

SENATE AMENDMENTS

2nd Printing

By: Paul, Guillen, Thompson of Brazoria

H.B. No. 1552

A BILL TO BE ENTITLED

AN ACT

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

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

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

Sec. 1701.357. WEAPONS PROFICIENCY FOR QUALIFIED ~~[CERTAIN]~~
~~RETIRED [PEACE OFFICERS AND FEDERAL LAW ENFORCEMENT OFFICERS AND~~
~~FOR FORMER RESERVE]~~ LAW ENFORCEMENT OFFICERS.

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

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

(a-1) 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,~~

~~[(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 one or~~

~~more state or local law enforcement agencies].~~

(b) The head of a state or local law enforcement agency may allow a qualified retired law enforcement officer who is a ~~[an~~ ~~honorably]~~ retired commissioned 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 10 ~~[15]~~ years of cumulative service as a commissioned officer with one or more state or local law enforcement agencies; or

(B) before completing 10 ~~[15]~~ years of cumulative 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];~~

(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.

(c) The state or local law enforcement agency shall establish written procedures for the issuance or denial of a certificate of proficiency under this subsection ~~[section]~~. The agency shall issue the certificate to a retired commissioned peace officer who satisfactorily demonstrates weapons proficiency under Subsection (b) ~~[, provides proof that the officer is entitled to~~

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

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

19 (d) A certificate issued under this section expires on the
 20 first ~~[second]~~ anniversary of the date the certificate was issued.
 21 ~~[A person to whom this section applies may request an annual~~
 22 ~~evaluation of weapons proficiency and issuance of a certificate of~~
 23 ~~proficiency as needed to comply with applicable federal or other~~
 24 ~~laws.]~~

25 (h) The head of a state law enforcement agency may allow ~~[an~~
 26 ~~honorably retired federal criminal investigator or]~~ a qualified
 27 retired law enforcement officer, other than a retired commissioned

1 peace officer, ~~[to whom this section applies]~~ an opportunity to
2 demonstrate weapons proficiency in the same manner as, and subject
3 to the same requirements applicable to, a ~~[an honorably]~~ retired
4 commissioned peace officer as described by Subsection (b) ~~[this~~
5 ~~section]~~. The agency shall establish written procedures for the
6 issuance or denial of a certificate of proficiency under this
7 subsection. The agency shall issue a certificate of proficiency to
8 ~~[an honorably retired federal criminal investigator or]~~ a qualified
9 retired law enforcement officer who satisfactorily demonstrates
10 weapons proficiency under this subsection and satisfies the written
11 procedures established by the agency. The agency ~~[otherwise meets~~
12 ~~the requirements of this section and]~~ shall maintain records
13 regarding the issuance of that certificate.

14 (i) On request of a qualified ~~[an honorably]~~ retired law
15 enforcement officer who holds a certificate of proficiency under
16 this section, the head of the state or local law enforcement agency
17 from which the officer retired or most recently separated shall
18 issue to the ~~[retired]~~ officer identification that indicates that
19 the officer honorably retired or separated from the agency. An
20 identification under this subsection must include a photograph of
21 the ~~[retired]~~ officer.

22 SECTION 3. Sections 411.1992(a) and (c), Government Code,
23 are amended to read as follows:

24 (a) A person who served as a reserve law enforcement
25 officer, as defined by Section 1701.001, Occupations Code, not less
26 than a total of 10 ~~[15]~~ years of cumulative service with one or more
27 state or local law enforcement agencies may apply for a license

under this subchapter at any time.

(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 10 [~~15~~] years of cumulative service with one or more state or local law enforcement agencies and is physically and emotionally fit to 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

1 weapon in this state if the officer is:

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

4 (B) authorized to carry a weapon under Section
5 76.0051, Government Code;

6 (4) an active judicial officer as defined by Section
7 411.201, Government Code, who is licensed to carry a handgun under
8 Subchapter H, Chapter 411, Government Code;

9 (5) an honorably retired peace officer or other~~[7]~~
10 qualified retired law enforcement officer, as defined by 18 U.S.C.
11 Section 926C, [federal criminal investigator, or former reserve law
12 enforcement officer] who holds a certificate of proficiency issued
13 under Section 1701.357, Occupations Code, and is carrying a photo
14 identification that is issued by a federal, state, or local law
15 enforcement agency, as applicable, and that verifies that the
16 officer is~~[+]~~

17 ~~[(A)]~~ an honorably retired peace officer or
18 other~~[+]~~

19 ~~[(B)]~~ a qualified retired law enforcement
20 officer;

