

**House Bill 242**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

No equivalent provision.

SECTION \_\_.Section 411.023, Government Code, is amended by amending Subsection (b) and adding Subsection (g) to read as follows:

(b) A special ranger is subject to the orders of the commission and the governor for special duty to the same extent as other law enforcement officers provided for by this chapter, except that a special ranger may not enforce a law ~~[except one designed to protect life and property and may not enforce a law]~~ regulating the use of a state highway by a motor vehicle. A special ranger is not connected with a ranger company or uniformed unit of the department.

(g) The commission may call special rangers in to service to:

(1) preserve the peace and protect life and property;

(2) conduct background investigations;

(3) monitor sex offenders;

(4) serve as part of two-officer units on patrol in high threat areas;

(5) provide assistance to the department during disasters; and

(6) investigate instances of reckless driving. [FA1,FA2(1)]

No equivalent provision.

SECTION \_\_.Section 411.024, Government Code, is amended by amending Subsection (b) and adding Subsection (g) to read as follows:

(b) A special ranger is subject to the orders of the commission and the governor for special duty to the same extent as other law enforcement officers provided for by this chapter, except that a special Texas Ranger may not enforce a law ~~[except one designed to protect life and property and may not enforce a law]~~ regulating the use of a state highway by a motor vehicle. A special Texas Ranger is not connected with a ranger company or uniformed unit of the department.

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(g) The commission may call special Texas Rangers into service to:

(1) preserve the peace and protect life and property;

(2) conduct background investigations;

(3) monitor sex offenders;

(4) serve as part of two-officer units on patrol in high threat areas;

(5) provide assistance to the department during disasters; and

(6) investigate instances of reckless driving. [FA1,FA2(2)]

No equivalent provision.

SECTION \_\_. Subchapter H, Chapter 411, Government Code, is amended by adding Section 411.1992 to read as follows:

Sec. 411.1992. FORMER RESERVE LAW ENFORCEMENT OFFICERS. (a) A person who served as a reserve law enforcement officer, as defined by Section 1701.001, Occupations Code, not less than a total of 15 years with a state or local law enforcement agency may apply for a license under this subchapter at any time.

(b) The applicant shall submit to the department two complete sets of legible and classifiable fingerprints and a sworn statement from the head of the law enforcement agency at which the applicant last served as a reserve law enforcement officer. A head of a law enforcement agency may not refuse to issue a statement under this subsection. If the applicant alleges that the statement is untrue, the department shall investigate the validity of the statement. The statement must include:

(1) the name and rank of the applicant;

(2) the status of the applicant;

(3) whether the applicant was accused of misconduct at any

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time during the applicant's term of service and the disposition of that accusation;

(4) a description of the physical and mental condition of the applicant;

(5) a list of the types of weapons the applicant demonstrated proficiency with during the applicant's term of service; and

(6) a recommendation from the agency head regarding the issuance of a license under this subchapter.

(c) The department may issue a license under this subchapter to an applicant under this section if the applicant was a reserve law enforcement officer for not less than a total of 15 years with a state or local law enforcement agency and is physically and emotionally fit to possess a handgun.

(d) An applicant under this section must pay a fee of \$25 for a license issued under this subchapter.

(e) A former reserve law enforcement officer who obtains a license as provided by this section must maintain, for the category of weapon licensed, the proficiency required for the person under Section 1701.357, Occupations Code. The department or the local law enforcement agency at which the person last served as a reserve law enforcement officer shall allow the person an opportunity to annually demonstrate the required proficiency. The proficiency shall be reported to the department on application and renewal.

(f) A license issued under this section expires as provided by Section 411.183. [FA4(3)]

No equivalent provision.

SECTION \_\_. The heading to Section 1701.357, Occupations Code, is amended to read as follows:

Sec. 1701.357. WEAPONS PROFICIENCY FOR CERTAIN RETIRED PEACE OFFICERS AND FEDERAL LAW

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ENFORCEMENT OFFICERS AND FOR FORMER  
RESERVE LAW ENFORCEMENT OFFICERS. [FA4(3)]

SECTION 1. Section 1701.357(b), Occupations Code, is amended to read as follows:

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

(1) the officer;

(A) honorably retired after not less than a total of 15 years of service as a commissioned officer with one or more state or local law enforcement agencies; or

(B) before completing 15 years of service as a commissioned officer with one or more state or local law enforcement agencies, separated from employment with the agency or agencies and is a qualified retired law enforcement officer, as defined by 18 U.S.C. Section 926C;

SECTION 1. Section 1701.357, Occupations Code, is amended by amending Subsections (a), (b), (c), and (d) and adding Subsections (b-1), (c-1), and (j) to read as follows:

(a) This section applies only to:

(1) a peace officer;

(2) a federal criminal investigator designated as a special investigator under Article 2.122, Code of Criminal Procedure;

~~[and]~~

(3) a qualified retired law enforcement officer who is entitled to carry a concealed firearm under 18 U.S.C. Section 926C and is not otherwise described by Subdivision (1) or (2); and

(4) a former reserve law enforcement officer who served in that capacity not less than a total of 15 years with a state or local law enforcement agency.

