~may be~~
21 ~~suspended~~] under this section if the license holder:

22 (1) is 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 (2) fails to display a license as required by Section
27 411.205;

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

3 (4) carries a concealed handgun under the authority of
4 this subchapter of a different category than the license holder is
5 licensed to carry;

6 (5) fails to return a previously issued license after
7 a license is modified as required by Section 411.184(d);

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

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

15 (c) The department shall suspend a [A] license ~~[may be~~
16 ~~suspended]~~ under this section:

17 (1) for 30 days, if the person's license is subject to
18 suspension for a reason listed in Subsection (a)(3), (4), or (5),
19 except as provided by Subdivision (3);

20 (2) for 90 days, if the person's license is subject to
21 suspension for a reason listed in Subsection (a)(2), except as
22 provided by Subdivision (3);

23 (3) for not less than one year and not more than three
24 years, if the person's license:

25 (A) is subject to suspension for a reason listed
26 in Subsection (a), other than the reason listed in Subsection
27 (a)(1); ~~[7]~~ and

1 (B) [~~the person's license~~] has been previously
2 suspended for the same reason;

3 (4) until dismissal of the charges, if the person's
4 license is subject to suspension for the reason listed in
5 Subsection (a)(1); or

6 (5) for the duration of or the period specified by:

7 (A) the protective order issued under Title 4,
8 Family Code, if the person's license is subject to suspension for
9 the reason listed in Subsection (a)(6); or

10 (B) the order for emergency protection issued
11 under Article 17.292, Code of Criminal Procedure, if the person's
12 license is subject to suspension for the reason listed in
13 Subsection (a)(7).

14 SECTION 11.13. Section 411.188, Government Code, is amended
15 by amending Subsections (a), (g), (h), and (i) and adding
16 Subsection (k) to read as follows:

17 (a) The director by rule shall establish minimum standards
18 for handgun proficiency and shall develop a course to teach handgun
19 proficiency and examinations to measure handgun proficiency. The
20 course to teach handgun proficiency must contain training sessions
21 divided into two parts. One part of the course must be classroom
22 instruction and the other part must be range instruction and an
23 actual demonstration by the applicant of the applicant's ability to
24 safely and proficiently use the applicable category of handgun [~~for~~
25 ~~which the applicant seeks certification~~]. An applicant must be
26 able to demonstrate [~~may not be certified unless the applicant~~
27 ~~demonstrates~~], at a minimum, the degree of proficiency that is

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

5 (g) A person who wishes to obtain or renew a license to carry
6 a concealed handgun must apply in person to a qualified handgun
7 instructor to take the appropriate course in handgun proficiency
8 and [7] demonstrate handgun proficiency as required by the
9 department~~[, and obtain a handgun proficiency certificate as~~
10 ~~described by Section 411.189]~~.

11 (h) A license holder who wishes to modify a license to allow
12 the license holder to carry a handgun of a different category than
13 the license indicates must apply in person to a qualified handgun
14 instructor to demonstrate the required knowledge and proficiency
15 ~~[to obtain a handgun proficiency certificate]~~ in that category ~~[as~~
16 ~~described by Section 411.189]~~.

17 (i) A certified firearms instructor of the department may
18 monitor any class or training presented by a qualified handgun
19 instructor. A qualified handgun instructor shall cooperate with
20 the department in the department's efforts to monitor the
21 presentation of training by the qualified handgun instructor. A
22 qualified handgun instructor shall make available for inspection to
23 the department any and all records maintained by a qualified
24 handgun instructor under this subchapter. The qualified handgun
25 instructor shall keep a record of all ~~[certificates of handgun~~
26 ~~proficiency issued by the qualified handgun instructor and other]~~
27 information required by department rule.

1 (k) A qualified handgun instructor may submit to the
2 department a written recommendation for disapproval of the
3 application for a license, renewal, or modification of a license,
4 accompanied by an affidavit stating personal knowledge or naming
5 persons with personal knowledge of facts that lead the instructor
6 to believe that an applicant does not possess the required handgun
7 proficiency. The department may use a written recommendation
8 submitted under this subsection as the basis for denial of a license
9 only if the department determines that the recommendation is made
10 in good faith and is supported by a preponderance of the evidence.
11 The department shall make a determination under this subsection not
12 later than the 45th day after the date the department receives the
13 written recommendation. The 60-day period in which the department
14 must take action under Section 411.177(b) is extended one day for
15 each day a determination is pending under this subsection.

16 SECTION 11.14. Section 411.1882, Government Code, is
17 amended to read as follows:

18 Sec. 411.1882. EVIDENCE OF [EXEMPTION FROM] HANDGUN
19 PROFICIENCY [CERTIFICATE REQUIREMENT] FOR CERTAIN PERSONS. (a) A
20 person who is serving in this state as a judge or justice of a
21 federal court, as an active judicial officer, as defined by Section
22 411.201, or as a district attorney, assistant district attorney,
23 criminal district attorney, assistant criminal district attorney,
24 county attorney, or assistant county attorney may establish handgun
25 proficiency for the purposes of this subchapter by obtaining from a
26 handgun proficiency instructor approved by the Commission on Law
27 Enforcement Officer Standards and Education for purposes of Section

1 1702.1675, Occupations Code, a sworn statement that:

2 (1) indicates that the person, during the 12-month
3 period preceding the date of the person's application to the
4 department, demonstrated to the instructor proficiency in the use
5 of handguns; and

6 (2) designates the categories of handguns with respect
7 to which the person demonstrated proficiency [~~Notwithstanding any~~
8 ~~other provision of this subchapter, a person may not be required to~~
9 ~~submit to the department a handgun proficiency certificate to~~
10 ~~obtain or renew a concealed handgun license issued under this~~
11 ~~subchapter if:~~

12 [~~(1) the person is currently serving in this state as:~~

13 [~~(A) a judge or justice of a federal court,~~

14 [~~(B) an active judicial officer, as defined by~~
15 ~~Section 411.201, Government Code, or~~

16 [~~(C) a district attorney, assistant district~~
17 ~~attorney, criminal district attorney, assistant criminal district~~
18 ~~attorney, county attorney, or assistant county attorney, and~~

19 [~~(2) a handgun proficiency instructor approved by the~~
20 ~~Commission on Law Enforcement Officer Standards and Education for~~
21 ~~purposes of Section 1702.1675, Occupations Code, makes a sworn~~
22 ~~statement indicating that the person demonstrated proficiency to~~
23 ~~the instructor in the use of handguns during the 12-month period~~
24 ~~preceding the date of the person's application to the department~~
25 ~~and designating the types of handguns with which the person~~
26 ~~demonstrated proficiency].~~

27 (b) The director by rule shall adopt a procedure by which a

1 person described [~~who is exempt~~] under Subsection (a) [~~from the~~
2 ~~handgun proficiency certificate requirement~~] may submit a form
3 demonstrating the person's qualification for an exemption under
4 that subsection. The form must provide sufficient information to
5 allow the department to verify whether the person qualifies for the
6 exemption.

7 (c) A license issued under this section automatically
8 expires on the six-month anniversary of the date the person's
9 status under Subsection (a) becomes inapplicable. A license that
10 expires under this subsection may be renewed under Section 411.185.

11 SECTION 11.15. Section 411.190, Government Code, is amended
12 by adding Subsection (d-1) to read as follows:

13 (d-1) The department shall ensure that an applicant may
14 renew certification under Subsection (d) from any county in this
15 state by using an online format to complete the required retraining
16 courses if:

17 (1) the applicant is renewing certification for the
18 first time; or

19 (2) the applicant completed the required retraining
20 courses in person the previous time the applicant renewed
21 certification.

22 SECTION 11.16. Sections 411.199(a) and (e), Government
23 Code, are amended to read as follows:

24 (a) A person who is licensed as a peace officer under
25 Chapter 1701, Occupations Code, [415] and who has been employed
26 full-time as a peace officer by a law enforcement agency may apply
27 for a license under this subchapter at any time after retirement.

1 (e) A retired peace officer who obtains a license under this
2 subchapter must maintain, for the category of weapon licensed, the
3 proficiency required for a peace officer under Section 1701.355,
4 Occupations Code [~~415.035~~]. The department or a local law
5 enforcement agency shall allow a retired peace officer of the
6 department or agency an opportunity to annually demonstrate the
7 required proficiency. The proficiency shall be reported to the
8 department on application and renewal.

9 SECTION 11.17. Section 411.1991(a), Government Code, is
10 amended to read as follows:

11 (a) A person who is licensed as a peace officer under
12 Chapter 1701, Occupations Code, [~~415~~] and is employed full-time as
13 a peace officer by a law enforcement agency may apply for a license
14 under this subchapter. The person shall submit to the department
15 two complete sets of legible and classifiable fingerprints and a
16 sworn statement of the head of the law enforcement agency employing
17 the applicant. A head of a law enforcement agency may not refuse to
18 issue a statement under this subsection. If the applicant alleges
19 that the statement is untrue, the department shall investigate the
20 validity of the statement. The statement must include:

- 21 (1) the name and rank of the applicant;
- 22 (2) whether the applicant has been accused of
23 misconduct at any time during the applicant's period of employment
24 with the agency and the disposition of that accusation;
- 25 (3) a description of the physical and mental condition
26 of the applicant;
- 27 (4) a list of the types of weapons the applicant has

1 demonstrated proficiency with during the preceding year; and

2 (5) a recommendation from the agency head that a
3 license be issued to the person under this subchapter.

4 SECTION 11.18. Sections 411.201(c) and (d), Government
5 Code, are amended to read as follows:

6 (c) An active judicial officer is eligible for a license to
7 carry a concealed handgun under the authority of this subchapter. A
8 retired judicial officer is eligible for a license to carry a
9 concealed handgun under the authority of this subchapter if the
10 officer:

11 (1) has not been convicted of a felony;

12 (2) has not, in the five years preceding the date of
13 application, been convicted of a Class A or Class B misdemeanor or
14 equivalent offense;

15 (3) is not charged with the commission of a Class A or
16 Class B misdemeanor or equivalent offense or of a felony under an
17 information or indictment;

18 (4) is not a chemically dependent person; and

19 (5) is not a person of unsound mind.

