

1-1 By: Craddick (Senate Sponsor - Patrick) H.B. No. 3370
 1-2 (In the Senate - Received from the House May 8, 2013;
 1-3 May 9, 2013, read first time and referred to Committee on Criminal
 1-4 Justice; May 20, 2013, reported adversely, with favorable
 1-5 Committee Substitute by the following vote: Yeas 7, Nays 0;
 1-6 May 20, 2013, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			

1-16 COMMITTEE SUBSTITUTE FOR H.B. No. 3370 By: Hinojosa

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the authority of certain retired peace officers and
 1-20 former reserve law enforcement officers to carry certain firearms.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Subchapter H, Chapter 411, Government Code, is
 1-23 amended by adding Section 411.1992 to read as follows:

1-24 Sec. 411.1992. FORMER RESERVE LAW ENFORCEMENT OFFICERS.

1-25 (a) A person who served as a reserve law enforcement officer, as
 1-26 defined by Section 1701.001, Occupations Code, not less than a
 1-27 total of 15 years with one or more state or local law enforcement
 1-28 agencies may apply for a license under this subchapter at any time.

1-29 (b) The applicant shall submit to the department two
 1-30 complete sets of legible and classifiable fingerprints and a sworn
 1-31 statement from the head of the law enforcement agency at which the
 1-32 applicant last served as a reserve law enforcement officer. A head
 1-33 of a law enforcement agency may not refuse to issue a statement
 1-34 under this subsection. If the applicant alleges that the statement
 1-35 is untrue, the department shall investigate the validity of the
 1-36 statement. The statement must include:

1-37 (1) the name and rank of the applicant;

1-38 (2) the status of the applicant;

1-39 (3) whether the applicant was accused of misconduct at
 1-40 any time during the applicant's term of service and the disposition
 1-41 of that accusation;

1-42 (4) a description of the physical and mental condition
 1-43 of the applicant;

1-44 (5) a list of the types of weapons the applicant
 1-45 demonstrated proficiency with during the applicant's term of
 1-46 service; and

1-47 (6) a recommendation from the agency head regarding
 1-48 the issuance of a license under this subchapter.

1-49 (c) The department may issue a license under this subchapter
 1-50 to an applicant under this section if the applicant was a reserve
 1-51 law enforcement officer for not less than a total of 15 years with
 1-52 one or more state or local law enforcement agencies and is
 1-53 physically and emotionally fit to possess a handgun.

1-54 (d) An applicant under this section must pay a fee of \$25 for
 1-55 a license issued under this subchapter.

1-56 (e) A former reserve law enforcement officer who obtains a
 1-57 license as provided by this section must maintain, for the category
 1-58 of weapon licensed, the proficiency required for the person under
 1-59 Section 1701.357, Occupations Code. The department or the local
 1-60 law enforcement agency at which the person last served as a reserve

2-1 law enforcement officer shall allow the person an opportunity to
2-2 annually demonstrate the required proficiency. The proficiency
2-3 shall be reported to the department on application and renewal.

2-4 (f) A license issued under this section expires as provided
2-5 by Section 411.183.

2-6 SECTION 2. The heading to Section 1701.357, Occupations
2-7 Code, is amended to read as follows:

2-8 Sec. 1701.357. WEAPONS PROFICIENCY FOR CERTAIN RETIRED
2-9 PEACE OFFICERS AND FEDERAL LAW ENFORCEMENT OFFICERS AND FOR FORMER
2-10 RESERVE LAW ENFORCEMENT OFFICERS.

