

AN ACT

relating to the authority of certain honorably retired peace officers to carry certain weapons.

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

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

(a) This section applies only to:

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

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

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

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

(2) the officer's license as a commissioned officer was not revoked or suspended for any period during the officer's

1 term of service as a commissioned officer; and

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

5 (c) The agency shall establish written procedures for the
6 issuance or denial of a certificate of proficiency under this
7 section. The agency shall issue the certificate to a retired
8 officer who satisfactorily demonstrates weapons proficiency under
9 Subsection (b), provides proof that the officer is receiving
10 retirement benefits on the basis of service with a state or local
11 law enforcement agency, and satisfies the written procedures
12 established by the agency. The agency shall maintain records of any
13 retired officer who holds a certificate issued under this section.

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

20 (i) On request of a retired officer who holds a certificate
21 of proficiency under this section, the head of a state or local law
22 enforcement agency may issue to the retired officer identification
23 that indicates that the officer retired from the agency. An
24 identification under this subsection must include a photograph of
25 the retired officer.

26 SECTION 2. Subsection (a), Section 46.15, Penal Code, is
27 amended to read as follows:

1 (a) Sections 46.02 and 46.03 do not apply to:

2 (1) peace officers [~~, including commissioned peace~~
3 ~~officers of a recognized state,~~] or special investigators under
4 Article 2.122, Code of Criminal Procedure, and neither section
5 prohibits a peace officer or special investigator from carrying a
6 weapon in this state, including in an establishment in this state
7 serving the public, regardless of whether the peace officer or
8 special investigator is engaged in the actual discharge of the
9 officer's or investigator's duties while carrying the weapon;

10 (2) parole officers and neither section prohibits an
11 officer from carrying a weapon in this state if the officer is:

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

14 (B) in compliance with policies and procedures
15 adopted by the Texas Department of Criminal Justice regarding the
16 possession of a weapon by an officer while on duty;

17 (3) community supervision and corrections department
18 officers appointed or employed under Section 76.004, Government
19 Code, and neither section prohibits an officer from carrying a
20 weapon in this state if the officer is:

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

23 (B) authorized to carry a weapon under Section
24 76.0051, Government Code;

25 (4) a judge or justice of the supreme court, the court
26 of criminal appeals, a court of appeals, a district court, a
27 criminal district court, a constitutional county court, a statutory

1 county court, a justice court, or a municipal court who is licensed
2 to carry a concealed handgun under Subchapter H, Chapter 411,
3 Government Code; or

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

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

11 (B) is issued by [~~the agency from which the peace~~
12 ~~officer retired or, for a federal criminal investigator, by~~] a
13 state or local law enforcement agency.

14 SECTION 3. Subsection (g), Section 46.15, Penal Code, as
15 added by Chapter 795, Acts of the 78th Legislature, Regular
16 Session, 2003, is repealed.

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

25 SECTION 5. This Act takes effect September 1, 2005.

David Newkirk
President of the Senate

Jim Coakley
Speaker of the House

I hereby certify that S.B. No. 578 passed the Senate on April 21, 2005, by the following vote: Yeas 31, Nays 0.

Datsy Spaw
Secretary of the Senate

I hereby certify that S.B. No. 578 passed the House on May 25, 2005, by a non-record vote.

Robert Harvey
Chief Clerk of the House

Approved:

18 JUNE 05
Date

Rick Perry
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
12:20 PM O'CLOCK,

Roger Williams
Secretary of State