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

22 (1) a completed application, including all required
23 affidavits, on a form prescribed by the department;

24 (2) one or more [~~two recent color passport~~]
25 photographs of the applicant that meet the requirements of the
26 department;

27 (3) two complete sets of legible and classifiable

1 fingerprints of the applicant, including one set taken by a person
2 employed by a law enforcement agency who is appropriately trained
3 in recording fingerprints;

4 (4) evidence of [a] handgun proficiency, in the form
5 and manner required by the department for an applicant under this
6 section [~~certificate issued to the applicant as evidence that the~~
7 ~~applicant successfully completed the proficiency requirements of~~
8 ~~this subchapter~~];

9 (5) [(4)] a nonrefundable application and license fee
10 set by the department in an amount reasonably designed to cover the
11 administrative costs associated with issuance of a license to carry
12 a concealed handgun under this subchapter; and

13 (6) [(5)] if the applicant is a retired judicial
14 officer, [+

15 ~~[(A) two complete sets of legible and~~
16 ~~classifiable fingerprints of the applicant taken by a person~~
17 ~~employed by a law enforcement agency who is appropriately trained~~
18 ~~in recording fingerprints, and~~

19 ~~[(B)]~~ a form executed by the applicant that
20 authorizes the department to make an inquiry into any noncriminal
21 history records that are necessary to determine the applicant's
22 eligibility for a license under this subchapter.

23 SECTION 11.19. Section 411.208, Government Code, is amended
24 by adding Subsection (e) to read as follows:

25 (e) The immunities granted under Subsection (a) to a
26 qualified handgun instructor do not apply to a cause of action for
27 fraud or a deceptive trade practice.

1 SECTION 11.20. Article 17.292(1), Code of Criminal
2 Procedure, is amended to read as follows:

3 (1) In the order for emergency protection, the magistrate
4 shall ~~may~~ suspend a license to carry a concealed handgun issued
5 under Subchapter H, Chapter 411 [~~Section 411.177~~], Government Code,
6 that is held by the defendant.

7 SECTION 11.21. Section 85.022(d), Family Code, is amended
8 to read as follows:

9 (d) In a protective order, the court shall ~~may~~ suspend a
10 license to carry a concealed handgun issued under Subchapter H,
11 Chapter 411 [~~Section 411.177~~], Government Code, that is held by a
12 person found to have committed family violence.

13 SECTION 11.22. Section 12.095(e), Health and Safety Code,
14 is amended to read as follows:

15 (e) The panel may require the applicant or license holder to
16 undergo a medical or other examination at the applicant's or
17 holder's expense. A person who conducts an examination under this
18 subsection may be compelled to testify before the panel and in any
19 subsequent proceedings under Subchapter H, Chapter 411, Government
20 Code, or Subchapter N, Chapter 521, Transportation Code, as
21 applicable, concerning the person's observations and findings.

22 SECTION 11.23. Section 12.097(b), Health and Safety Code,
23 is amended to read as follows:

24 (b) In a subsequent proceeding under Subchapter H, Chapter
25 411, Government Code, or Subchapter N, Chapter 521, Transportation
26 Code, the medical standards division may provide a copy of the
27 report of the medical advisory board or panel and a medical record

1 or report relating to an applicant or license holder to:

2 (1) the Department of Public Safety of the State of
3 Texas;

4 (2) the applicant or license holder; and

5 (3) the officer who presides at the hearing.

6 SECTION 11.24. Section 46.04, Penal Code, is amended by
7 adding Subsections (f) and (g) to read as follows:

8 (f) For the purposes of this section , an offense under the
9 laws of this state, another state, or the United States is, except
10 as provided by Subsection (g), a felony if, at the time it is
11 committed, the offense:

12 (1) is designated by a law of this state as a felony;

13 (2) contains all the elements of an offense designated
14 by a law of this state as a felony; or

15 (3) is punishable by confinement for one year or more
16 in a penitentiary.

17 (g) An offense is not considered a felony for purposes of
18 Subsection (f) if, at the time the person possesses a firearm, the
19 offense:

20 (1) is not designated by a law of this state as a
21 felony; and

22 (2) does not contain all the elements of any offense
23 designated by a law of this state as a felony.

24 SECTION 11.25. Sections 411.175 and 411.189, Government
25 Code, are repealed.

26 SECTION 11.26. The changes in law made by Sections 411.171,
27 411.1711, 411.172, and 411.201(c), Government Code, as amended by

1 this article, apply only to the eligibility of a person for the
2 issuance, modification, or renewal of a license, the application
3 for which is made on or after the effective date of this article. A
4 holder of a license that was issued, modified, or renewed before the
5 effective date of this article is not disqualified from holding
6 that license solely by reason of this article.

7 SECTION 11.27. The changes in law made by Sections 411.174,
8 411.176, 411.177, 411.184, 411.185, 411.188, 411.1882, and
9 411.201(d), Government Code, as amended by this article, and by the
10 repeal of Sections 411.175 and 411.189, Government Code, apply only
11 to an application for the issuance, modification, or renewal of a
12 license that is submitted to the Department of Public Safety on or
13 after the effective date of this article. An application submitted
14 before the effective date of this article is governed by the law in
15 effect when the application was submitted, and the former law is
16 continued in effect for that purpose.

17 SECTION 11.28. The changes in law made by this article to
18 Sections 411.186 and 411.187, Government Code, Article 17.292, Code
19 of Criminal Procedure, and Section 85.022, Family Code, apply only
20 to an administrative or judicial determination concerning the
21 revocation or suspension of a license to carry a concealed handgun
22 that is made on or after the effective date of this article. An
23 administrative or judicial determination made before the effective
24 date of this article is covered by the law in effect when the
25 determination was made, and the former law is continued in effect
26 for that purpose.

27 SECTION 11.29. The change in law made by Section 411.208,

1 Government Code, as amended by this article, applies only to a cause
2 of action that accrues on or after the effective date of this
3 article. A cause of action that accrued before the effective date
4 of this article is governed by the law in effect immediately before
5 the effective date of this article, and the former law is continued
6 in effect for that purpose.

7 SECTION 11.30. The change in law made by this Act in
8 amending Section 46.04, Penal Code, applies only to an offense
9 committed on or after the effective date of this Act. An offense
10 committed before the effective date of this Act is covered by the
11 law in effect when the offense was committed, and the former law is
12 continued in effect for that purpose. For purposes of this section,
13 an offense was committed before the effective date of this Act if
14 any element of the offense occurred before that date.

15 SECTION 11.31. This article takes effect September 1, 2009.

16 ARTICLE 12. DRIVER EDUCATION AND DRIVER'S LICENSING REQUIREMENTS
17 FOR MINORS

18 SECTION 12.01. This article shall be known as the Less Tears
19 More Years Act.

20 SECTION 12.02. Section 29.902, Education Code, is amended
21 by adding Subsection (c) to read as follows:

22 (c) A school district shall consider offering a driver
23 education and traffic safety course during each school year. If the
24 district offers the course, the district may:

25 (1) conduct the course and charge a fee for the course
26 in the amount determined by the agency to be comparable to the fee
27 charged by a driver education school that holds a license under

1 Chapter 1001; or

2 (2) contract with a driver education school that holds
3 a license under Chapter 1001 to conduct the course.

4 SECTION 12.03. Section 1001.101, Education Code, is amended
5 to read as follows:

6 Sec. 1001.101. DRIVER EDUCATION COURSE CURRICULUM AND
7 TEXTBOOKS. (a) The commissioner by rule shall establish or approve
8 the curriculum and designate the textbooks to be used in a driver
9 education course, including a driver education course conducted by
10 a school district, driver education school, or parent or other
11 individual under Section 521.205, Transportation Code.

12 (b) A driver education course must require the student to
13 complete:

14 (1) 7 hours of behind-the-wheel instruction in the
15 presence of a person who holds a driver education instructor
16 license or who meets the requirements imposed under Section
17 521.205, Transportation Code;

18 (2) 7 hours of observation instruction in the presence
19 of a person who holds a driver education instructor license or who
20 meets the requirements imposed under Section 521.205,
21 Transportation Code; and

22 (3) 20 hours of behind-the-wheel instruction,
23 including at least 10 hours of instruction that takes place at
24 night, in the presence of an adult who meets the requirements of
25 Section 521.222(d)(2), Transportation Code.

26 SECTION 12.04. Subchapter F, Chapter 1001, Education Code,
27 is amended by adding Section 1001.257 to read as follows:

1 Sec. 1001.257. DENIAL OF LICENSE. The commissioner may not
2 issue or renew a driver education instructor license, including a
3 temporary license, to a person who has six or more points assigned
4 to the person's driver's license under Subchapter B, Chapter 708,
5 Transportation Code.

6 SECTION 12.05. Section 521.165, Transportation Code, is
7 amended by amending Subsection (c) and adding Subsection (d) to
8 read as follows:

9 (c) Except as provided by Subsection (d), in [~~In~~] issuing a
10 driver's license for certain types of vehicles, the director may
11 waive a driving test for an applicant who has successfully
12 completed and passed the training and testing conducted by a person
13 certified under Subsection (a).

14 (d) The director may not waive the driving test required by
15 Section 521.161 for an applicant who is under 18 years of age.

