

1-1 By: Paul, Guillen, Thompson of Brazoria H.B. No. 1552
1-2 (Senate Sponsor - Schwertner)
1-3 (In the Senate - Received from the House May 6, 2019;
1-4 May 7, 2019, read first time and referred to Committee on State
1-5 Affairs; May 14, 2019, reported favorably by the following vote:
1-6 Yeas 9, Nays 0; May 14, 2019, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Huffman	X		
1-10	Hughes	X		
1-11	Birdwell	X		
1-12	Creighton	X		
1-13	Fallon	X		
1-14	Hall	X		
1-15	Lucio	X		
1-16	Nelson	X		
1-17	Zaffirini	X		

1-18 A BILL TO BE ENTITLED
1-19 AN ACT

1-20 relating to the weapons proficiency of and the carrying of a handgun
1-21 by qualified retired law enforcement officers.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. The heading to Section 1701.357, Occupations
1-24 Code, is amended to read as follows:

1-25 Sec. 1701.357. WEAPONS PROFICIENCY FOR QUALIFIED [CERTAIN]
1-26 RETIRED [PEACE OFFICERS AND FEDERAL LAW ENFORCEMENT OFFICERS AND
1-27 FOR FORMER RESERVE] LAW ENFORCEMENT OFFICERS.

1-28 SECTION 2. Section 1701.357, Occupations Code, is amended
1-29 by amending Subsections (a), (b), (c), (c-1), (d), (h), and (i) and
1-30 adding Subsection (a-1) to read as follows:

1-31 (a) In this section, "qualified retired law enforcement
1-32 officer" has the meaning assigned by 18 U.S.C. Section 926C.

1-33 (a-1) This section applies only to [+
1-34

1-34 [(1) a peace officer,
1-35

1-35 [(2) a federal criminal investigator designated as a
1-36 special investigator under Article 2.122, Code of Criminal
1-37 Procedure,

1-38 [(3)] a qualified retired law enforcement officer who
1-39 is entitled to carry a concealed firearm under 18 U.S.C. Section
1-40 926C [and is not otherwise described by Subdivision (1) or (2), and
1-41

1-41 [(4) a former reserve law enforcement officer who
1-42 served in that capacity not less than a total of 15 years with one or
1-43 more state or local law enforcement agencies].

1-44 (b) The head of a state or local law enforcement agency may
1-45 allow a qualified retired law enforcement officer who is a [an
1-46 honorably] retired commissioned peace officer an opportunity to
1-47 demonstrate weapons proficiency if the [retired] officer provides
1-48 to the agency a sworn affidavit stating that:

1-49 (1) the officer:

1-50 (A) honorably retired after not less than a total
1-51 of 10 [15] years of cumulative service as a commissioned officer
1-52 with one or more state or local law enforcement agencies; or

1-53 (B) before completing 10 [15] years of cumulative
1-54 service as a commissioned officer with one or more state or local
1-55 law enforcement agencies, separated from employment with the agency
1-56 or agencies and is a qualified retired law enforcement officer[~~as~~
1-57 defined by 18 U.S.C. Section 926C];

1-58 (2) the officer's license as a commissioned officer
1-59 was not revoked or suspended for any period during the officer's
1-60 term of service as a commissioned officer; and

1-61 (3) the officer has no psychological or physical

2-1 disability that would interfere with the officer's proper handling
 2-2 of a handgun.

2-3 (c) The state or local law enforcement agency shall
 2-4 establish written procedures for the issuance or denial of a
 2-5 certificate of proficiency under this subsection ~~[section]~~. The
 2-6 agency shall issue the certificate to a retired commissioned peace
 2-7 officer who satisfactorily demonstrates weapons proficiency under
 2-8 Subsection (b) ~~[, provides proof that the officer is entitled to~~
 2-9 ~~receive a pension or annuity for service with a state or local law~~
 2-10 ~~enforcement agency or is not entitled to receive a pension or~~
 2-11 ~~annuity only because the law enforcement agency that employed the~~
 2-12 ~~retired officer does not offer a pension or annuity to its retired~~
 2-13 ~~employees,]~~ and satisfies the written procedures established by the
 2-14 agency. ~~[The agency shall issue the certificate to a person~~
 2-15 ~~described by Subsection (a)(4) who satisfactorily demonstrates~~
 2-16 ~~weapons proficiency under Subsection (b-1).]~~ The agency shall
 2-17 maintain records of any person who holds a certificate issued under
 2-18 this subsection ~~[section]~~.

2-19 (c-1) For purposes of this section ~~[Subsection (c)]~~, proof
 2-20 that an individual ~~[a retired officer]~~ is a qualified retired law
 2-21 enforcement officer ~~[entitled to receive a pension or annuity or is~~
 2-22 ~~not entitled to receive a pension or annuity only because the agency~~
 2-23 ~~that last employed the retired officer does not offer a pension or~~
 2-24 ~~annuity]~~ may include a retired peace officer identification card
 2-25 issued under Subchapter H, Chapter 614, Government Code, or other
 2-26 form of identification as described by 18 U.S.C. Section 926C(d).

