

Sec. 411.172. ELIGIBILITY.

- (a) A person is eligible for a license to carry a concealed handgun if the person:
- (1) is a legal resident of this state for the six-month period preceding the date of application under this subchapter or is otherwise eligible for a license under Section 411.173(a);
  - (2) is at least 21 years of age;
  - (3) has not been convicted of a felony;
  - (4) is not charged with the commission of a Class A or Class B misdemeanor or an offense under Section 42.01, Penal Code, or of a felony under an information or indictment;
  - (5) is not a fugitive from justice for a felony or a Class A or Class B misdemeanor;
  - (6) is not a chemically dependent person;
  - (7) is not incapable of exercising sound judgment with respect to the proper use and storage of a handgun;
  - (8) has not, in the five years preceding the date of application, been convicted of a Class A or Class B misdemeanor or an offense under Section 42.01, Penal Code;
  - (9) is fully qualified under applicable federal and state law to purchase a handgun;
  - (10) has not been finally determined to be delinquent in making a child support payment administered or collected by the attorney general;
  - (11) has not been finally determined to be delinquent in the payment of a tax or other money collected by the comptroller, the tax collector of a political subdivision of the state, or any agency or subdivision of the state;
  - (12) has not been finally determined to be in default on a loan made under Chapter 57, Education Code;
  - (13) is not currently restricted under a court protective order or subject to a restraining order affecting the spousal relationship, other than a restraining order solely affecting property interests;
  - (14) has not, in the 10 years preceding the date of application, been adjudicated as having engaged in delinquent conduct violating a penal law of the grade of felony; and (15) has not made any material misrepresentation, or failed to disclose any material fact, in an application submitted pursuant to Section 411.174 or in a request for application submitted pursuant to Section 411.175.
- (b) For the purposes of this section, an offense under the laws of this state, another state, or the United States is:
- (1) a felony if the offense, at the time of a person's application for a license to carry a concealed handgun:
    - (A) is designated by a law of this state as a felony;
    - (B) contains all the elements of an offense designated by a law of this state as a felony; or
    - (C) is punishable by confinement for one year or more in a penitentiary; and
  - (2) a Class A misdemeanor if the offense is not a felony and confinement in a jail other than a state jail felony facility is affixed as a possible punishment.
- (c) An individual who has been convicted two times within the 10-year period preceding the date on which the person applies for a license of an offense of the grade of Class B misdemeanor or greater that involves the use of alcohol or a controlled substance as a statutory element of the offense is a chemically dependent person for purposes of this section and is not qualified to receive a license under this subchapter. This subsection does not preclude the disqualification of an individual for being a chemically dependent person if other evidence exists to show that the person is a chemically dependent person.
- (d) For purposes of Subsection (a)(7), a person is incapable of exercising sound judgment with respect to the proper use and storage of a handgun if the person:
- (1) has been diagnosed by a licensed physician as suffering from a psychiatric disorder or condition that causes or is likely to cause substantial impairment in judgment, mood, perception, impulse control, or intellectual ability;
  - (2) suffers from a psychiatric disorder or condition described by Subdivision (1) that:
    - (A) is in remission but is reasonably likely to redevelop at a future time; or
    - (B) requires continuous medical treatment to avoid redevelopment;
  - (3) has been diagnosed by a licensed physician or declared by a court to be incompetent to manage the person's own affairs; or
  - (4) has entered in a criminal proceeding a plea of not guilty by reason of insanity.
- (e) The following constitutes evidence that a person has a psychiatric disorder or condition described by Subsection d)(1):
- (1) involuntary psychiatric hospitalization in the preceding five-year period;
  - (2) psychiatric hospitalization in the preceding two-year period;
  - (3) inpatient or residential substance abuse treatment in the preceding five-year period;
  - (4) diagnosis in the preceding five-year period by a licensed physician that the person is dependent on alcohol, a controlled substance, or a similar substance; or
  - (5) diagnosis at any time by a licensed physician that the person suffers or has suffered from a psychiatric disorder or condition consisting of or relating to:
    - (A) schizophrenia or delusional disorder;
    - (B) bipolar disorder;
    - (C) chronic dementia, whether caused by illness, brain defect, or brain injury;
    - (D) dissociative identity disorder;
    - (E) intermittent explosive disorder; or
    - (F) antisocial personality disorder.