21 ~~[(C)] a federal criminal investigator, or~~

22 ~~[(D)] a former reserve law enforcement officer who~~
23 ~~has served in that capacity not less than a total of 15 years with~~
24 ~~one or more state or local law enforcement agencies,]~~

25 (6) the attorney general or a United States attorney,
26 district attorney, criminal district attorney, county attorney, or
27 municipal attorney who is licensed to carry a handgun under

1 Subchapter H, Chapter 411, Government Code;

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

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

8 (A) licensed to carry a handgun under Subchapter
9 H, Chapter 411, Government Code; and

10 (B) engaged in escorting the judicial officer;

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

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

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

17 (B) engaged in providing emergency services.

18 SECTION 5. The following provisions are repealed:

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

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

21 SECTION 6. The changes in law made by this Act to Section
22 1701.357, Occupations Code, apply only to an application for a
23 weapons proficiency certificate under Section 1701.357,
24 Occupations Code, filed on or after September 1, 2019. An
25 application for a weapons proficiency certificate under Section
26 1701.357, Occupations Code, filed before September 1, 2019, is
27 governed by the law in effect on the date the application was filed,

1 and the former law is continued in effect for that purpose.

2 SECTION 7. The change in law made by this Act to Section
3 411.1992, Government Code, applies only to a person who applies for
4 a license to carry a handgun under that section on or after the
5 effective date of this Act. A person who applies for a license to
6 carry a handgun before the effective date of this Act is governed by
7 the law in effect on the date the person applied for the license,
8 and the former law is continued in effect for that purpose.

9 SECTION 8. The change in law made by this Act to Section
10 46.15, Penal Code, applies only to an offense committed on or after
11 the effective date of this Act. An offense committed before the
12 effective date of this Act is governed by the law in effect on the
13 date the offense was committed, and the former law is continued in
14 effect for that purpose. For purposes of this section, an offense
15 was committed before the effective date of this Act if any element
16 of the offense occurred before that date.

17 SECTION 9. This Act takes effect September 1, 2019.

ADOPTED

MAY 19 2019

Letay Spaw
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: *[Signature]*

1 Amend H.B. No. 1552 (senate committee report) by adding the
2 following appropriately numbered SECTIONS to the bill and
3 renumbering the SECTIONS of the bill accordingly:

4 SECTION _____. Subchapter F, Chapter 1701, Occupations Code,
5 is amended by adding Section 1701.2561 to read as follows:

6 Sec. 1701.2561. FIREARMS TRAINING FOR COUNTY JAILERS.

7 (a) The commission shall develop a basic training program in the
8 use of firearms by county jailers. The program must provide
9 instruction in:

10 (1) legal limitations on the use of firearms and on the
11 powers and authority of jailers;

12 (2) range firing and procedure;

13 (3) firearms safety and maintenance; and

14 (4) other topics determined by the commission to be
15 necessary for the responsible use of firearms by jailers.

16 (b) The commission shall administer the training program
17 and shall issue a certificate of firearms proficiency to each
18 county jailer the commission determines has successfully completed
19 the program.

20 (c) A county jailer who is issued a certificate of firearms
21 proficiency and who maintains weapons proficiency in accordance
22 with Section 1701.355 may carry a firearm:

23 (1) during the course of performing duties as a county
24 jailer, including while transporting persons confined in the county
25 jail; and

26 (2) while traveling to or from the jailer's place of
27 assignment.

28 SECTION _____. Section 1701.355, Occupations Code, is
29 amended by adding Subsection (a-1) and amending Subsection (b) to

1 read as follows:

2 (a-1) An agency that employs one or more county jailers who
3 have been issued a certificate of firearms proficiency under
4 Section 1701.2561 shall designate a firearms proficiency officer
5 and require the jailers to demonstrate weapons proficiency to the
6 firearms proficiency officer at least annually. The agency shall
7 maintain records of the weapons proficiency of the agency's
8 jailers. A county jailer's failure to demonstrate weapons
9 proficiency does not affect the county jailer's license under this
10 chapter.

11 (b) On request, the commission may waive the requirement
12 that a peace officer or county jailer demonstrate weapons
13 proficiency on a determination by the commission that the
14 requirement causes a hardship.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION
Revision 1

May 20, 2019

TO: Honorable Dennis Bonnen, Speaker of the House, House of Representatives

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB1552 by Paul (Relating to the weapons proficiency of and the carrying of a handgun by qualified retired law enforcement officers.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

It is assumed that the provisions of the bill relating to the weapons proficiency of and the carrying of a handgun by a qualified retired law enforcement officer and firearms training for county jailers could be absorbed using existing resources.

