

By: Staples S.B. No. 578
(In the Senate - Filed February 17, 2005; March 1, 2005,
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Substitute by the following vote: Yeas 6, Nays 0; April 14, 2005,
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COMMITTEE SUBSTITUTE FOR S.B. No. 578 By: Carona

A BILL TO BE ENTITLED
AN ACT

relating to the authority of certain honorably retired peace
officers to carry certain weapons.

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

SECTION 1. Section 1701.357, Occupations Code, is amended
by amending Subsections (a) through (d) and adding Subsection (i)
to read as follows:

(a) This section applies only to:

(1) a peace officer ~~[designated as a peace officer
under Article 2.12(1), (2), (3), or (10), Code of Criminal
Procedure];~~ and

(2) a federal criminal investigator designated as a
special investigator under Article 2.122 ~~[2.122(a)(1) or (5)]~~, Code
of Criminal Procedure.

(b) The head of a state or local law enforcement agency may
allow an honorably retired peace officer ~~[of the agency to whom this
section applies]~~ an opportunity to demonstrate weapons proficiency
if the retired officer provides to the agency a sworn affidavit
stating that:

(1) the officer honorably retired after not less than
a total of 15 ~~[20]~~ years of service as a commissioned officer with
one or more state or local law enforcement agencies;

(2) the officer's license as a commissioned officer
was not revoked or suspended for any period during the officer's
term of service as a commissioned officer; and

(3) the officer has no psychological or physical
disability that would interfere with the officer's proper handling
of a handgun.

(c) The agency shall establish written procedures for the
issuance or denial of a certificate of proficiency under this
section. The agency shall issue the certificate to a retired
officer who satisfactorily demonstrates weapons proficiency under
Subsection (b), provides proof that the officer is receiving
retirement benefits on the basis of service with a state or local
law enforcement agency, and satisfies the written procedures
established by the agency. The agency shall maintain records of any
retired officer who holds a certificate issued under this section.

(d) A certificate issued under this section expires on the
second anniversary of the date the certificate was issued. A
retired officer to whom this section applies may request an annual
evaluation of weapons proficiency and issuance of a certificate of
proficiency as needed to comply with applicable federal or other
laws.

(i) On request of a retired officer who holds a certificate
of proficiency under this section, the head of a state or local law
enforcement agency may issue to the retired officer identification
that indicates that the officer retired from the agency. An
identification under this subsection must include a photograph of
the retired officer.

SECTION 2. Subsection (a), Section 46.15, Penal Code, is
amended to read as follows:

(a) Sections 46.02 and 46.03 do not apply to:

(1) peace officers~~[, including commissioned peace
officers of a recognized state,]~~ or special investigators under
Article 2.122, Code of Criminal Procedure, and neither section

prohibits a peace officer or special investigator from carrying a weapon in this state, including in an establishment in this state serving the public, regardless of whether the peace officer or special investigator is engaged in the actual discharge of the officer's or investigator's duties while carrying the weapon;

(2) parole officers and neither section prohibits an officer from carrying a weapon in this state if the officer is:

(A) engaged in the actual discharge of the officer's duties while carrying the weapon; and

(B) in compliance with policies and procedures adopted by the Texas Department of Criminal Justice regarding the possession of a weapon by an officer while on duty;

(3) community supervision and corrections department officers appointed or employed under Section 76.004, Government Code, and neither section prohibits an officer from carrying a weapon in this state if the officer is:

(A) engaged in the actual discharge of the officer's duties while carrying the weapon; and

(B) authorized to carry a weapon under Section 76.0051, Government Code;

(4) a judge or justice of the supreme court, the court of criminal appeals, a court of appeals, a district court, a criminal district court, a constitutional county court, a statutory county court, a justice court, or a municipal court who is licensed to carry a concealed handgun under Subchapter H, Chapter 411, Government Code; or

(5) an honorably retired peace officer or federal criminal investigator who holds a certificate of proficiency issued under Section 1701.357, Occupations Code, and is carrying a photo identification that:

(A) verifies that the officer honorably retired after not less than 15 [~~20~~] years of service as a commissioned officer; and

(B) is issued by [~~the agency from which the peace officer retired or, for a federal criminal investigator, by~~] a state or local law enforcement agency.

SECTION 3. Subsection (g), Section 46.15, Penal Code, as added by Chapter 795, Acts of the 78th Legislature, Regular Session, 2003, is repealed.

SECTION 4. The change in law made by this Act to Section 46.15, Penal Code, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 5. This Act takes effect September 1, 2005.

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