2-11 SECTION 3. Section 1701.357, Occupations Code, is amended
2-12 by amending Subsections (a), (b), (c), and (d) and adding
2-13 Subsections (b-1), (c-1), and (j) to read as follows:

2-14 (a) This section applies only to:

2-15 (1) a peace officer;

2-16 (2) a federal criminal investigator designated as a
2-17 special investigator under Article 2.122, Code of Criminal
2-18 Procedure; ~~and~~

2-19 (3) a qualified retired law enforcement officer who is
2-20 entitled to carry a concealed firearm under 18 U.S.C. Section 926C
2-21 and is not otherwise described by Subdivision (1) or (2); and

2-22 (4) a former reserve law enforcement officer who
2-23 served in that capacity not less than a total of 15 years with one or
2-24 more state or local law enforcement agencies.

2-25 (b) The head of a state or local law enforcement agency may
2-26 allow an honorably retired peace officer an opportunity to
2-27 demonstrate weapons proficiency if the retired officer provides to
2-28 the agency a sworn affidavit stating that:

2-29 (1) the officer:

2-30 (A) honorably retired after not less than a total
2-31 of 15 years of service as a commissioned officer with one or more
2-32 state or local law enforcement agencies; or

2-33 (B) before completing 15 years of service as a
2-34 commissioned officer with one or more state or local law
2-35 enforcement agencies, separated from employment with the agency or
2-36 agencies and is a qualified retired law enforcement officer, as
2-37 defined by 18 U.S.C. Section 926C;

2-38 (2) the officer's license as a commissioned officer
2-39 was not revoked or suspended for any period during the officer's
2-40 term of service as a commissioned officer; and

2-41 (3) the officer has no psychological or physical
2-42 disability that would interfere with the officer's proper handling
2-43 of a handgun.

2-44 (b-1) The head of a state or local law enforcement agency
2-45 may allow a person who served as a reserve law enforcement officer
2-46 as described by Subsection (a)(4) an opportunity to demonstrate
2-47 weapons proficiency if the person provides to the agency a sworn
2-48 affidavit stating that:

2-49 (1) the person served not less than a total of 15 years
2-50 as a reserve law enforcement officer with one or more state or local
2-51 law enforcement agencies;

2-52 (2) the person's appointment as a reserve law
2-53 enforcement officer was not revoked or suspended for any period
2-54 during the person's term of service; and

2-55 (3) the person has no psychological or physical
2-56 disability that would interfere with the person's proper handling
2-57 of a handgun.

2-58 (c) The agency shall establish written procedures for the
2-59 issuance or denial of a certificate of proficiency under this
2-60 section. The agency shall issue the certificate to a retired
2-61 officer who satisfactorily demonstrates weapons proficiency under
2-62 Subsection (b), provides proof that the officer is entitled to
2-63 receive a pension or annuity for service with a state or local law
2-64 enforcement agency or is not entitled to receive a pension or
2-65 annuity only because the law enforcement agency that employed the
2-66 retired officer does not offer a pension or annuity to its retired
2-67 employees, and satisfies the written procedures established by the
2-68 agency. The agency shall issue the certificate to a person
2-69 described by Subsection (a)(4) who satisfactorily demonstrates

3-1 weapons proficiency under Subsection (b-1). The agency shall
3-2 maintain records of any person [retired officer] who holds a
3-3 certificate issued under this section.

3-4 (c-1) For purposes of Subsection (c) [this subsection],
3-5 proof that a retired officer is entitled to receive a pension or
3-6 annuity or is not entitled to receive a pension or annuity only
3-7 because the agency that last employed the retired officer does not
3-8 offer a pension or annuity may include a retired peace officer
3-9 identification card issued under Subchapter H, Chapter 614,
3-10 Government Code.

3-11 (d) A certificate issued under this section expires on the
3-12 second anniversary of the date the certificate was issued. A
3-13 person [retired officer] to whom this section applies may request
3-14 an annual evaluation of weapons proficiency and issuance of a
3-15 certificate of proficiency as needed to comply with applicable
3-16 federal or other laws.

3-17 (j) On request of a person described by Subsection (a)(4)
3-18 who holds a certificate of proficiency under this section, the head
3-19 of the state or local law enforcement agency at which the person
3-20 last served as a reserve law enforcement officer shall issue to the
3-21 person identification that indicates the person's status. An
3-22 identification under this subsection must include a photograph of
3-23 the person.