16 SECTION 12.06. Section 521.204(a), Transportation Code, is
17 amended to read as follows:

18 (a) The department may issue a Class C driver's license to
19 an applicant under 18 years of age only if the applicant:

20 (1) is 16 years of age or older;

21 (2) has submitted to the department a driver education
22 certificate issued under Section 9A, Texas Driver and Traffic
23 Safety Education Act (Article 4413(29c), Vernon's Texas Civil
24 Statutes), that states that the person has completed and passed a
25 driver education course approved by the department under Section
26 521.205 or by the Texas Education Agency;

27 (3) has obtained a high school diploma or its

1 equivalent or is a student:

2 (A) enrolled in a public school, home school, or
3 private school who attended school for at least 80 days in the fall
4 or spring semester preceding the date of the driver's license
5 application; or

6 (B) who has been enrolled for at least 45 days,
7 and is enrolled as of the date of the application, in a program to
8 prepare persons to pass the high school equivalency exam; ~~and~~

9 (4) has submitted to the department written parental
10 or guardian permission for the department to access the applicant's
11 school enrollment records maintained by the Texas Education Agency;
12 and

13 (5) has passed the examination required by Section
14 521.161.

15 SECTION 12.07. Section 521.205(a), Transportation Code, is
16 amended to read as follows:

17 (a) The department by rule shall provide for approval of a
18 driver education course conducted by the parent, stepparent, foster
19 parent, legal guardian, step-grandparent, or grandparent of a
20 person who is required to complete a driver education course to
21 obtain a Class C license. The rules must provide that:

22 (1) the person conducting the course possess a valid
23 license for the preceding three years that ~~[and the license]~~ has not
24 been suspended, revoked, or forfeited in the past three years for an
25 offense that involves the operation of a motor vehicle ~~[traffic~~
26 ~~related violations]~~;

27 (2) the student driver spend a minimum number of hours

1 in:

- 2 (A) classroom instruction; and
3 (B) behind-the-wheel instruction;
4 (3) the person conducting the course not be convicted

5 of:

- 6 (A) criminally negligent homicide; or
7 (B) driving while intoxicated; ~~and~~
8 (4) the person conducting the course not be disabled
9 because of mental illness; and

10 (5) the person conducting the course not have six or
11 more points assigned to the person's driver's license under
12 Subchapter B, Chapter 708, at the time the person begins conducting
13 the course.

14 SECTION 12.08. Subchapter J, Chapter 521, Transportation
15 Code, is amended by adding Section 521.206 to read as follows:

16 Sec. 521.206. COLLISION RATE STATISTICS PUBLICATION. (a)
17 The department shall collect data regarding collisions of students
18 taught by public schools, driver education schools licensed under
19 Chapter 1001, Education Code, and other entities that offer driver
20 education courses to students for which a uniform certificate of
21 course completion is issued. The collision rate is computed by
22 determining the number of an entity's students who complete a
23 driver education course during a state fiscal year, dividing that
24 number by the number of collisions that involved students who
25 completed such a course and that occurred in the 12-month period
26 following their licensure, and expressing the quotient as a
27 percentage.

1 (b) The department shall collect data regarding the
2 collision rate of students taught by course instructors approved
3 under Section 521.205. The collision rate is computed by
4 determining the number of students who completed a course approved
5 under Section 521.205 during a state fiscal year, dividing that
6 number by the number of collisions that involved students who
7 completed such a course and that occurred in the 12-month period
8 following their licensure, and expressing the quotient as a
9 percentage.

10 (c) Not later than October 1 of each year, the department
11 shall issue a publication listing the collision rate for students
12 taught by each driver education entity and the collision rate for
13 students taught by a course instructor approved under Section
14 521.205, noting the severity of collisions involving students of
15 each entity and each type of course.

16 SECTION 12.09. Section 521.271, Transportation Code, is
17 amended by amending Subsection (a) and adding Subsection (a-1) to
18 read as follows:

19 (a) Each original driver's license and provisional license
20 expires as follows:

21 (1) except as provided by Section 521.2711, a driver's
22 license expires on the first birthday of the license holder
23 occurring after the sixth anniversary of the date of the
24 application;

25 (2) a provisional license expires on [~~the earlier of~~
26 [~~A~~] the 18th birthday of the license holder[~~+~~

27 ~~or~~

1 [~~(B) the first birthday of the license holder~~
2 ~~occurring after the date of the application~~];

3 (3) an instruction permit expires on the 18th birthday
4 of the license holder [~~second birthday of the license holder~~
5 ~~occurring after the date of the application~~]; and

6 (4) an occupational license expires on the first
7 anniversary of the court order granting the license.

8 (a-1) The department and the Texas Education Agency shall
9 enter into a memorandum of understanding under which the department
10 may access the agency's electronic enrollment records to verify a
11 student's enrollment in a public school. The memorandum of
12 understanding must specify that the department may only access
13 information necessary to verify the identity and enrollment status
14 of a license renewal applicant and only if a parent or guardian of
15 the applicant has provided written permission for the department to
16 access that information. Nothing in this subsection may be
17 construed to allow the release of information in violation of the
18 Family Educational Rights and Privacy Act of 1974 (20 U.S.C.
19 Section 1232g).

20 SECTION 12.10. Section 521.421(c), Transportation Code, is
21 amended to read as follows:

22 (c) The fee for issuance [~~or renewal~~] of a provisional
23 license or instruction permit is \$15 [~~\$5~~].

24 SECTION 12.11. Section 545.424, Transportation Code, is
25 amended by amending Subsections (a), (b), and (c) and adding
26 Subsection (f) to read as follows:

27 (a) A person under 18 years of age [~~, during the six-month~~

1 ~~period following issuance of an original Class A, B, or C driver's~~
2 ~~license to the person,~~] may not operate a motor vehicle:

3 (1) during the 12-month period following issuance of
4 an original Class A, B, or C driver's license to the person:

5 (A) after midnight and before 5 a.m. unless the
6 operation of the vehicle is necessary for the operator to attend or
7 participate in employment or a school-related activity or because
8 of a medical emergency; or

9 (B) [~~2~~] with more than one passenger in the
10 vehicle under 21 years of age who is not a family member; or

11 (2) [~~3~~] while using a wireless communications
12 device, except in case of emergency.

13 (b) A person under 17 years of age who holds a restricted
14 motorcycle license or moped license, during the 12-month
15 [~~six-month~~] period following the issuance of an original motorcycle
16 license or moped license to the person, may not operate a motorcycle
17 or moped:

18 (1) after midnight and before 5 a.m. unless:

19 (A) the person is in sight of the person's parent
20 or guardian; or

21 (B) the operation of the vehicle is necessary for
22 the operator to attend or participate in employment or a
23 school-related activity or because of a medical emergency; or

24 (2) while using a wireless communications device,
25 except in case of emergency.

26 (c) This section does not apply to:

27 (1) the holder of a hardship license; [~~or~~]

1 (2) a person operating a motor vehicle while
2 accompanied in the manner required by Section 521.222(d)(2) for the
3 holder of an instruction permit; or

4 (3) a person licensed by the Federal Communications
5 Commission to operate a wireless communication device or a radio
6 frequency device.

7 (f) In this section, "wireless communication device" means
8 a handheld or hands-free device that uses commercial mobile
9 service, as defined by 47 U.S.C. Section 332.

10 SECTION 12.12. (a) For the purpose of compiling data for
11 the publication required by Section 521.206, Transportation Code,
12 as added by this article, the Texas Department of Public Safety
13 shall determine the number of minor students taught by each driver
14 education entity and the total number of minor students taught by
15 courses approved under Section 521.205, Transportation Code, who
16 become licensed during the state fiscal year beginning September 1,
17 2009, and ending August 31, 2010.

18 (b) The first publication of collision rate data compiled
19 under Section 521.206, Transportation Code, as added by this
20 article, shall be issued not later than October 1, 2011.

21 SECTION 12.13. Not later than November 30, 2009, the Texas
22 Department of Public Safety shall appoint a task force to review and
23 make recommendations regarding the effectiveness of the materials
24 provided by the Texas Education Agency for use in courses licensed
25 under Chapter 1001, Education Code, or authorized by Section
26 521.205, Transportation Code. The task force shall consist of the
27 following members:

- 1 (1) a representative of the Texas Department of Public
2 Safety;
- 3 (2) a representative of the Texas Education Agency;
- 4 (3) a commercial provider of driver education courses;
- 5 (4) a member of an interested group or association, as
6 determined by the department; and
- 7 (5) other appropriate members, as determined by the
8 department.

9 SECTION 12.14. (a) Section 29.902(c), Education Code, as
10 added by this article, applies beginning with the 2010-2011 school
11 year.

12 (b) Not later than January 1, 2010, the commissioner of
13 education shall adopt rules as required by Section 1001.101,
14 Education Code, as amended by this article.

15 (c) Each driver education and training program approved by
16 the Texas Education Agency under Chapter 1001, Education Code, must
17 comply with the curriculum requirements of Section 1001.101,
18 Education Code, as amended by this article, not later than May 1,
19 2010.

20 (d) Section 521.165, Transportation Code, as amended by
21 this article, applies only to an application for a driver's license
22 submitted on or after the effective date of this article. An
23 application for a driver's license submitted before the effective
24 date of this article is subject to the law in effect on the date the
25 application was submitted, and that law is continued in effect for
26 that purpose.

27 (e) The changes in law made by this article to Section

1 521.205, Transportation Code, apply to a course approved under that
2 section that begins on or after the effective date of this article.
3 A course beginning before the effective date of this article is
4 governed by the law in effect on the date the course was commenced,
5 and that law is continued in effect for that purpose.

6 (f) The changes in law made by this article to Sections
7 521.271, 521.421, and 545.424, Transportation Code, apply only to a
8 person issued a driver's license on or after the effective date of
9 this article. A person issued a driver's license before the
10 effective date of this article is governed by the law in effect on
11 the date the license was issued, and that law is continued in effect
12 for that purpose.

