

- SUBJECT:** Applying handgun laws to licensed volunteer first responders
- COMMITTEE:** Homeland Security and Public Safety — favorable, without amendment
- VOTE:** 8 ayes — P. King, Nevárez, Burns, Hinojosa, Holland, Metcalf, Schaefer, Wray
- 1 nay — J. Johnson
- WITNESSES:** For — Dirk Robison; (*Registered, but did not testify:* Matt Long, Fredericksburg Tea Party; Rachel Malone, Texas Firearms Freedom; Alice Tripp, Texas State Rifle Association; Pat Fry; Tom Glass)
- Against — (*Registered, but did not testify:* Andrea Brauer, Texas Gun Sense)
- On — (*Registered, but did not testify:* Mike Wisko, Texas Fire Chief's Association)
- BACKGROUND:** Government Code, secs. 30.06 and 30.07 make it a crime for a handgun license holder to either conceal or openly carry a handgun on the premises of a property on which it is known to be forbidden.
- Penal Code, secs. 46.035(b) and 46.035(c) create offenses for a license holder to carry a handgun on the premises of a business that derives at least 51 percent of its income from alcohol sales, at an amateur or professional sporting event, on the premises of a correctional facility, on the premises of a hospital or nursing facility, in an amusement park, on the premises of a place of worship, or at an open meeting of a governmental entity.
- Sec. 46.15 establishes that the offenses of unlawful carrying of weapons and carrying weapons on certain prohibited premises do not apply to certain persons.
- DIGEST:** HB 435 would create a defense to prosecution for the offenses in Penal

Code, secs. 30.06 and 30.07 if the license holder was volunteer emergency services personnel. It would be a defense to prosecution for the offenses in secs. 46.035(b) and 46.035(c) if the actor was volunteer emergency services personnel engaged in providing emergency services.

The bill would add volunteer emergency services personnel that were licensed to carry a handgun and engaged in providing emergency services to the list of individuals to which the offenses of unlawful carrying of weapons and carrying weapons on certain prohibited premises did not apply.

A governmental unit would not be liable in a civil action arising from the discharge of a handgun by an individual who was volunteer emergency services personnel and licensed to carry a handgun. The discharge of a handgun would be outside the course and scope of an individual's duties as volunteer emergency services personnel. This could not be construed to waive the immunity from suit or liability of a governmental unit under any law.

The bill would define volunteer emergency services personnel to include a volunteer firefighter, an emergency medical services volunteer, and any individual who voluntarily provided services for the public during emergencies.

The bill would take effect September 1, 2017, and apply only to an offense committed on or after that date.

**SUPPORTERS
SAY:**

HB 435 would provide certain legal protections to volunteer emergency services personnel who are licensed to carry a handgun, allowing them to decrease potentially dangerous delays in rendering aid caused by having to store their handguns before entering certain premises.

Rural areas in Texas often rely on firefighter and emergency medical services that are completely volunteer. These volunteer personnel often are the first to respond in emergency situations because the closest law enforcement support may be many minutes away. The bill would prevent

delays in the event volunteer emergency services personnel showed up for emergency duty with a handgun already on them.

The bill would not confer additional authority to volunteer emergency services personnel. It would not grant to these personnel the powers and responsibility of law enforcement to secure a site or, if necessary, discharge a handgun in response to an incident. The bill also would not require volunteer emergency personnel to obtain a handgun license or, if they were licensed, to carry a firearm. The bill only would ensure that volunteer emergency service personnel did not have to worry about the legality of carrying a weapon based on where an emergency was located, thereby reducing response time.

**OPPONENTS
SAY:**

It is unclear whether HB 435 would allow local department chiefs to retain local control. Individual departments should be able to decide if carrying a handgun was appropriate in their communities, and if so, when and where personnel could carry.

Emergency services personnel do not receive the amount and type of training required of law enforcement regarding decision-making as it relates to the use of force. It is concerning that under the bill, armed volunteer emergency services personnel could have an opportunity to engage in unpredictable situations and make potentially rushed decisions, rather than deferring to law enforcement as they currently do.

The bill unintentionally could change the perception of first responders. Historically, first responders have been seen as helpers in the community. However, by allowing them to carry handguns while performing their duties, for some people it could introduce an element of fear or anxiety regarding the presence of volunteer first responders.