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

(1) the officer;

(A) honorably retired after not less than a total of 15 years of service as a commissioned officer with one or more state or local law enforcement agencies; or

(B) before completing 15 years of service as a commissioned officer with one or more state or local law enforcement agencies, separated from employment with the agency or agencies and is a qualified retired law enforcement officer, as defined by 18 U.S.C. Section 926C;

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- (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.

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- (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.

(b-1) The head of a state or local law enforcement agency may allow a person who served as a reserve law enforcement officer as described by Subsection (a)(4) an opportunity to demonstrate weapons proficiency if the person provides to the agency a sworn affidavit stating that:

(1) the person served not less than a total of 15 years as a reserve law enforcement officer with a state or local law enforcement agency;

(2) the person's appointment as a reserve law enforcement officer was not revoked or suspended for any period during the person's term of service; and

(3) the person has no psychological or physical disability that would interfere with the person'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 entitled to receive a pension or annuity for service with a state or local law enforcement agency or is not entitled to receive a pension or annuity only because the law enforcement agency that employed the retired officer does not offer a pension or annuity to its retired employees, and satisfies the written procedures established by the agency. The agency shall issue the certificate to a person described by Subsection (a)(4) who

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satisfactorily demonstrates weapons proficiency under Subsection (b-1). The agency shall maintain records of any person [retired officer] who holds a certificate issued under this section.

(c-1) For purposes of Subsection (c) [this subsection], proof that a retired officer is entitled to receive a pension or annuity or is not entitled to receive a pension or annuity only because the agency that last employed the retired officer does not offer a pension or annuity may include a retired peace officer identification card issued under Subchapter H, Chapter 614, Government Code.

(d) A certificate issued under this section expires on the second anniversary of the date the certificate was issued. A person [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.

(j) On request of a person described by Subsection (a)(4) who holds a certificate of proficiency under this section, the head of the state or local law enforcement agency at which the person last served as a reserve law enforcement officer shall issue to the person identification that indicates the person's status. An identification under this subsection must include a photograph of the person. [FA4(1)]

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

- (a) Sections 46.02 and 46.03 do not apply to:
- (1) peace officers 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

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

- (a) Sections 46.02 and 46.03 do not apply to:
- (1) peace officers 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

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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 a federal court, 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;

(5) an honorably retired peace officer, a qualified retired law enforcement officer, or a federal criminal investigator who holds a certificate of proficiency issued under Section 1701.357, Occupations Code, and is carrying a photo identification that is issued by a federal, state, or local law enforcement agency, as applicable, and that[-

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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 a federal court, 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;

(5) an honorably retired peace officer, qualified retired law enforcement officer, [Ø] federal criminal investigator, or former reserve law enforcement officer who holds a certificate of proficiency issued under Section 1701.357, Occupations Code, and is carrying a photo identification that is issued by a federal, state, or local law enforcement agency, as applicable, and that[-

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~~[(A)]~~ verifies that the officer is:  
(A) an honorably retired peace officer;  
(B) a qualified retired law enforcement officer; or  
(C) a federal criminal investigator

~~[after not less than 15 years of service as a commissioned officer; and~~

~~[(B) is issued by a state or local law enforcement agency];~~

(6) a district attorney, criminal district attorney, county attorney, or municipal attorney who is licensed to carry a concealed handgun under Subchapter H, Chapter 411, Government Code;

(7) an assistant district attorney, assistant criminal district attorney, or assistant county attorney who is licensed to carry a concealed handgun under Subchapter H, Chapter 411, Government Code;

(8) a bailiff designated by an active judicial officer as defined by Section 411.201, Government Code, who is:

(A) licensed to carry a concealed handgun under Chapter 411, Government Code; and

(B) engaged in escorting the judicial officer; or

(9) a juvenile probation officer who is authorized to carry a firearm under Section 142.006, Human Resources Code.