This analysis assumes the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on state correctional agencies.

Local Government Impact

According to the Texas Association of Counties and the Texas Municipal League, no significant fiscal implication to units of local government is anticipated.

Source Agencies: 405 Department of Public Safety, 407 Commission on Law Enforcement

LBB Staff: WP, SD, CMa, LBO, AI, SMi, NA, SPa, AF

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

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No fiscal implication to the State is anticipated.

It is assumed that the provisions of the bill relating to the weapons proficiency of and the carrying of a handgun by a qualified retired law enforcement officer could be absorbed using existing resources.

This analysis assumes the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on state correctional agencies.

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LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 10, 2019

TO: Honorable Joan Huffman, Chair, Senate Committee on State Affairs

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB1552 by Paul (Relating to the weapons proficiency of and the carrying of a handgun by qualified retired law enforcement officers.), **As Engrossed**

No fiscal implication to the State is anticipated.

It is assumed that the provisions of the bill relating to the weapons proficiency of and the carrying of a handgun by a qualified retired law enforcement officer could be absorbed using existing resources.

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LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 16, 2019

TO: Honorable Poncho Nevárez, Chair, House Committee on Homeland Security & Public Safety

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB1552 by Paul (relating to the weapons proficiency of and the carrying of a handgun by qualified retired law enforcement officers.), **Committee Report 1st House, Substituted**

No fiscal implication to the State is anticipated.

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LBB Staff: WP, LBO, AI, SMi, NA, SPa, AF

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 9, 2019

TO: Honorable Poncho Nevárez, Chair, House Committee on Homeland Security & Public Safety

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB1552 by Paul (Relating to the weapons proficiency of and the carrying of a handgun by qualified retired law enforcement officers.), **As Introduced**

No fiscal implication to the State is anticipated.

It is assumed that the provisions of the bill relating to the weapons proficiency of and the carrying of a handgun by qualified retired law enforcement officers could be absorbed using existing resources. This analysis assumes the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on state correctional agencies.

Local Government Impact

According to the Texas Association of Counties and the Texas Municipal League, no significant fiscal implication to units of local government is anticipated.

Source Agencies: 405 Department of Public Safety, 407 Commission on Law Enforcement

LBB Staff: WP, LBO, AI, SMi, NA, SPa, AF

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

86TH LEGISLATIVE REGULAR SESSION

May 20, 2019

TO: Honorable Dennis Bonnen, Speaker of the House, House of Representatives

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB1552 by Paul (Relating to the weapons proficiency of and the carrying of a handgun by qualified retired law enforcement officers.), **As Passed 2nd House**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend various codes as they relate to the weapons proficiency of and the carrying of a handgun by qualified retired law enforcement officers. The bill modifies the applicability of certain unlawful carrying of weapon offenses. The punishment for these offenses could be a Class A misdemeanor or third degree felony depending on the circumstances of the offense.

A third degree felony is punishable by confinement in prison for a term from 2 to 10 years and, in addition to confinement, an optional fine not to exceed \$10,000. A Class A misdemeanor is punishable by confinement in county jail for a term not to exceed one year and, in addition to confinement, an optional fine not to exceed \$4,000.

Expanding the list of individuals to whom a criminal penalty is not applied is expected to result in fewer demands upon the correctional resources of the counties or of the State due to a decrease in the number of people placed under supervision in the community or sentenced to a term of confinement within state correctional institutions. In fiscal year 2018, 11,569 individuals were arrested, 69 were placed under felony community supervision, and 28 were admitted into state correctional institutions for unlawful carrying of weapon offenses. This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on state correctional populations or on the demand for state correctional resources.

Source Agencies:

LBB Staff: WP, LM, SPa

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

86TH LEGISLATIVE REGULAR SESSION

May 10, 2019

TO: Honorable Joan Huffman, Chair, Senate Committee on State Affairs

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB1552 by Paul (Relating to the weapons proficiency of and the carrying of a handgun by qualified retired law enforcement officers.), **As Engrossed**

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Source Agencies:

LBB Staff: WP, LM, SPa

LEGISLATIVE BUDGET BOARD
Austin, Texas

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86TH LEGISLATIVE REGULAR SESSION

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Source Agencies:

LBB Staff: WP, LM, SPa

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Austin, Texas

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86TH LEGISLATIVE REGULAR SESSION

April 9, 2019

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