

By: King of Zavala

H.B. No. 3803

Substitute the following for H.B. No. 3803:

By: Frost

C.S.H.B. No. 3803

A BILL TO BE ENTITLED

AN ACT

relating to railroad peace officers appointed by the public safety director of the Department of Public Safety.

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

SECTION 1. Article 2.12, Code of Criminal Procedure, is amended to read as follows:

Art. 2.12. WHO ARE PEACE OFFICERS. The following are peace officers:

(1) sheriffs, their deputies, and those reserve deputies who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;

(2) constables, deputy constables, and those reserve deputy constables who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;

(3) marshals or police officers of an incorporated city, town, or village, and those reserve municipal police officers who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;

(4) rangers and officers commissioned by the Public Safety Commission and the Director of the Department of Public Safety;

(5) investigators of the district attorneys', criminal district attorneys', and county attorneys' offices;

(6) law enforcement agents of the Texas Alcoholic

1 Beverage Commission;

2 (7) each member of an arson investigating unit
3 commissioned by a city, a county, or the state;

4 (8) officers commissioned under Section 37.081,
5 Education Code, or Subchapter E, Chapter 51, Education Code;

6 (9) officers commissioned by the General Services
7 Commission;

8 (10) law enforcement officers commissioned by the
9 Parks and Wildlife Commission;

10 (11) airport police officers commissioned by a city
11 with a population of more than 1.18 million that operates an airport
12 that serves commercial air carriers;

13 (12) airport security personnel commissioned as peace
14 officers by the governing body of any political subdivision of this
15 state, other than a city described by Subdivision (11), that
16 operates an airport that serves commercial air carriers;

17 (13) municipal park and recreational patrolmen and
18 security officers;

19 (14) security officers and investigators commissioned
20 as peace officers by the comptroller;

21 (15) officers commissioned by a water control and
22 improvement district under Section 49.216, Water Code;

23 (16) officers commissioned by a board of trustees
24 under Chapter 54, Transportation Code;

25 (17) investigators commissioned by the Texas Medical
26 Board;

27 (18) officers commissioned by the board of managers of

1 the Dallas County Hospital District, the Tarrant County Hospital
2 District, or the Bexar County Hospital District under Section
3 281.057, Health and Safety Code;

4 (19) county park rangers commissioned under
5 Subchapter E, Chapter 351, Local Government Code;

6 (20) investigators employed by the Texas Racing
7 Commission;

8 (21) officers commissioned under Chapter 554,
9 Occupations Code;

10 (22) officers commissioned by the governing body of a
11 metropolitan rapid transit authority under Section 451.108,
12 Transportation Code, or by a regional transportation authority
13 under Section 452.110, Transportation Code;

14 (23) investigators commissioned by the attorney
15 general under Section 402.009, Government Code;

16 (24) security officers and investigators commissioned
17 as peace officers under Chapter 466, Government Code;

18 (25) an officer employed by the Department of State
19 Health Services under Section 431.2471, Health and Safety Code;

20 (26) officers appointed by an appellate court under
21 Subchapter F, Chapter 53, Government Code;

22 (27) officers commissioned by the state fire marshal
23 under Chapter 417, Government Code;

24 (28) an investigator commissioned by the commissioner
25 of insurance under Section 701.104, Insurance Code;

26 (29) apprehension specialists and inspectors general
27 commissioned by the Texas Youth Commission as officers under

Sections 61.0451 and 61.0931, Human Resources Code;

(30) officers appointed by the inspector general of the Texas Department of Criminal Justice under Section 493.019, Government Code;

(31) investigators commissioned by the Commission on Law Enforcement Officer Standards and Education under Section 1701.160, Occupations Code;

(32) commission investigators commissioned by the Texas Private Security Board under Section 1702.061(f), Occupations Code;

(33) the fire marshal and any officers, inspectors, or investigators commissioned by an emergency services district under Chapter 775, Health and Safety Code;

(34) officers commissioned by the State Board of Dental Examiners under Section 254.013, Occupations Code, subject to the limitations imposed by that section; ~~and~~

(35) investigators commissioned by the Texas Juvenile Probation Commission as officers under Section 141.055, Human Resources Code; and

(36) railroad peace officers appointed by the public safety director of the Department of Public Safety under Article 2.121, subject to the limitations imposed by that article.