2-27 (d) A certificate issued under this section expires on the
 2-28 first ~~[second]~~ anniversary of the date the certificate was issued.
 2-29 ~~[A person to whom this section applies may request an annual~~
 2-30 ~~evaluation of weapons proficiency and issuance of a certificate of~~
 2-31 ~~proficiency as needed to comply with applicable federal or other~~
 2-32 ~~laws.]~~

2-33 (h) The head of a state law enforcement agency may allow ~~[an~~
 2-34 ~~honorably retired federal criminal investigator or]~~ a qualified
 2-35 retired law enforcement officer, other than a retired commissioned
 2-36 peace officer, ~~[to whom this section applies]~~ an opportunity to
 2-37 demonstrate weapons proficiency in the same manner as, and subject
 2-38 to the same requirements applicable to, a ~~[an honorably]~~ retired
 2-39 commissioned peace officer as described by Subsection (b) ~~[this~~
 2-40 ~~section]~~. The agency shall establish written procedures for the
 2-41 issuance or denial of a certificate of proficiency under this
 2-42 subsection. The agency shall issue a certificate of proficiency to
 2-43 ~~[an honorably retired federal criminal investigator or]~~ a qualified
 2-44 retired law enforcement officer who satisfactorily demonstrates
 2-45 weapons proficiency under this subsection and satisfies the written
 2-46 procedures established by the agency. The agency ~~[otherwise meets~~
 2-47 ~~the requirements of this section and]~~ shall maintain records
 2-48 regarding the issuance of that certificate.

2-49 (i) On request of a qualified ~~[an honorably]~~ retired law
 2-50 enforcement officer who holds a certificate of proficiency under
 2-51 this section, the head of the state or local law enforcement agency
 2-52 from which the officer retired or most recently separated shall
 2-53 issue to the ~~[retired]~~ officer identification that indicates that
 2-54 the officer honorably retired or separated from the agency. An
 2-55 identification under this subsection must include a photograph of
 2-56 the ~~[retired]~~ officer.

2-57 SECTION 3. Sections 411.1992(a) and (c), Government Code,
 2-58 are amended to read as follows:

2-59 (a) A person who served as a reserve law enforcement
 2-60 officer, as defined by Section 1701.001, Occupations Code, not less
 2-61 than a total of 10 ~~[15]~~ years of cumulative service with one or more
 2-62 state or local law enforcement agencies may apply for a license
 2-63 under this subchapter at any time.

2-64 (c) The department may issue a license under this subchapter
 2-65 to an applicant under this section if the applicant was a reserve
 2-66 law enforcement officer for not less than a total of 10 ~~[15]~~ years
 2-67 of cumulative service with one or more state or local law
 2-68 enforcement agencies and is physically and emotionally fit to
 2-69 possess a handgun.

SECTION 4. 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 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) an active judicial officer as defined by Section 411.201, Government Code, who is licensed to carry a handgun under Subchapter H, Chapter 411, Government Code;

(5) an honorably retired peace officer or other [7] qualified retired law enforcement officer, as defined by 18 U.S.C. Section 926C, [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 verifies that the officer is [÷

~~(A)]~~ an honorably retired peace officer or other [÷

~~(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 one or more state or local law enforcement agencies,]

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

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

(B) engaged in escorting the judicial officer;

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

(10) a person who is volunteer emergency services personnel if the person is:

(A) carrying a handgun under the authority of Subchapter H, Chapter 411, Government Code; and

(B) engaged in providing emergency services.

SECTION 5. The following provisions are repealed:

(1) Section 411.1992(e), Government Code; and

(2) Sections 1701.357(b-1) and (j), Occupations Code.

SECTION 6. The changes in law made by this Act to Section 1701.357, Occupations Code, apply only to an application for a

4-1 weapons proficiency certificate under Section 1701.357,
 4-2 Occupations Code, filed on or after September 1, 2019. An
 4-3 application for a weapons proficiency certificate under Section
 4-4 1701.357, Occupations Code, filed before September 1, 2019, is
 4-5 governed by the law in effect on the date the application was filed,
 4-6 and the former law is continued in effect for that purpose.

4-7 SECTION 7. The change in law made by this Act to Section
 4-8 411.1992, Government Code, applies only to a person who applies for
 4-9 a license to carry a handgun under that section on or after the
 4-10 effective date of this Act. A person who applies for a license to
 4-11 carry a handgun before the effective date of this Act is governed by
 4-12 the law in effect on the date the person applied for the license,
 4-13 and the former law is continued in effect for that purpose.

4-14 SECTION 8. 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 9. This Act takes effect September 1, 2019.

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