

AN ACT

relating to the applicability of certain weapon laws to certain judges and prosecutors.

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

SECTION 1. 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~~[, including commissioned peace officers of a recognized state,]~~ 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

1 Code, and neither section prohibits an officer from carrying a  
2 weapon in this state if the officer is:

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

5 (B) authorized to carry a weapon under Section  
6 76.0051, Government Code;

7 (4) a judge or justice of a federal court, the supreme  
8 court, the court of criminal appeals, a court of appeals, a district  
9 court, a criminal district court, a constitutional county court, a  
10 statutory county court, a justice court, or a municipal court who is  
11 licensed to carry a concealed handgun under Subchapter H, Chapter  
12 411, Government Code; [~~or~~]

13 (5) an honorably retired peace officer or federal  
14 criminal investigator who holds a certificate of proficiency issued  
15 under Section 1701.357, Occupations Code, and is carrying a photo  
16 identification that:

17 (A) verifies that the officer honorably retired  
18 after not less than 15 [~~20~~] years of service as a commissioned  
19 officer; and

20 (B) is issued by [~~the agency from which the peace~~  
21 ~~officer retired or, for a federal criminal investigator, by~~] a  
22 state or local law enforcement agency; or

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

26 SECTION 2. Section 1701.357, Occupations Code, is amended  
27 by amending Subsections (a) through (d) and adding Subsection (i)

1 to read as follows:

2 (a) This section applies only to:

3 (1) a peace officer [~~designated as a peace officer~~  
4 ~~under Article 2.12(1), (2), (3), or (10), Code of Criminal~~  
5 ~~Procedure~~]; and

6 (2) a federal criminal investigator designated as a  
7 special investigator under Article 2.122 [~~2.122(a)(1) or (5)~~], Code  
8 of Criminal Procedure.

9 (b) The head of a state or local law enforcement agency may  
10 allow an honorably retired peace officer [~~of the agency to whom this~~  
11 ~~section applies~~] an opportunity to demonstrate weapons proficiency  
12 if the retired officer provides to the agency a sworn affidavit  
13 stating that:

14 (1) the officer honorably retired after not less than  
15 a total of 15 [~~20~~] years of service as a commissioned officer with  
16 one or more state or local law enforcement agencies;

17 (2) the officer's license as a commissioned officer  
18 was not revoked or suspended for any period during the officer's  
19 term of service as a commissioned officer; and

20 (3) the officer has no psychological or physical  
21 disability that would interfere with the officer's proper handling  
22 of a handgun.

23 (c) The agency shall establish written procedures for the  
24 issuance or denial of a certificate of proficiency under this  
25 section. The agency shall issue the certificate to a retired  
26 officer who satisfactorily demonstrates weapons proficiency under  
27 Subsection (b), provides proof that the officer is receiving

1 retirement benefits on the basis of service with a state or local  
2 law enforcement agency, and satisfies the written procedures  
3 established by the agency. The agency shall maintain records of any  
4 retired officer who holds a certificate issued under this section.

5 (d) A certificate issued under this section expires on the  
6 second anniversary of the date the certificate was issued. A  
7 retired officer to whom this section applies may request an annual  
8 evaluation of weapons proficiency and issuance of a certificate of  
9 proficiency as needed to comply with applicable federal or other  
10 laws.

11 (i) On request of a retired officer who holds a certificate  
12 of proficiency under this section, the head of a state or local law  
13 enforcement agency may issue to the retired officer identification  
14 that indicates that the officer retired from the agency. An  
15 identification under this subsection must include a photograph of  
16 the retired officer.

17 SECTION 3. Section 30.05, Penal Code, is amended by adding  
18 Subsections (g) and (h) to read as follows:

19 (g) This section does not apply if:

20 (1) the basis on which entry on the property or land or  
21 in the building was forbidden is that entry with a handgun or other  
22 weapon was forbidden; and

23 (2) the actor at the time of the offense was a peace  
24 officer, including a commissioned peace officer of a recognized  
25 state, or a special investigator under Article 2.122, Code of  
26 Criminal Procedure, regardless of whether the peace officer or  
27 special investigator was engaged in the actual discharge of an

1 official duty while carrying the weapon.

2 (h) For purposes of Subsection (g), "recognized state"  
3 means another state with which the attorney general of this state,  
4 with the approval of the governor of this state, negotiated an  
5 agreement after determining that the other state:

6 (1) has firearm proficiency requirements for peace  
7 officers; and

8 (2) fully recognizes the right of peace officers  
9 commissioned in this state to carry weapons in the other state.

10 SECTION 4. Section 46.15(g), Penal Code, as added by  
11 Chapter 795, Acts of the 78th Legislature, Regular Session, 2003,  
12 is repealed.

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

21 SECTION 6. This Act takes effect September 1, 2005.

David Dewhurst

President of the Senate

Jim Cuddihy

Speaker of the House

I certify that H.B. No. 2110 was passed by the House on April 28, 2005, by the following vote: Yeas 135, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2110 on May 26, 2005, by the following vote: Yeas 143, Nays 0, 2 present, not voting; and that the House adopted H.C.R. No. 233 authorizing certain corrections in H.B. No. 2110 on May 29, 2005, by a non-record vote.

Robert Hawey  
Chief Clerk of the House

I certify that H.B. No. 2110 was passed by the Senate, with amendments, on May 24, 2005, by the following vote: Yeas 31, Nays 0; and that the Senate adopted H.C.R. No. 233 authorizing certain corrections in H.B. No. 2110 on May 30, 2005, by a viva-voce vote.

Patsey Spaw  
Secretary of the Senate

APPROVED: 18 JUNE 05

Date  
Rick Perry  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
12:20 PM O'CLOCK  
JUN 18 2005  
Roger Williams  
Secretary of State