SECTION 2. Article 2.121, Code of Criminal Procedure, is amended to read as follows:

Art. 2.121. RAILROAD PEACE OFFICERS. (a) The public safety director of the Department of Public Safety may appoint ~~up to 250~~ railroad peace officers who are employed by a railroad company to

1 aid law enforcement agencies in the protection of railroad property
2 and the protection of the persons and property of railroad
3 passengers and employees. Except as provided by Subsection (b),
4 each appointed officer has all the powers, privileges, and
5 immunities of a peace officer while carrying out duties as a
6 railroad peace officer within the boundaries of this state.

7 (b) ~~[Except as provided by Subsection (c) of this article, a~~
8 ~~railroad peace officer may make arrests and exercise all authority~~
9 ~~given peace officers under this code when necessary to prevent or~~
10 ~~abate the commission of an offense involving injury to passengers~~
11 ~~and employees of the railroad or damage to railroad property or to~~
12 ~~protect railroad property or property in the custody or control of~~
13 ~~the railroad.~~

14 ~~[(c)]~~ A railroad peace officer may ~~[not]~~ issue a traffic
15 citation for a violation of Chapter 521, Transportation Code, or
16 Subtitle C, Title 7, Transportation Code, only if the violation:

- 17 (1) occurs on railroad property;
18 (2) is a violation of a traffic sign, signal, or
19 marking located on railroad property; or
20 (3) immediately affects railroad operations.

21 (c) ~~[(d)]~~ A railroad peace officer is not entitled to state
22 benefits normally provided by the state to a peace officer.

23 (d) ~~[(e)]~~ A person may not serve as a railroad peace officer
24 for a railroad company unless:

- 25 (1) the Texas Railroad Association submits the
26 person's application for appointment and certification as a
27 railroad peace officer to the public safety director of the

1 Department of Public Safety and to the executive director of the
2 Commission on Law Enforcement Officer Standards and Education;

3 (2) the public safety director of the department
4 issues the person a certificate of authority to act as a railroad
5 peace officer; and

6 (3) the executive director of the commission
7 determines that the person meets minimum standards required of
8 peace officers by the commission relating to competence,
9 reliability, education, training, morality, and physical and
10 mental health and issues the person a license as a railroad peace
11 officer; and

12 (4) the person has met all standards for certification
13 as a peace officer by the Commission on Law Enforcement Officer
14 Standards and Education.

15 (e) [~~(f)~~] For good cause, the public safety director of the
16 department may revoke a certificate of authority issued under this
17 article and the executive director of the commission may revoke a
18 license issued under this article. Termination of employment with
19 a railroad company, or the revocation of a railroad peace officer
20 license, constitutes [~~shall constitute~~] an automatic revocation of
21 a certificate of authority to act as a railroad peace officer.

22 (f) [~~(g)~~] A railroad company is liable for any act or
23 omission by a person serving as a railroad peace officer for the
24 company that is within the person's scope of employment. Neither
25 the state nor any political subdivision or agency of the state is
26 [~~shall be~~] liable for any act or omission by a person appointed as a
27 railroad peace officer. The employing railroad company shall pay

1 all [~~All~~] expenses incurred by the granting or revocation of a
2 certificate of authority to act as a railroad peace officer [~~shall~~
3 ~~be paid by the employing railroad company~~].

4 (g) [~~(h)~~] A railroad peace officer who is a member of a
5 railroad craft may not perform the duties of a member of any other
6 railroad craft during a strike or labor dispute.

7 (h) [~~(i)~~] The public safety director of the department and
8 the executive director of the commission may adopt [~~shall have the~~
9 ~~authority to promulgate~~] rules necessary for the effective
10 administration and performance of the duties and responsibilities
11 delegated to the directors [~~them~~] by this article.

12 SECTION 3. This Act takes effect immediately if it receives
13 a vote of two-thirds of all the members elected to each house, as
14 provided by Section 39, Article III, Texas Constitution. If this
15 Act does not receive the vote necessary for immediate effect, this
16 Act takes effect September 1, 2009.