13 SECTION 12.15. This article takes effect September 1, 2009.

14 ARTICLE 12A. DISPLAY OF LICENSE TO
15 CARRY A CONCEALED HANDGUN

16 SECTION 12A.01. Sections 411.187(a) and (c), Government
17 Code, are amended to read as follows:

18 (a) A license may be suspended under this section if the
19 license holder:

20 (1) is charged with the commission of a Class A or
21 Class B misdemeanor or an offense under Section 42.01, Penal Code,
22 or of a felony under an information or indictment;

23 (2) ~~[fails to display a license as required by Section~~
24 ~~411.205,~~

25 ~~[(3)]~~ fails to notify the department of a change of
26 address or name as required by Section 411.181;

27 (3) ~~[(4)]~~ carries a concealed handgun under the

1 authority of this subchapter of a different category than the
2 license holder is licensed to carry;

3 (4) [~~(5)~~] fails to return a previously issued license
4 after a license is modified as required by Section 411.184(d);

5 (5) [~~(6)~~] commits an act of family violence and is the
6 subject of an active protective order rendered under Title 4,
7 Family Code; or

8 (6) [~~(7)~~] is arrested for an offense involving family
9 violence or an offense under Section 42.072, Penal Code, and is the
10 subject of an order for emergency protection issued under Article
11 17.292, Code of Criminal Procedure.

12 (c) A license may be suspended under this section:

13 (1) for 30 days, if the person's license is subject to
14 suspension for a reason listed in Subsection (a)(2), (3) [~~(a)(3)~~],
15 or (4), [~~or (5)~~], except as provided by Subdivision (2) [~~(3)~~];

16 (2) [~~for 90 days, if the person's license is subject to~~
17 ~~suspension for a reason listed in Subsection (a)(2), except as~~
18 ~~provided by Subdivision (3)~~];

19 [~~(3)~~] for not less than one year and not more than three
20 years if the person's license is subject to suspension for a reason
21 listed in Subsection (a), other than the reason listed in
22 Subsection (a)(1), and the person's license has been previously
23 suspended for the same reason;

24 (3) [~~(4)~~] until dismissal of the charges if the
25 person's license is subject to suspension for the reason listed in
26 Subsection (a)(1); or

27 (4) [~~(5)~~] for the duration of or the period specified

1 by:

2 (A) the protective order issued under Title 4,
3 Family Code, if the person's license is subject to suspension for
4 the reason listed in Subsection (a)(5) [~~(a)(6)~~]; or

5 (B) the order for emergency protection issued
6 under Article 17.292, Code of Criminal Procedure, if the person's
7 license is subject to suspension for the reason listed in
8 Subsection (a)(6) [~~(a)(7)~~].

9 SECTION 12A.02. Section 411.205, Government Code, is
10 amended to read as follows:

11 Sec. 411.205. REQUIREMENT TO DISPLAY [~~DISPLAYING~~]
12 LICENSE [~~, PENALTY~~]. [~~(a)~~] If a license holder is carrying a
13 handgun on or about the license holder's person when a magistrate or
14 a peace officer demands that the license holder display
15 identification, the license holder shall display both the license
16 holder's driver's license or identification certificate issued by
17 the department and the license holder's handgun license. [~~A person~~
18 ~~who fails or refuses to display the license and identification as~~
19 ~~required by this subsection is subject to suspension of the~~
20 ~~person's license as provided by Section 411.187.~~

21 [~~(b) A person commits an offense if the person fails or~~
22 ~~refuses to display the license and identification as required by~~
23 ~~Subsection (a) after previously having had the person's license~~
24 ~~suspended for a violation of that subsection. An offense under this~~
25 ~~subsection is a Class B misdemeanor.]~~

26 SECTION 12A.03. An offense under Section 411.205,
27 Government Code, may not be prosecuted after the effective date of

1 this article. If, on the effective date of this article, a criminal
2 action is pending for an offense under Section 411.205, the action
3 is dismissed on that date. However, a final conviction for an
4 offense under Section 411.205 that exists on the effective date of
5 this article is unaffected by this article.

6 SECTION 12A.04. This article takes effect September 1,
7 2009.

8 ARTICLE 13. REGULATION OF DRIVER'S LICENSES AND PERSONAL
9 IDENTIFICATION CERTIFICATES BY DEPARTMENT

10 SECTION 13.01. Section 521.029, Transportation Code, is
11 amended to read as follows:

12 Sec. 521.029. OPERATION OF MOTOR VEHICLE BY NEW STATE
13 RESIDENTS. (a) A person who enters this state as a new resident
14 may operate a motor vehicle in this state for no more than 90 [~~30~~]
15 days after the date on which the person enters this state if the
16 person:

17 (1) is 16 years of age or older; and

18 (2) has in the person's possession a driver's license
19 issued to the person by the person's state or country of previous
20 residence.

21 (b) If a person subject to this section is prosecuted for
22 operating a motor vehicle without a driver's license, the
23 prosecution alleges that the person has resided in this state for
24 more than 90 [~~30~~] days, and the person claims to have been covered
25 by Subsection (a), the person must prove by the preponderance of the
26 evidence that the person has not resided in this state for more than
27 90 [~~30~~] days.

1 SECTION 13.02. Subchapter C, Chapter 521, Transportation
2 Code, is amended by adding Section 521.060 to read as follows:

3 Sec. 521.060. INTERNAL VERIFICATION SYSTEM. (a) The
4 department by rule shall establish a system for identifying unique
5 addresses that are submitted in license or certificate applications
6 under this chapter or Chapter 522 in a frequency or number that, in
7 the department's determination, casts doubt on whether the
8 addresses are the actual addresses where the applicants reside.

9 (b) The department may contract with a third-party personal
10 data verification service to assist the department in implementing
11 this section.

12 (c) The department shall investigate the validity of
13 addresses identified under Subsection (a).

14 (d) The department may disclose the results of an
15 investigation under Subsection (c) to a criminal justice agency for
16 the purposes of enforcing Section 521.4565 or other provisions of
17 this chapter or Chapter 522.

18 (e) In this section, "criminal justice agency" has the
19 meaning assigned by Article 60.01, Code of Criminal Procedure.

20 SECTION 13.03. Section 521.101, Transportation Code, is
21 amended by adding Subsection (j) to read as follows:

22 (j) The department may not issue a personal identification
23 certificate to a person who has not established a domicile in this
24 state.

25 SECTION 13.04. Subchapter G, Chapter 521, Transportation
26 Code, is amended by adding Sections 521.1426 and 521.1427 to read as
27 follows:

1 Sec. 521.1426. DOMICILE REQUIREMENT; VERIFICATION.

2 (a) The department may not issue a driver's license or a personal
3 identification certificate to a person who has not established a
4 domicile in this state.

5 (b) The department shall adopt rules for determining
6 whether a domicile has been established, including rules
7 prescribing the types of documentation the department may require
8 from the applicant to verify the validity of the claimed domicile.

9 (c) The department may contract with a third-party personal
10 data verification service to assist the department in verifying a
11 claim of domicile, including whether the physical address provided
12 by the applicant is the applicant's actual residence.

13 Sec. 521.1427. POST OFFICE BOX NOT VALID AS ADDRESS.

14 (a) In this section, "post office box address" means a United
15 States Postal Service post office box address or a private mailbox
16 address.

17 (b) Unless an exception exists under state or federal law,
18 an applicant may receive delivery of a license or a personal
19 identification certificate at a post office box address only if the
20 applicant has provided the department the physical address where
21 the applicant resides.

22 (c) The department may require the applicant to provide
23 documentation that the department determines necessary to verify
24 the validity of the physical address provided under Subsection (b).

25 (d) The department may contract with a third-party personal
26 data verification service to assist the department in verifying
27 whether the physical address provided by the applicant is the

1 applicant's actual residence.

2 SECTION 13.05. Subchapter C, Chapter 522, Transportation
3 Code, is amended by adding Sections 522.0225 and 522.0226 to read as
4 follows:

5 Sec. 522.0225. VERIFICATION OF DOMICILE. (a) The
6 department shall adopt rules for determining whether a domicile has
7 been established under Section 522.022, including rules
8 prescribing the types of documentation the department may require
9 from the applicant to determine the validity of the claimed
10 domicile.

11 (b) The department may contract with a third-party personal
12 data verification service to assist the department in verifying a
13 claim of domicile, including whether the physical address provided
14 by the applicant is the applicant's actual residence.

15 Sec. 522.0226. POST OFFICE BOX NOT VALID AS ADDRESS.
16 (a) In this section, "post office box address" means a United
17 States Postal Service post office box address or a private mailbox
18 address.

19 (b) Unless an exception exists under state or federal law,
20 an applicant may receive delivery of a commercial driver's license
21 at a post office box address only if the applicant has provided the
22 department the physical address where the applicant resides.

23 (c) The department may require the applicant to provide
24 documentation that the department determines necessary to verify
25 the validity of the physical address provided under Subsection (b).

26 (d) The department may contract with a third-party personal
27 data verification service to assist the department in verifying

1 whether the physical address provided by the applicant is the
2 applicant's actual residence.

3 SECTION 13.06. Subchapter S, Chapter 521, Transportation
4 Code, is amended by adding Section 521.4565 to read as follows:

5 Sec. 521.4565. CONSPIRING TO MANUFACTURE COUNTERFEIT
6 LICENSE OR CERTIFICATE. (a) In this section:

7 (1) "Combination," "conspires to commit," "profits,"
8 and "criminal street gang" have the meanings assigned by Section
9 71.01, Penal Code.

10 (2) "Conspires to manufacture or produce" means that:

11 (A) a person agrees with one or more other
12 persons to engage in the manufacture or production of a forged or
13 counterfeit instrument; and

14 (B) the person and one or more of the other
15 persons perform an overt act in pursuance of the agreement.

16 (3) "Instrument" means a driver's license, commercial
17 driver's license, or personal identification certificate.

18 (4) "Public servant" has the meaning assigned by
19 Section 1.07, Penal Code.