**No equivalent provision.**

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~~[(A)]~~ verifies that the officer is:  
(A) an honorably retired peace officer;  
(B) a qualified retired law enforcement officer;  
(C) a federal criminal investigator; or  
(D) a former reserve law enforcement officer who has served in that capacity not less than a total of 15 years with a state or local law enforcement agency ~~[after not less than 15 years of~~

~~service as a commissioned officer; and~~

~~[(B) is issued by a state or local law enforcement agency];~~ (6)

a district attorney, criminal district attorney, county attorney, or municipal attorney who is licensed to carry a concealed handgun under Subchapter H, Chapter 411, Government Code;

(7) an assistant district attorney, assistant criminal district attorney, or assistant county attorney who is licensed to carry a concealed handgun under Subchapter H, Chapter 411, Government Code;

(8) a bailiff designated by an active judicial officer as defined by Section 411.201, Government Code, who is:

(A) licensed to carry a concealed handgun under Chapter 411, Government Code; and

(B) engaged in escorting the judicial officer; or

(9) a juvenile probation officer who is authorized to carry a firearm under Section 142.006, Human Resources Code.

[FA4(2)]

SECTION \_\_. Section 545.401, Transportation Code, is amended by amending Subsection (b) and adding Subsections (e), (f), (g), and (h) to read as follows:

(b) Except as provided by Subsection (e), an ~~[A]~~ offense under this section is a misdemeanor punishable by:

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- (1) a fine not to exceed \$200;
- (2) confinement in county jail for not more than 30 days; or
- (3) both the fine and the confinement.
- (e) If an offense under this section results in the serious bodily injury or death of an operator or passenger of another motor vehicle, the offense is a Class B misdemeanor.
- (f) The court may:
  - (1) order that the driver's license of a person convicted of an offense under Subsection (e) be suspended for not less than 30 days beginning on the date of conviction; and
  - (2) require the person to attend and present proof that the person successfully completed a driving safety course approved under Chapter 1001, Education Code, before the person's driver's license may be reinstated.
- (g) A judge, acting under Article 42.12, Code of Criminal Procedure, who elects to place a defendant charged with an offense under this section on community supervision under that article may require the defendant to attend and present proof that the defendant successfully completed a driving safety course approved under Chapter 1001, Education Code.
- (h) A person who is subject to prosecution under both this section and another section of this or any other code may be prosecuted under either or both sections. [FA1,FA2(3)]

No equivalent provision.

SECTION \_\_. The change in law made by this Act to Section 545.401, Transportation 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 covered 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

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effective date of this Act if any element of the offense was committed before that date. [FA1,FA2(3)]

No equivalent provision.

SECTION \_\_. Section 545.425(a), Transportation Code, is amended by adding Subdivision (1-a) to read as follows:  
(1-a) "Text-based communication" means a communication that is designed or intended to be transmitted between wireless communication devices for the purpose of manually communicating in a nonspoken manner with another person in a written medium. The term includes:  
(A) a text message;  
(B) an instant message; and  
(C) e-mail. [FA3]

No equivalent provision.

SECTION \_\_. Section 545.425, Transportation Code, is amended by amending Subsection (b-1) and adding Subsections (c-1) and (c-2) to read as follows:  
(b-1) A municipality, county, or other political subdivision that enforces Subsection (b) [this section] shall post a sign that complies with the standards described by this subsection at the entrance to each school crossing zone in the municipality, county, or other political subdivision. The department shall adopt standards that:  
(1) allow for a sign required to be posted under this subsection to be attached to an existing sign at a minimal cost; and  
(2) require that a sign required to be posted under this subsection inform an operator that:  
(A) the use of a wireless communication device is prohibited in the school crossing zone; and

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(B) the operator is subject to a fine if the operator uses a wireless communication device in the school crossing zone.

(c-1) An operator may not use a hand-held wireless communication device to read, write, or send a text-based communication while operating a motor vehicle unless the vehicle is stopped.

(c-2) An operator is not subject to prosecution under Subsection (c-1) if:

(1) the operator uses a hand-held wireless communication device:

(A) to read, select, or enter a telephone number or name for the purpose of making a telephone call;

(B) in conjunction with voice-operated technology or a hands-free device; or

(C) to navigate using a global positioning system; or

(2) the hand-held wireless communication device:

(A) is used by the operator to relay information between the operator and a dispatcher in the course of the operator's occupational duties; and

(B) is affixed to the vehicle. [FA3]

SECTION 3. 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 occurred before that date.

SECTION 3. Same as House version.

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SECTION 4. This Act takes effect September 1, 2011.

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SECTION 4. Same as House version.

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