- (f) Notwithstanding Subsection (d), a person who has previously been diagnosed as suffering from a psychiatric disorder or condition described by Subsection (d) or listed in Subsection (e) is not because of that disorder or condition incapable of exercising sound judgment with respect to the proper use and storage of a handgun if the person provides the department with a certificate from a licensed physician whose primary practice is in the field of psychiatry stating that the psychiatric disorder or condition is in remission and is not reasonably likely to develop at a future time.
- (g) Notwithstanding Subsection (a)(2), a person who is at least 18 years of age but not yet 21 years of age is eligible for a license to carry a concealed handgun if the person:
- (1) is a member or veteran of the United States armed forces, including a member or veteran of the reserves or national guard;
  - (2) was discharged under honorable conditions, if discharged from the United States armed forces, reserves, or national guard; and
  - (3) meets the other eligibility requirements of Subsection (a) except for the minimum age required by federal law to purchase a handgun.
- (h) The issuance of a license to carry a concealed handgun to a person eligible under Subsection (g) does not affect the person's ability to purchase a handgun or ammunition under federal law.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

Amended by Acts 1999, 76th Leg., ch. 62, Sec. 9.03(a), 9.04(a), eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 255, Sec. 1, eff. Sept. 1, 2003.

Amended by: Acts 2005, 79th Leg., Ch. 486, Sec. 1, eff. September 1, 2005. Sec. 411.173.

#### NONRESIDENT LICENSE.

- (a) The department by rule shall establish a procedure for a person who meets the 78 eligibility requirements of this subchapter other than the residency requirement established by Section 411.172(a)(1) to obtain a license under this subchapter if the person is a legal resident of another state or if the person relocates to this state with the intent to establish residency in this state. The procedure must include payment of a fee in an amount sufficient to recover the average cost to the department of obtaining a criminal history record check and investigation on a nonresident applicant. A license issued in accordance with the procedure established under this subsection:
- (1) remains in effect until the license expires under Section 411.183; and
  - (2) may be renewed under Section 411.185. (a-1) Repealed by Acts 2005, 79th Leg., Ch. 915, Sec. 4, eff. September 1, 2005.
- (b) The governor shall negotiate an agreement with any other state that provides for the issuance of a license to carry a concealed handgun under which a license issued by the other state is recognized in this state or shall issue a proclamation that a license issued by the other state is recognized in this state if the attorney general of the State of Texas determines that a background check of each applicant for a license issued by that state is initiated by state or local authorities or an agent of the state or local authorities before the license is issued. For purposes of this subsection, "background check" means a search of the National Crime Information Center database and the Interstate Identification Index maintained by the Federal Bureau of Investigation.
- (c) The attorney general of the State of Texas shall annually:
- (1) submit a report to the governor, lieutenant governor, and speaker of the house of representatives listing the states the attorney general has determined qualify for recognition under Subsection (b); and
  - (2) review the statutes of states that the attorney general has determined do not qualify for recognition under Subsection (b) to determine the changes to their statutes that are necessary to qualify for recognition under that subsection.
- (d) The attorney general of the State of Texas shall submit the report required by Subsection (c)(1) not later than January 1 of each calendar year.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 9.05(a), eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 255, Sec. 2, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 752, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 915, Sec. 1, eff. September 1, 2005. Acts 2005, 79th Leg., Ch. 915, Sec. 2, eff. September 1, 2005. Acts 2005, 79th Leg., Ch. 915, Sec. 4, eff. September 1, 2005.

#### Sec. 411.174. APPLICATION.

- (a) An applicant for a license to carry a concealed handgun must submit to the director's designee described by Section 411.176:
- (1) a completed application on a form provided by the department that requires only the information listed in Subsection (b);
  - (2) two recent color passport photographs of the applicant, except that an applicant who is younger than 21 years of age must submit two recent color passport photographs in profile of the applicant;
  - (3) a certified copy of the applicant's birth certificate or certified proof of age;
  - (4) proof of residency in this state;
  - (5) two complete sets of legible and classifiable fingerprints of the applicant taken by a person appropriately trained in recording fingerprints who is employed by a law enforcement agency or by a private entity designated by a law enforcement agency as an entity qualified to take fingerprints of an applicant for a license under this subchapter;
  - (6) a nonrefundable application and license fee of \$140 paid to the department;