20 (b) A person commits an offense if the person establishes,
21 maintains, or participates in or conspires to establish, maintain,
22 or participate in a combination or criminal street gang, or
23 participates in the profits of a combination or criminal street
24 gang, with the intent to manufacture or produce a forged or
25 counterfeit instrument for the purpose of selling, distributing, or
26 delivering such instrument. An agreement constituting conspiring
27 to manufacture or produce may be inferred from the acts of the

1 parties.

2 (c) An offense under this section is a state jail felony,
3 except that an offense committed by a public servant is a felony of
4 the third degree.

5 SECTION 13.07. The Department of Public Safety of the State
6 of Texas shall adopt rules required by the amendments of this
7 article to Chapters 521 and 522, Transportation Code, as soon as
8 practicable after the effective date of this article.

9 SECTION 13.08. This article takes effect immediately if
10 this Act receives a vote of two-thirds of all the members elected to
11 each house, as provided by Section 39, Article III, Texas
12 Constitution. If this Act does not receive the vote necessary for
13 immediate effect, this article takes effect September 1, 2009.

14 ARTICLE 13A. DRIVER'S LICENSE ISSUED TO CERTAIN FEDERAL AND
15 STATE JUDGES AND SPOUSES

16 SECTION 13A.01. Section 521.001, Transportation Code, is
17 amended by adding Subdivisions (3-a) and (8-a) to read as follows:

18 (3-a) "Federal judge" means:

- 19 (A) a judge of a United States court of appeals;
20 (B) a judge of a United States district court;
21 (C) a judge of a United States bankruptcy court;

22 or

23 (D) a magistrate judge of a United States
24 district court.

25 (8-a) "State judge" means:

- 26 (A) the judge of an appellate court, a district
27 court, or a county court at law of this state; or

1 (B) an associate judge appointed under Chapter
2 201, Family Code.

3 SECTION 13A.02. Sections 521.054(a) and (b),
4 Transportation Code, are amended to read as follows:

5 (a) This section applies to a person who:

6 (1) after applying for or being issued a ~~[the]~~ license
7 or certificate moves to a new residence ~~[from the]~~ address ~~[stated~~
8 ~~in the person's application for a license or certificate]~~;

9 (2) has used the procedure under Section 521.121(d)
10 and whose status as a federal judge, a state judge, or the spouse of
11 a federal or state judge becomes inapplicable ~~[moves from the~~
12 ~~address shown on the license or certificate held by the person]~~; or

13 (3) changes the person's name by marriage or
14 otherwise.

15 (b) A person subject to this section shall notify the
16 department of the change not later than the 30th day after the date
17 on which the change takes effect and apply for a duplicate license
18 or certificate as provided by Section 521.146. The duplicate
19 license must include the person's current residence address.

20 SECTION 13A.03. Section 521.121, Transportation Code, is
21 amended by amending Subsection (a) and adding Subsection (d) to
22 read as follows:

23 (a) The driver's license must include:

24 (1) a distinguishing number assigned by the department
25 to the license holder;

26 (2) a color photograph of the entire face of the
27 holder;

1 (3) the full name and[7] date of birth[~~7~~ and residence
2 ~~address~~] of the holder; [~~and~~]

3 (4) a brief description of the holder; and

4 (5) the license holder's residence address or, for a
5 license holder using the procedure under Subsection (d), the street
6 address of the courthouse in which the license holder or license
7 holder's spouse serves as a federal judge or state judge.

8 (d) The department shall establish a procedure for a federal
9 judge, a state judge, or the spouse of a federal or state judge to
10 omit the license holder's residence address on the license and to
11 include, in lieu of that address, the street address of the
12 courthouse in which the license holder or license holder's spouse
13 serves as a federal judge or state judge. In establishing the
14 procedure, the department shall require sufficient documentary
15 evidence to establish the license holder's status as a federal
16 judge, state judge, or the spouse of a federal or state judge.

17 SECTION 13A.04. Section 521.142(c), Transportation Code,
18 is amended to read as follows:

19 (c) The application must state:

20 (1) the sex of the applicant;

21 (2) the residence address of the applicant, or if the
22 applicant is a federal judge, a state judge, or the spouse of a
23 federal or state judge using the procedure developed under Section
24 521.121(d), the street address of the courthouse in which the
25 applicant or the applicant's spouse serves as a federal judge or a
26 state judge;

27 (3) whether the applicant has been licensed to drive a

1 motor vehicle before;

2 (4) if previously licensed, when and by what state or
3 country;

4 (5) whether that license has been suspended or revoked
5 or a license application denied;

6 (6) the date and reason for the suspension,
7 revocation, or denial;

8 (7) whether the applicant is a citizen of the United
9 States; and

10 (8) the county of residence of the applicant.

11 ARTICLE 14. USE OF AN OFFENDER IDENTIFICATION CARD OR SIMILAR FORM
12 OF IDENTIFICATION AS PROOF OF IDENTITY FOR AN APPLICANT FOR A
13 DRIVER'S LICENSE OR COMMERCIAL DRIVER'S LICENSE

14 SECTION 14.01. Subsection (a), Section 521.142,
15 Transportation Code, is amended to read as follows:

16 (a) An application for an original license must state the
17 applicant's full name and place and date of birth. This information
18 must be verified by presentation of proof of identity satisfactory
19 to the department. The department must accept as satisfactory
20 proof of identity under this subsection an offender identification
21 card or similar form of identification issued to an inmate by the
22 Texas Department of Criminal Justice if the applicant also provides
23 supplemental verifiable records or documents that aid in
24 establishing identity.

25 SECTION 14.02. Subchapter G, Chapter 521, Transportation
26 Code, is amended by adding Section 521.1421 to read as follows:

27 Sec. 521.1421. INMATE IDENTIFICATION VERIFICATION PILOT

1 PROGRAM. (a) The department shall participate in an inmate
2 identification verification pilot program for the purpose of
3 issuing driver's licenses and personal identification certificates
4 to inmates of the Texas Department of Criminal Justice.

5 (b) Under the pilot program, the department may:

6 (1) enter into a contract with the Texas Department of
7 Criminal Justice and the Department of State Health Services to
8 establish an identification verification process for inmates of the
9 Texas Department of Criminal Justice; and

10 (2) issue a driver's license or a personal
11 identification certificate to an inmate whose identity has been
12 confirmed through the verification process and who otherwise meets
13 the requirements for the issuance of the driver's license or
14 personal identification certificate.

15 (c) At the conclusion of the pilot program the governing
16 bodies of the participating agencies may agree to continue the
17 pilot program on a permanent basis.

18 (d) Not later than December 1, 2010, the department and the
19 Texas Department of Criminal Justice shall jointly issue a report
20 to the standing committees of the legislature with jurisdiction
21 over issues related to criminal justice and homeland security
22 addressing:

23 (1) the status of the pilot program;

24 (2) the effectiveness of the pilot program; and

25 (3) an analysis of the feasibility of implementing a
26 statewide program based on the pilot program.

27 SECTION 14.03. Subsection (c-1), Section 522.021,

1 Transportation Code, is amended to read as follows:

2 (c-1) If the department requires proof of an applicant's
3 identity as part of an application under this section, the
4 department must accept as satisfactory proof of identity an
5 offender identification card or similar form of identification
6 issued to an inmate by the Texas Department of Criminal Justice if
7 the applicant also provides supplemental verifiable records or
8 documents that aid in establishing identity.

9 SECTION 14.04. The changes in law made by this article apply
10 only to an application for a driver's license, commercial driver's
11 license, or personal identification certificate submitted on or
12 after the effective date of this article. An application for a
13 driver's license, commercial driver's license, or personal
14 identification certificate submitted before the effective date of
15 this article is subject to the law in effect on the date the
16 application was submitted, and that law is continued in effect for
17 that purpose.

18 SECTION 14.05. This article takes effect September 1, 2009.

19 ARTICLE 15. DRIVER RESPONSIBILITY PROGRAM

20 SECTION 15.01. Section 708.151, Transportation Code, is,
21 amended to read as follows:

22 Sec. 708.151. NOTICE OF SURCHARGE. (a) The department
23 shall send notices as required by Subsection (b) to ~~[notify]~~ the
24 holder of a driver's license when ~~[of the assessment of]~~ a surcharge
25 is assessed on that license. Each notice must:

26 (1) be sent by first class mail ~~[sent]~~ to the person's
27 most recent address as shown on the records of the department or to

1 the person's most recent forwarding address on record with the
2 United States Postal Service if it is different;

3 (2) [~~The notice must~~ specify the date by which the
4 surcharge must be paid;

5 (3) state the total dollar amount of the surcharge
6 that must be paid, the number of monthly payments required under an
7 installment payment plan, and the minimum monthly payment required
8 for a person to enter and maintain an installment payment plan with
9 the department; and

10 (4) state the consequences of a failure to pay the
11 surcharge.

12 (b) The department shall send a first notice not later than
13 the fifth day after the date the surcharge is assessed.

14 (c) If on or before the 45th day after the date the first
15 notice was sent the person fails to pay the amount of the surcharge
16 or fails to enter into an installment payment agreement with the
17 department, the department shall send a second notice. If on or
18 before the 60th day after the date the second notice was sent the
19 person fails to pay the amount of the surcharge or fails to enter
20 into an installment payment agreement with the department, the
21 department shall send a third notice that advises the person that
22 the person's driving privileges are suspended.

23 SECTION 15.02. Section 708.152(a), Transportation Code, is
24 amended to read as follows:

25 (a) If on [~~before~~] the 60th [~~30th~~] day after the date the
26 department sends a second notice under Section 708.151 the person
27 fails to pay the amount of a surcharge on the person's license or

1 fails to enter into an installment payment agreement with the
2 department, the license of the person is automatically suspended.
3 A person's license may not be suspended under this section before
4 the 105th day after the date the surcharge was assessed by the
5 department.

