

The following is the CHL Division's SUMMARY OF 2009 LEGISLATIVE CHANGES TO CONCEALED HANDGUN LICENSING ACT Relating To Eligibility and Disciplinary Actions Effective September 1, 2009

1. Definitions of 'Conviction' and 'Felony'

Section 411.171 is amended to exclude from the definition of "conviction" those convictions or orders of deferred adjudication that have been:

"vacated, set-aside, annulled, invalidated, voided, or sealed."

The most common situation is likely to be a conviction "set-aside," which may (but need not) follow the successful completion of probation. Section 411.172 is amended to classify an offense as a "felony" by reference to the law at the time it is committed (instead of the law at the time of application), unless, at the time of application, the classification has been reduced from a felony to a misdemeanor. In other words, if the individual was convicted of a felony, but the law now defines it as a misdemeanor, then it is a misdemeanor; in all other cases we look to the classification on the judgment.

2. Failure to Display

Failure to display the license upon demand for identification by peace officer will no longer be grounds for suspension of license (currently 90 day suspension).

Note Ross: The Department still emphasizes that you still must have your driver's license for identification and your chl license with you at all times that you are carrying and we suggest that you have them even if you are not carrying.

3. Deferred Adjudication Felony Exemption

Section 411.1711, entitled "Certain Exemptions from Convictions," currently disqualifies only those offenses provided in Title 5 and Chapter 29 of the Texas Penal Code from the application of this exemption for felony-level deferred adjudications over ten years old. The amendments add the following disqualifying offenses (precluding application of the exemption):

Burglary of a Habitation or Shelter, and
Violation of Protective Order Issued on Basis of Sexual Assault.

4. Student Loan Disqualifier

Subsection (12) of Section 411.172, "Eligibility" is repealed, thereby eliminating student loan defaults as a disqualifier.

5. Incompetence

The five-year limitation on the use of an involuntary commitment or hospitalization as evidence of a psychiatric disorder has been removed.

The two year limitation on an individual if who has received court-ordered, outpatient treatment has been removed.

Note Ross: Basically the department says this was to be sure Texas was within the involuntary commitment or treatment standard of the federal requirements.

The following changes have also been made that may affect the licensee:

House Bill 2664 provides a defense to prosecution if a CHL holder carries a concealed handgun into an establishment that gets 51% or more of its income from sale of alcoholic beverages for on site consumption, but has failed to post the statutorily required notice.

Don't forget that if you are carrying and get charged with "carrying while intoxicated", your license will be suspended, and then revoked if you are convicted and possibly if your mental capacity is diminished; you may be filed on or sued.

Senate Bill 1236 provides a specific warning which peace officers must give when issuing a citation to appear on even a Class C misdemeanor of "domestic violence.

Senate Bill 1188/House Bill 267 is allowing interstate purchase of firearms.

The Division is making lots of changes in an attempt to get the volume of applications under control and much is being encouraged to be done electronically if possible. Keep in touch with us or check the web site and as all this comes down, we will keep you posted.

If you have questions or need to reach someone at the Concealed Handgun Division of the Department of Public Safety the following are the only places that will get you help. If you have other numbers, they either will be or may have been discontinued:

Main Number 800/224 5744

Local Austin Number 512/424 7293

E-mail address: CHL@txdps.state.tx.us

Legal questions: 512/424 5842

Mailing address Regulatory Licensing Service MSC 0245, Texas Department of Public Safety, Box 4087, Austin, TX 78773 0245