

By: Harris

H.B. No. 3057

A BILL TO BE ENTITLED

AN ACT

relating to the appointment, powers, duties, rights, and privileges of special Texas constables.

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

SECTION 1. Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.128 to read as follows:

Art. 2.128. SPECIAL TEXAS CONSTABLE. (a) The governor may appoint as a special Texas constable an honorably retired peace officer, as defined by Section 614.121(2), Government Code, who:

(1) served as:

(A) an elected or appointed constable in this state; or

(B) a chief deputy constable in the office of an elected or appointed constable in this state;

(2) was employed full-time as a peace officer by the state or a political subdivision of this state for at least 20 years;

(3) held a master proficiency certificate issued by the Texas Commission on Law Enforcement upon retirement; and

(4) has reactivated the officer's license as provided by Section 1701.3161, Occupations Code.

(b) A special Texas constable:

(1) is subject to orders of the governor for special duty to the same extent as other peace officers commissioned under

1 Chapter 411, Government Code;

2 (2) subject to Subdivision (3), has the same rights
3 and privileges as any other peace officer of this state; and

4 (3) may enforce only:

5 (A) provisions of the Penal Code; and

6 (B) other state laws intended to protect life or
7 property.

8 (c) A special Texas constable may:

9 (1) serve civil or criminal process and retain a fee
10 from that service; and

11 (2) engage in off-duty employment, except at:

12 (A) an establishment licensed or permitted under
13 the Alcoholic Beverage Code; or

14 (B) a business that allows a person to bring and
15 consume on the premises of that business an alcoholic beverage.

16 (d) A special Texas constable is not connected to any
17 elected or appointed constable's office.

18 (e) An application for a special Texas constable
19 appointment must be filed with the governor's office and include a
20 high-quality photograph of the applicant wearing a suit, tie, and
21 silver belly western felt hat.

22 (f) On appointment of a special Texas constable, the
23 governor's office shall provide the constable an identification
24 card that bears:

25 (1) a high-quality photograph of the constable wearing
26 a suit, tie, and silver belly western felt hat;

27 (2) the words: "I hereby certify that (name of

1 officer) has been appointed a special Texas constable by the
2 governor of the State of Texas effective (date of appointment).";
3 and

4 (3) following the words required by Subdivision (2),
5 the governor's name and signature.

6 (g) Except as provided by Subsection (h), while engaging in
7 any activity described by Subsection (c) or providing services
8 under order of the governor, a special Texas constable must wear:

9 (1) pressed or starched western clothing, including a
10 silver belly western felt or high-quality straw hat; and

11 (2) boots.

12 (h) A special Texas constable is not required to wear the
13 clothing or boots described by Subsection (g) if:

14 (1) wearing the clothing or boots is not feasible; or

15 (2) a physician licensed under Subtitle B, Title 3,
16 Occupations Code, recommends to the constable in writing against
17 wearing the clothing or boots.

18 (i) On arrest of an individual by a special Texas constable:

19 (1) the constable shall as soon as practicable after
20 the arrest notify a local law enforcement agency with jurisdiction
21 over the location where the arrest was made; and

22 (2) the law enforcement agency shall:

23 (A) take custody of the arrested person and take
24 that person before a magistrate as required under Article 14.06;
25 and

26 (B) take custody of any property seized during or
27 after the arrest as if that property had been seized by a peace

1 officer of that agency.

2 (j) Before appointment of a person as a special Texas
3 constable, the person shall enter into a good and sufficient bond
4 executed by a surety company authorized to do business in this state
5 in the amount of \$5,000, approved by the governor, and indemnifying
6 all persons against damages resulting from an unlawful act of the
7 person while serving as a special Texas constable.

8 (k) The governor:

9 (1) may establish by rule standards governing the
10 conduct and duties of a special Texas constable;

11 (2) may revoke a special Texas constable appointment
12 for good cause and for failure of the constable to provide proof of
13 completion of a requirement described by Section
14 1701.356(d)(1)(A), (B), or (C), Occupations Code; and

15 (3) is not required to provide to a special Texas
16 constable a training program under Section 1701.352, Occupations
17 Code.

18 (l) A special Texas constable appointment expires on
19 January 15 of the fifth calendar year after the year in which the
20 appointment was made. On expiration of the appointment, a special
21 Texas constable is eligible for reappointment.

22 SECTION 2. Section 1701.356, Occupations Code, is amended
23 by adding Subsections (d) and (e) to read as follows:

24 (d) A special Texas constable appointed under Article
25 2.128, Code of Criminal Procedure, is exempt from the continuing
26 education requirements of this chapter, except that the constable:

27 (1) must:

1 (A) annually demonstrate weapons proficiency;

2 (B) every 24 months attend at least 20 hours of
3 instruction in civil process, as described by Section 1701.354;

4 (C) every 24 months complete a training and
5 education program that covers recent changes to the laws of this
6 state and of the United States pertaining to peace officers, as
7 described by Section 1701.351(a-1); and

8 (D) provide the governor's office proof of
9 completion of each requirement described by Paragraph (A), (B), or
10 (C), within 90 days of completing the requirement; and

11 (2) is eligible to attend any course offered in this
12 state that satisfies a requirement described by Subdivision (1).

13 (e) Notwithstanding Subsection (d), a special Texas
14 constable appointed under Article 2.128, Code of Criminal
15 Procedure, may be exempt from a requirement described by Subsection
16 (d)(1)(A), (B), or (C) if a physician licensed under Subtitle B,
17 Title 3, recommends in writing against the constable's
18 participation in that requirement. An exemption under this
19 subsection lasts for not more than 11 months from the date of the
20 recommendation.

21 SECTION 3. Section 1702.322, Occupations Code, is amended
22 to read as follows:

23 Sec. 1702.322. LAW ENFORCEMENT PERSONNEL. This chapter
24 does not apply to:

25 (1) a person who has full-time employment as a peace
26 officer and who receives compensation for private employment on an
27 individual or an independent contractor basis as a patrolman,

1 guard, extra job coordinator, or watchman if the officer:

2 (A) is employed in an employee-employer
3 relationship or employed on an individual contractual basis:

4 (i) directly by the recipient of the
5 services; or

6 (ii) by a company licensed under this
7 chapter;

8 (B) is not in the employ of another peace
9 officer;

10 (C) is not a reserve peace officer; and

11 (D) works as a peace officer on the average of at
12 least 32 hours a week, is compensated by the state or a political
13 subdivision of the state at least at the minimum wage, and is
14 entitled to all employee benefits offered to a peace officer by the
15 state or political subdivision;

16 (2) a reserve peace officer while the reserve officer
17 is performing guard, patrolman, or watchman duties for a county and
18 is being compensated solely by that county;

19 (3) a peace officer acting in an official capacity in
20 responding to a burglar alarm or detection device; ~~or~~

21 (4) a person engaged in the business of electronic
22 monitoring of an individual as a condition of that individual's
23 community supervision, parole, mandatory supervision, or release
24 on bail, if the person does not perform any other service that
25 requires a license under this chapter; or

26 (5) a special Texas constable appointed under Article
27 2.128, Code of Criminal Procedure.

1 SECTION 4. This Act takes effect September 1, 2019.