6 SECTION 15.03. Section 708.153(b), Transportation Code, is
7 amended to read as follows:

8 (b) A rule under this section:

9 (1) may not require [~~permit~~] a person to:

10 (A) pay surcharges that total \$500 or more [a
11 surcharge] over a period of less [~~more~~] than 36 consecutive months;

12 (B) pay surcharges that total more than \$250 but
13 not more than \$499 over a period of less than 24 consecutive months;

14 or

15 (C) pay surcharges that total \$249 or less over a
16 period of less than 12 consecutive months; and

17 (2) may provide that if the person fails to make any
18 [~~a~~] required monthly installment payment, the department may
19 reestablish the installment plan on receipt of a payment in the
20 amount equal to at least a required monthly installment payment [~~or~~
21 ~~declare the amount of the unpaid surcharge immediately due and~~
22 ~~payable]~~.

23 SECTION 15.04. Subchapter D, Chapter 708, Transportation
24 Code, is amended by adding Section 708.158 to read as follows:

25 Sec. 708.158. INDIGENT STATUS AND REDUCTION OF SURCHARGES.

26 (a) The department shall waive all surcharges assessed under this
27 chapter for a person who is indigent. For the purposes of this

1 section, a person is considered to be indigent if the person
2 provides the evidence described by Subsection (b) to the court.

3 (b) A person must provide information to the court in which
4 the person is convicted of the offense that is the basis for the
5 surcharge to establish that the person is indigent. The following
6 documentation may be used as proof:

7 (1) a copy of the person's most recent federal income
8 tax return that shows that the person's income or the person's
9 household income does not exceed 125 percent of the applicable
10 income level established by the federal poverty guidelines;

11 (2) a copy of the person's most recent statement of
12 wages that shows that the person's income or the person's household
13 income does not exceed 125 percent of the applicable income level
14 established by the federal poverty guidelines; or

15 (3) documentation from a federal agency, state agency,
16 or school district that indicates that the person or, if the person
17 is a dependent as defined by Section 152, Internal Revenue Code of
18 1986, the taxpayer claiming the person as a dependent, receives
19 assistance from:

20 (A) the food stamp program or the financial
21 assistance program established under Chapter 31, Human Resources
22 Code;

23 (B) the federal special supplemental nutrition
24 program for women, infants, and children authorized by 42 U.S.C.
25 Section 1786;

26 (C) the medical assistance program under Chapter
27 32, Human Resources Code;

1 (D) the child health plan program under Chapter
2 62, Health and Safety Code; or

3 (E) the national free or reduced-price lunch
4 program established under 42 U.S.C. Section 1751 et seq.

5 SECTION 15.05. Section 708.157(c), Transportation Code, is
6 amended to read as follows:

7 (c) The department by rule shall [~~may~~] establish an
8 indigency program for holders of a driver's license on which a
9 surcharge has been assessed for certain offenses, as determined by
10 the department.

11 SECTION 15.06. Subchapter B, Chapter 708, Transportation
12 Code, is amended by adding Section 708.056 to read as follows:

13 Sec. 708.056. DEDUCTION OF POINTS. The department by rule
14 shall establish a procedure to provide for the deduction of one
15 point accumulated by a person under this subchapter to account for
16 each year that the person has not accumulated points under this
17 subchapter.

18 SECTION 15.07. The changes in law made by this article apply
19 only to a surcharge that is assessed under Chapter 708,
20 Transportation Code, on or after the effective date of this
21 article. A surcharge that was assessed under that chapter before
22 the effective date of this article is subject to the law in effect
23 on the date the surcharge was assessed, and that law is continued in
24 effect for that purpose.

25 SECTION 15.08. This article takes effect September 1, 2011.

26 ARTICLE 15A. MOTOR VEHICLE SAFETY RESPONSIBILITY

27 SECTION 15A.01. Section 601.053, Transportation Code, is

1 amended by amending Subsection (b) and adding Subsection (c) to
2 read as follows:

3 (b) Except as provided by Subsection (c), an [An] operator
4 who does not exhibit evidence of financial responsibility under
5 Subsection (a) is presumed to have operated the vehicle in
6 violation of Section 601.051.

7 (c) Subsection (b) does not apply if the peace officer
8 determines through use of the verification program established
9 under Subchapter N that financial responsibility has been
10 established for the vehicle.

11 SECTION 15A.02. Subchapter N, Chapter 601, Transportation
12 Code, as added by Chapter 1325 (H.B. 3588), Acts of the 78th
13 Legislature, Regular Session, 2003, is repealed.

14 ARTICLE 16. SUSPENSION OF A DRIVER'S LICENSE BY DEPARTMENT

15 SECTION 16.01. Section 521.341, Transportation Code, is
16 amended to read as follows:

17 Sec. 521.341. REQUIREMENTS FOR AUTOMATIC LICENSE
18 SUSPENSION. Except as provided by Sections 521.344(d)-(i), a
19 license is automatically suspended on final conviction of the
20 license holder of:

21 (1) an offense under Section 19.05, Penal Code,
22 committed as a result of the holder's criminally negligent
23 operation of a motor vehicle;

24 (2) an offense under Section 38.04, Penal Code, if the
25 holder used a motor vehicle in the commission of the offense;

26 (3) an offense under Section 49.04, 49.045, or 49.08,
27 Penal Code;

1 (4) an offense under Section 49.07, Penal Code, if the
2 holder used a motor vehicle in the commission of the offense;

3 (5) an offense punishable as a felony under the motor
4 vehicle laws of this state;

5 (6) an offense under Section 550.021;

6 (7) an offense under Section 521.451 or 521.453; or

7 (8) an offense under Section 19.04, Penal Code, if the
8 holder used a motor vehicle in the commission of the offense.

9 SECTION 16.02. Sections 521.342(a) and (b), Transportation
10 Code, are amended to read as follows:

11 (a) Except as provided by Section 521.344, the license of a
12 person who was under 21 years of age at the time of the offense,
13 other than an offense classified as a misdemeanor punishable by
14 fine only, is automatically suspended on conviction of:

15 (1) an offense under Section 49.04, 49.045, or 49.07,
16 Penal Code, committed as a result of the introduction of alcohol
17 into the body;

18 (2) an offense under the Alcoholic Beverage Code,
19 other than an offense to which Section 106.071 of that code applies,
20 involving the manufacture, delivery, possession, transportation,
21 or use of an alcoholic beverage;

22 (3) a misdemeanor offense under Chapter 481, Health
23 and Safety Code, for which Subchapter P does not require the
24 automatic suspension of the license;

25 (4) an offense under Chapter 483, Health and Safety
26 Code, involving the manufacture, delivery, possession,
27 transportation, or use of a dangerous drug; or

1 (5) an offense under Chapter 485, Health and Safety
2 Code, involving the manufacture, delivery, possession,
3 transportation, or use of an abusable volatile chemical.

4 (b) The department shall suspend for one year the license of
5 a person who is under 21 years of age and is convicted of an offense
6 under Section 49.04, 49.045, 49.07, or 49.08, Penal Code,
7 regardless of whether the person is required to attend an
8 educational program under Section 13(h), Article 42.12, Code of
9 Criminal Procedure, that is designed to rehabilitate persons who
10 have operated motor vehicles while intoxicated, unless the person
11 is placed under community supervision under that article and is
12 required as a condition of the community supervision to not operate
13 a motor vehicle unless the vehicle is equipped with the device
14 described by Section 13(i) of that article. If the person is
15 required to attend such a program and does not complete the program
16 before the end of the person's suspension, the department shall
17 suspend the person's license or continue the suspension, as
18 appropriate, until the department receives proof that the person
19 has successfully completed the program. On the person's successful
20 completion of the program, the person's instructor shall give
21 notice to the department and to the community supervision and
22 corrections department in the manner provided by Section 13(h),
23 Article 42.12, Code of Criminal Procedure.

24 SECTION 16.03. Sections 521.344(a), (c), and (i),
25 Transportation Code, are amended to read as follows:

26 (a) Except as provided by Sections 521.342(b) and 521.345,
27 and by Subsections (d)-(i), if a person is convicted of an offense

1 under Section 49.04, 49.045, or 49.07, Penal Code, the license
2 suspension:

3 (1) begins on a date set by the court that is not
4 earlier than the date of the conviction or later than the 30th day
5 after the date of the conviction, as determined by the court; and

6 (2) continues for a period set by the court according
7 to the following schedule:

8 (A) not less than 90 days or more than one year,
9 if the person is punished under Section 49.04, 49.045, or 49.07,
10 Penal Code, except that if the person's license is suspended for a
11 second or subsequent offense under Section 49.07 committed within
12 five years of the date on which the most recent preceding offense
13 was committed, the suspension continues for a period of one year;

14 (B) not less than 180 days or more than two years,
15 if the person is punished under Section 49.09(a) or (b), Penal Code;
16 or

17 (C) not less than one year or more than two years,
18 if the person is punished under Section 49.09(a) or (b), Penal Code,
19 and is subject to Section 49.09(h) of that code.

20 (c) The court shall credit toward the period of suspension a
21 suspension imposed on the person for refusal to give a specimen
22 under Chapter 724 if the refusal followed an arrest for the same
23 offense for which the court is suspending the person's license
24 under this chapter. The court may not extend the credit to a
25 person:

26 (1) who has been previously convicted of an offense
27 under Section 49.04, 49.045, 49.07, or 49.08, Penal Code; or

1 (2) whose period of suspension is governed by Section
2 521.342(b).

3 (i) On the date that a suspension order under Section
4 521.343(c) is to expire, the period of suspension or the
5 corresponding period in which the department is prohibited from
6 issuing a license is automatically increased to two years unless
7 the department receives notice of successful completion of the
8 educational program as required by Section 13, Article 42.12, Code
9 of Criminal Procedure. At the time a person is convicted of an
10 offense under Section 49.04 or 49.045, Penal Code, the court shall
11 warn the person of the effect of this subsection. On the person's
12 successful completion of the program, the person's instructor shall
13 give notice to the department and to the community supervision and
14 corrections department in the manner required by Section 13,
15 Article 42.12, Code of Criminal Procedure. If the department
16 receives proof of completion after a period has been extended under
17 this subsection, the department shall immediately end the
18 suspension or prohibition.