- (7) a handgun proficiency certificate described by Section 411.189;
- (8) an affidavit signed by the applicant stating that the applicant:
  - (A) has read and understands each provision of 79 this subchapter that creates an offense under the laws of this state and each provision of the laws of this state related to use of deadly force; and
  - (B) fulfills all the eligibility requirements listed under Section 411.172; and
- (9) a form executed by the applicant that authorizes the director to make an inquiry into any noncriminal history records that are necessary to determine the applicant's eligibility for a license under Section 411.172(a).
- (b) An applicant must provide on the application a statement of the applicant's:
  - (1) full name and place and date of birth;
  - (2) race and sex;
  - (3) residence and business addresses for the preceding five years;
  - (4) hair and eye color;
  - (5) height and weight;
  - (6) driver's license number or identification certificate number issued by the department;
  - (7) criminal history record information of the type maintained by the department under this chapter, including a list of offenses for which the applicant was arrested, charged, or under an information or indictment and the disposition of the offenses; and
  - (8) history during the preceding five years, if any, of treatment received by, commitment to, or residence in:
    - (A) a drug or alcohol treatment center licensed to provide drug or alcohol treatment under the laws of this state or another state; or
    - (B) a psychiatric hospital.
- (c) The department shall distribute on request a copy of this subchapter and application materials.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 9.06(a), eff. Sept. 1, 1999.

Amended by: Acts 2005, 79th Leg., Ch. 486, Sec. 2, eff. September 1, 2005.

#### Sec. 411.175. REQUEST FOR APPLICATION MATERIALS.

- (a) A person applying for a license to carry a concealed handgun must apply by obtaining a request for application materials from a handgun dealer, the department, or any other person or entity approved by the department. The request for application materials must include the applicant's full name, address, race, sex, height, date of birth, and driver's license number and such other identifying information as required by department rule. The department shall prescribe the form of the request and make the form available to interested parties. An individual who desires to receive application materials must complete the request for application materials and forward it to the department at its Austin address. The department shall review all requests for application materials and make a preliminary determination as to whether or not the individual is qualified to receive a handgun license. If an individual is not disqualified to receive a handgun license, the department shall forward to the individual the appropriate application materials. The applicant must complete the application materials and forward the completed materials to the department at its Austin address.
- (b) If a preliminary review indicates that an individual will not be qualified to receive a handgun license, the department shall send written notification to that individual. The notice shall provide the reason that the preliminary review indicates that the individual is not entitled to receive a handgun license. The department shall give the individual an opportunity to correct whatever defect may exist.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997.

#### Sec. 411.176. REVIEW OF APPLICATION MATERIALS.

- (a) On receipt of the application materials by the department at its Austin headquarters, the department shall conduct the appropriate criminal history record check of the applicant through its computerized criminal history system. Not later than the 30th day after the date the department receives the application materials, the department shall forward the materials to the director's designee in the geographical area of the applicant's residence so that the designee may conduct the investigation described by 80 Subsection (b).
- (b) The director's designee as needed shall conduct an additional criminal history record check of the applicant and an investigation of the applicant's local official records to verify the accuracy of the application materials. The scope of the record check and the investigation are at the sole discretion of the department, except that the director's designee shall complete the record check and investigation not later than the 60th day after the date the department receives the application materials. The department shall send a fingerprint card to the Federal Bureau of Investigation for a national criminal history check of the applicant. On completion of the investigation, the director's designee shall return all materials and the result of the investigation to the appropriate division of the department at its Austin headquarters. The director's designee may submit to the appropriate division of the department, at the department's Austin headquarters, along with the application materials a written recommendation for disapproval of the application, accompanied by an affidavit stating personal knowledge or naming persons with personal knowledge of a ground for denial under Section 411.172. The director's designee in the appropriate geographical area may also submit the application and the recommendation that the license be issued. On receipt at the department's Austin headquarters of the application materials and the result of the investigation by the director's designee, the department shall conduct any further record check or investigation the department determines is necessary if a question exists with respect to the accuracy of the application materials or the eligibility of the applicant, except that the department shall complete the record check and investigation not later than the 180th day after the date the department receives the application materials from the applicant.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 10.01(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 9.07(a), eff. Sept. 1, 1999.