3-24 SECTION 4. Section 46.15(a), Penal Code, is amended to read
3-25 as follows:

3-26 (a) Sections 46.02 and 46.03 do not apply to:

3-27 (1) peace officers or special investigators under
3-28 Article 2.122, Code of Criminal Procedure, and neither section
3-29 prohibits a peace officer or special investigator from carrying a
3-30 weapon in this state, including in an establishment in this state
3-31 -serving the public, regardless of whether the peace officer or
3-32 special investigator is engaged in the actual discharge of the
3-33 officer's or investigator's duties while carrying the weapon;

3-34 (2) parole officers and neither section prohibits an
3-35 officer from carrying a weapon in this state if the officer is:

3-36 (A) engaged in the actual discharge of the
3-37 officer's duties while carrying the weapon; and

3-38 (B) in compliance with policies and procedures
3-39 adopted by the Texas Department of Criminal Justice regarding the
3-40 possession of a weapon by an officer while on duty;

3-41 (3) community supervision and corrections department
3-42 officers appointed or employed under Section 76.004, Government
3-43 Code, and neither section prohibits an officer from carrying a
3-44 weapon in this state if the officer is:

3-45 (A) engaged in the actual discharge of the
3-46 officer's duties while carrying the weapon; and

3-47 (B) authorized to carry a weapon under Section
3-48 76.0051, Government Code;

3-49 (4) an active judicial officer as defined by Section
3-50 411.201, Government Code, who is licensed to carry a concealed
3-51 handgun under Subchapter H, Chapter 411, Government Code;

3-52 (5) an honorably retired peace officer, qualified
3-53 retired law enforcement officer, [or] federal criminal
3-54 investigator, or former reserve law enforcement officer
3-55 who holds a certificate of proficiency issued under Section 1701.357,
3-56 Occupations Code, and is carrying a photo identification that is
3-57 issued by a federal, state, or local law enforcement agency, as
3-58 applicable, and that
3-59 [~~(A)~~ verifies that the officer is:

3-60 (A) an honorably retired peace officer;

3-61 (B) a qualified retired law enforcement officer;

3-62 (C) a federal criminal investigator; or

3-63 (D) a former reserve law enforcement officer who
3-64 has served in that capacity not less than a total of 15 years with
3-65 one or more state or local law enforcement agencies [after not less
3-66 than 15 years of service as a commissioned officer, and

3-67 [~~(B)~~ is issued by a state or local law
3-68 enforcement agency];

3-69 (6) a district attorney, criminal district attorney,

4-1 county attorney, or municipal attorney who is licensed to carry a
4-2 concealed handgun under Subchapter H, Chapter 411, Government Code;

4-3 (7) an assistant district attorney, assistant
4-4 criminal district attorney, or assistant county attorney who is
4-5 licensed to carry a concealed handgun under Subchapter H, Chapter
4-6 411, Government Code;

4-7 (8) a bailiff designated by an active judicial officer
4-8 as defined by Section 411.201, Government Code, who is:

4-9 (A) licensed to carry a concealed handgun under
4-10 Chapter 411, Government Code; and

4-11 (B) engaged in escorting the judicial officer; or

4-12 (9) a juvenile probation officer who is authorized to
4-13 carry a firearm under Section 142.006, Human Resources Code.

4-14 SECTION 5. The change in law made by this Act to Section
4-15 46.15, Penal Code, applies only to an offense committed on or after
4-16 the effective date of this Act. An offense committed before the
4-17 effective date of this Act is governed by the law in effect on the
4-18 date the offense was committed, and the former law is continued in
4-19 effect for that purpose. For purposes of this section, an offense
4-20 was committed before the effective date of this Act if any element
4-21 of the offense occurred before that date.

4-22 SECTION 6. This Act takes effect September 1, 2013.

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