19 SECTION 16.04. Sections 13(h) and (n), Article 42.12, Code
20 of Criminal Procedure, are amended to read as follows:

21 (h) If a person convicted of an offense under Sections
22 49.04-49.08, Penal Code, is placed on community supervision, the
23 judge shall require, as a condition of the community supervision,
24 that the defendant attend and successfully complete before the
25 181st day after the day community supervision is granted an
26 educational program jointly approved by the Texas Commission on
27 Alcohol and Drug Abuse, the Department of Public Safety, the

1 Traffic Safety Section of the Texas Department of Transportation,
2 and the community justice assistance division of the Texas
3 Department of Criminal Justice designed to rehabilitate persons who
4 have driven while intoxicated. The Texas Commission on Alcohol and
5 Drug Abuse shall publish the jointly approved rules and shall
6 monitor, coordinate, and provide training to persons providing the
7 educational programs. The Texas Commission on Alcohol and Drug
8 Abuse is responsible for the administration of the certification of
9 approved educational programs and may charge a nonrefundable
10 application fee for the initial certification of approval and for
11 renewal of a certificate. The judge may waive the educational
12 program requirement or may grant an extension of time to
13 successfully complete the program that expires not later than one
14 year after the beginning date of the person's community
15 supervision, however, if the defendant by a motion in writing shows
16 good cause. In determining good cause, the judge may consider but
17 is not limited to: the defendant's school and work schedule, the
18 defendant's health, the distance that the defendant must travel to
19 attend an educational program, and the fact that the defendant
20 resides out of state, has no valid driver's license, or does not
21 have access to transportation. The judge shall set out the finding
22 of good cause for waiver in the judgment. If a defendant is
23 required, as a condition of community supervision, to attend an
24 educational program or if the court waives the educational program
25 requirement, the court clerk shall immediately report that fact to
26 the Department of Public Safety, on a form prescribed by the
27 department, for inclusion in the person's driving record. If the

1 court grants an extension of time in which the person may complete
2 the program, the court clerk shall immediately report that fact to
3 the Department of Public Safety on a form prescribed by the
4 department. The report must include the beginning date of the
5 person's community supervision. Upon the person's successful
6 completion of the educational program, the person's instructor
7 shall give notice to the Department of Public Safety for inclusion
8 in the person's driving record and to the community supervision and
9 corrections department. The community supervision and corrections
10 department shall then forward the notice to the court clerk for
11 filing. If the Department of Public Safety does not receive notice
12 that a defendant required to complete an educational program has
13 successfully completed the program within the period required by
14 this section, as shown on department records, the department shall
15 revoke the defendant's driver's license, permit, or privilege or
16 prohibit the person from obtaining a license or permit, as provided
17 by Sections 521.344(e) and (f), Transportation Code. The
18 Department of Public Safety may not reinstate a license suspended
19 under this subsection unless the person whose license was suspended
20 makes application to the department for reinstatement of the
21 person's license and pays to the department a reinstatement fee of
22 \$100 [~~\$50~~]. The Department of Public Safety shall remit all fees
23 collected under this subsection to the comptroller for deposit in
24 the general revenue fund. This subsection does not apply to a
25 defendant if a jury recommends community supervision for the
26 defendant and also recommends that the defendant's driver's license
27 not be suspended.

1 (n) Notwithstanding any other provision of this section or
2 other law, the judge who places on community supervision a
3 defendant who was [~~is~~] younger than 21 years of age at the time of
4 the offense and was convicted for an offense under Sections
5 49.04-49.08, Penal Code, shall:

6 (1) order that the defendant's driver's license be
7 suspended for 90 days beginning on the date that the person is
8 placed on community supervision; and

9 (2) require as a condition of community supervision
10 that the defendant not operate a motor vehicle unless the vehicle is
11 equipped with the device described by Subsection (i) of this
12 section.

13 SECTION 16.05. The changes in law made by this article to
14 Sections 521.341, 521.342, and 521.344, Transportation Code, and
15 Section 13, Article 42.12, Code of Criminal Procedure, apply only
16 to an offense committed on or after the effective date of this
17 article. For purposes of this section, an offense was committed
18 before the effective date of this article if any element of the
19 offense occurred before the effective date of this article.

20 SECTION 16.06. This article takes effect September 1, 2009.

21 ARTICLE 17. SUBMISSION OF REPORTS ON CERTAIN CONVICTIONS OR
22 ADJUDICATIONS RELATING TO THE OPERATION OF MOTOR VEHICLES TO THE
23 DEPARTMENT

24 SECTION 17.01. Subsections (a) and (b), Section 522.061,
25 Transportation Code, are amended to read as follows:

26 (a) A person who holds or is required to hold a commercial
27 driver's license under this chapter and who is convicted in another

1 state of violating a state law or local ordinance relating to motor
2 vehicle traffic control shall notify the department in the manner
3 specified by the department not later than the seventh [~~30th~~] day
4 after the date of conviction.

5 (b) A person who holds or is required to hold a commercial
6 driver's license under this chapter and who is convicted in this
7 state or another state of violating a state law or local ordinance
8 relating to motor vehicle traffic control, including a law
9 regulating the operation of vehicles on highways, shall notify the
10 person's employer in writing of the conviction not later than the
11 seventh [~~30th~~] day after the date of conviction.

12 SECTION 17.02. Section 543.203, Transportation Code, is
13 amended to read as follows:

14 Sec. 543.203. SUBMITTING RECORD TO DEPARTMENT. Not later
15 than the seventh [~~30th~~] day after the date of conviction or
16 forfeiture of bail of a person on a charge of violating a law
17 regulating the operation of a vehicle on a highway or conviction of
18 a person of negligent homicide or a felony in the commission of
19 which a vehicle was used, the magistrate, judge, or clerk of the
20 court in which the conviction was had or bail was forfeited shall
21 immediately submit to the department a written record of the case
22 containing the information required by Section 543.202.

23 SECTION 17.03. Subsection (a), Section 543.204,
24 Transportation Code, is amended to read as follows:

25 (a) A justice of the peace or municipal judge who defers
26 further proceedings, suspends all or part of the imposition of the
27 fine, and places a defendant on probation under Article 45.051,

1 Code of Criminal Procedure, or a county court judge who follows that
2 procedure under Article 42.111, Code of Criminal Procedure, may not
3 submit a written record to the department, except that if the
4 justice or judge subsequently adjudicates the defendant's guilt,
5 the justice or judge shall submit the record not later than the
6 seventh [~~30th~~] day after the date on which the justice or judge
7 adjudicates guilt.

8 SECTION 17.04. The change in law made by this article
9 applies only to a conviction, forfeiture of bail, or adjudication
10 of guilt that occurs on or after the effective date of this article.

11 SECTION 17.05. This article takes effect September 1, 2009.

12 ARTICLE 18. CIVIL CONSEQUENCES OF CERTAIN CONVICTIONS ON A PERSON
13 WHO HOLDS A COMMERCIAL DRIVER'S LICENSE AND OF CERTAIN
14 ADJUDICATIONS ON THE DRIVER'S LICENSE OR PERMIT OF A CHILD

15 SECTION 18.01. Section 522.081(d), Transportation Code, is
16 amended to read as follows:

17 (d) A person is disqualified from driving a commercial motor
18 vehicle for life:

19 (1) if the person is convicted two or more times of an
20 offense specified by Subsection (b)(2), or a combination of those
21 offenses, arising from two or more separate incidents;

22 (2) if the person uses a motor vehicle in the
23 commission of a felony involving:

24 (A) the manufacture, distribution, or dispensing
25 of a controlled substance; or

26 (B) possession with intent to manufacture,
27 distribute, or dispense a controlled substance; [~~or~~]

1 (3) for any combination of two or more of the
2 following, arising from two or more separate incidents:

3 (A) a conviction of the person for an offense
4 described by Subsection (b)(2);

5 (B) a refusal by the person described by
6 Subsection (b)(3); and

7 (C) an analysis of the person's blood, breath, or
8 urine described by Subsection (b)(4); or

9 (4) if the person uses a motor vehicle in the
10 commission of an offense under 8 U.S.C. Section 1324 that involves
11 the transportation, concealment, or harboring of an alien.

12 SECTION 18.02. Section 54.042(a), Family Code, is amended
13 to read as follows:

14 (a) A juvenile court, in a disposition hearing under Section
15 54.04, shall:

16 (1) order the Department of Public Safety to suspend a
17 child's driver's license or permit, or if the child does not have a
18 license or permit, to deny the issuance of a license or permit to
19 the child if the court finds that the child has engaged in conduct
20 that:

21 (A) violates a law of this state enumerated in
22 Section 521.342(a), Transportation Code; or

23 (B) violates a penal law of this state or the
24 United States, an element or elements of which involve a severe form
25 of trafficking in persons, as defined by 22 U.S.C. Section 7102; or

26 (2) notify the Department of Public Safety of the
27 adjudication, if the court finds that the child has engaged in

1 conduct that violates a law of this state enumerated in Section
2 521.372(a), Transportation Code.

3 SECTION 18.03. (a) The change in law made by this article
4 to Section 522.081, Transportation Code, applies only in connection
5 with a conviction that becomes final on or after the effective date
6 of this article. A conviction that became final before the
7 effective date of this article is covered by Section 522.081,
8 Transportation Code, as that section existed on the date the
9 conviction became final, and the former law is continued in effect
10 for that purpose.

11 (b) The change in law made by this article in amending
12 Section 54.042, Family Code, applies only to conduct that occurs on
13 or after the effective date of this article. Conduct that occurred
14 before the effective date of this article is covered by the law in
15 effect at the time the conduct occurred, and the former law is
16 continued in effect for that purpose.

17 SECTION 18.04. This article takes effect September 1, 2009.

18 ARTICLE 19. [blank]

19 ARTICLE 20. ADMINISTRATIVE FINE AND LATE PAYMENT FEE FOR A
20 VIOLATION OF A PARKING RULE APPLICABLE TO THE CAPITOL COMPLEX

21 SECTION 20.01. Subsections (a), (b), and (d), Section
22 411.067, Government Code, are amended to read as follows:

23 (a) The department may [~~shall have authority to~~] adopt rules
24 for the assessment of an administrative fine of \$25 [~~\$10~~] for
25 violations of the parking rules adopted under Section 411.063.
26 Notwithstanding the provisions of Sections 411.065 and 411.066, the
27 department may [~~in its discretion~~] issue an administrative citation

1 for a parking violation.

2 (b) Rules adopted under this section shall:

3 (1) establish a system for enforcement of
4 administrative citations, including ~~[but not limited to]~~
5 assessment of a late fee not to exceed \$5 [~~\$2~~] and towing,
6 impoundment, or immobilization of vehicles; and

7 (2) provide ~~[for]~~ a procedure of administrative review
8 within the highway patrol district that includes the Capitol
9 Complex [~~capitol police district~~] and, on request of the person
10 assessed an administrative fine, further judicial review by the
11 department filing the appropriate citation or complaint in a court
12 [~~of competent jurisdiction~~], as provided in Section 411.066.

13 (d) The department shall remit to the comptroller for
14 deposit in the general revenue fund each [~~any~~] administrative fine
15 and late fee collected [~~received~~] under this section. The money
16 deposited [~~Such revenues~~] may be appropriated only to the
17 department for [~~capitol police~~] security and parking in the highway
18 patrol district that includes the Capitol Complex.

19 SECTION 20.02. This article takes effect September 1, 2009.

20 ARTICLE 21. CRIMINAL HISTORY REPORTING

21 SECTION 21.001. Chapter 60, Code of Criminal Procedure, is
22 amended by adding Article 60.10 to read as follows:

23 Art. 60.10. DATA REPORTING IMPROVEMENT PLAN. (a) In this
24 article, "disposition completeness percentage" has the meaning
25 assigned by Article 60.21(c).

26 (b) This article applies only to a county that has an
27 average disposition completeness percentage, including both

1 juvenile and adult dispositions, of less than 90 percent, as
2 reflected in the first report the Department of Public Safety
3 submits under Article 60.21(b)(2) on or after January 1, 2009.

4 (c) The commissioners court of a county described by
5 Subsection (b) shall establish a local data advisory board as
6 described by Article 60.09 not later than November 1, 2009. A local
7 data advisory board established under this article may include any
8 person described by Article 60.09(b) and must include:

9 (1) the sheriff of the county, or the sheriff's
10 designee;

11 (2) an attorney who represents the state in the
12 district courts of the county;

13 (3) an attorney who represents the state in the county
14 courts of the county;

15 (4) the clerk for the district courts of the county, or
16 the clerk's designee;

17 (5) the clerk for the county courts of the county, or
18 the clerk's designee;

19 (6) the police chief of the municipality with the
20 greatest population located in the county, or the chief's designee;

21 (7) a representative of the county's automated data
22 processing services, if the county performs those services; and

23 (8) a representative of an entity with whom the county
24 contracts for automated data processing services, if the county
25 contracts for those services.

26 (d) In addition to the duties described by Article 60.09(a),
27 a local data advisory board established under this article must

1 prepare a data reporting improvement plan. The data reporting
2 improvement plan must:

3 (1) describe the manner in which the county intends to
4 improve the county's disposition completeness percentage;

5 (2) ensure that the county takes the steps necessary
6 for the county's average disposition completeness percentage to be
7 equal to or greater than 90 percent in the first report the
8 Department of Public Safety submits under Article 60.21(b)(2) on or
9 after January 1, 2013; and

10 (3) include a comprehensive strategy by which the
11 county will permanently maintain the county's disposition
12 completeness percentage at or above 90 percent.

13 (e) Not later than June 1, 2010, a local data advisory board
14 established under this article shall submit to the Department of
15 Public Safety the data reporting improvement plan prepared for the
16 county. On receipt of a data reporting improvement plan under this
17 article, the department shall post the plan on the Internet website
18 maintained by the department.

19 (f) The public safety director of the Department of Public
20 Safety may adopt rules concerning the contents and form of a data
21 reporting improvement plan prepared under this article.

22 (g) This article expires September 1, 2013.

23 SECTION 21.002. Article 60.21, Code of Criminal Procedure,
24 is amended by amending Subsection (b) and adding Subsection (c) to
25 read as follows:

26 (b) The Department of Public Safety shall:

27 (1) monitor the submission of arrest and disposition

1 information by local jurisdictions;

2 (2) annually submit to the Legislative Budget Board,
3 the governor, the lieutenant governor, the state auditor, and the
4 standing committees in the senate and house of representatives that
5 have primary jurisdiction over criminal justice and the Department
6 of Public Safety [~~council~~] a report regarding the level of
7 reporting by local jurisdictions;

8 (3) identify local jurisdictions that do not report
9 arrest or disposition information or that partially report
10 information; and

11 (4) for use in determining the status of outstanding
12 dispositions, publish monthly on the Department of Public Safety's
13 Internet website or on another electronic publication a report
14 listing each arrest by local jurisdiction for which there is no
15 corresponding final court disposition.

16 (c) The report described by Subsection (b)(2) must contain a
17 disposition completeness percentage for each county in this state.
18 For purposes of this subsection, "disposition completeness
19 percentage" means the percentage of arrest charges a county reports
20 to the Department of Public Safety to be entered in the computerized
21 criminal history system under this chapter that were brought
22 against a person in the county for which a disposition has been
23 subsequently reported and entered into the computerized criminal
24 history system.

25 ARTICLE 22. TRANSFER OF REGULATORY PROGRAMS RELATING TO DISPENSING
26 CONTROLLED SUBSTANCES BY PRESCRIPTION

27 SECTION 22.01. (a) The director of the Department of

1 Public Safety or the director's designee, the executive director of
2 the Texas State Board of Pharmacy or the executive director's
3 designee, and the executive director of the Texas Medical Board or
4 the executive director's designee shall meet as an interagency
5 council to develop a transition plan for the orderly transfer from
6 the Department of Public Safety to the Texas State Board of Pharmacy
7 of certain records and regulatory functions relating to dispensing
8 controlled substances by prescription under Chapter 481, Health and
9 Safety Code.

10 (b) In developing the transition plan, the council shall:

11 (1) consult with the Health and Human Services
12 Commission, the Department of State Health Services, and other
13 health and human services agencies that contract with a third party
14 for data collection;

15 (2) specify the records and regulatory functions to be
16 transferred;

17 (3) create a time frame within which the specified
18 records and functions will be transferred;

19 (4) ensure the Department of Public Safety's continued
20 access for law enforcement purposes to prescription drug
21 information obtained under Chapter 481, Health and Safety Code;

22 (5) develop a plan for the transfer of relevant
23 database information;

24 (6) make recommendations for improvements to data
25 transmission, including examining the feasibility of implementing
26 an electronic data transmission system for use by registrants and
27 the Department of Public Safety or the Texas State Board of

1 Pharmacy;

2 (7) estimate the fiscal impact of the transfer,
3 including an estimate of the costs associated with any necessary
4 staff increase;

5 (8) minimize disruptions to the professions affected
6 by the transfer;

7 (9) identify any obstacles to the transfer and make
8 recommendations to address those obstacles; and

9 (10) address any other consideration the council
10 determines is appropriate.

11 (c) Not later than January 1, 2011, the council shall submit
12 its recommendations to the legislature on the transition plan
13 developed by the council.

14 (d) The Department of Public Safety may not enter into any
15 contract or otherwise take any action that would prevent, delay, or
16 hinder a potential transfer to the Texas State Board of Pharmacy
17 occurring on or after September 1, 2011, of certain records and
18 regulatory functions relating to dispensing controlled substances
19 by prescription.

20 (e) This section expires September 1, 2011.

21 ARTICLE 23. EFFECTIVE DATE

22 SECTION 23.01. Except as otherwise provided by this Act,
23 this Act takes effect September 1, 2009.

David Newkirk

President of the Senate

Jim Strawn

Speaker of the House

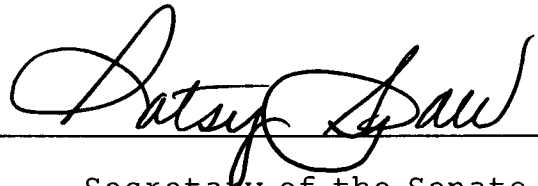
I certify that H.B. No. 2730 was passed by the House on May 14, 2009, by the following vote: Yeas 145, Nays 0, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 2730 on May 29, 2009, and requested the appointment of a conference committee to consider the differences between the two houses; that the House adopted the conference committee report on H.B. No. 2730 on May 31, 2009, by the following vote: Yeas 140, Nays 0, 1 present, not voting; and that the House adopted H.C.R. No. 293 authorizing certain corrections in H.B. No. 2730 on June 1, 2009, by the following vote: Yeas 142, Nays 0, 1 present, not voting.

Robert Haney

Chief Clerk of the House

H.B. No. 2730

I certify that H.B. No. 2730 was passed by the Senate, with amendments, on May 27, 2009, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; that the Senate adopted the conference committee report on H.B. No. 2730 on May 31, 2009, by the following vote: Yeas 31, Nays 0; and that the Senate adopted H.C.R. No. 293 authorizing certain corrections in H.B. No. 2730 on June 1, 2009, by the following vote: Yeas 31, Nays 0.



Secretary of the Senate

APPROVED:

19 JUN 09

Date



Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
2 PM O'CLOCK

JUN 19 2009

