

SUBJECT: Allowing retired peace officer or surviving relative to buy gun and badge

COMMITTEE: Law Enforcement — committee substitute recommended

VOTE: 6 ayes — Driver, Garza, Hupp, Y. Davis, Hegar, Keel
0 nays
1 absent — Burnam

WITNESSES: None

BACKGROUND: Government Code, sec. 614.051 allows an honorably retired state peace officer to buy one firearm previously issued to that officer, unless that firearm is a prohibited weapon under Penal Code, sec. 46.05, such as a machine gun or short-barrel firearm. Sec. 614.052 allows a surviving spouse, child, or parent to buy one firearm issued to a peace officer who died while commissioned, without regard to whether the officer died while discharging official duties, unless the firearm is prohibited under the Penal Code. The state agency must establish the price, not to exceed fair market value, of the firearm bought by a retiring state peace officer or a surviving relative.

DIGEST: CSHB 14 would authorize a commissioned officer of a state or local governmental agency to buy, at a price not to exceed fair market value, any badge, insignia, non-prohibited weapon, or uniform issued to the officer by that agency. The officer would have to be honorably retired or be scheduled to retire within 90 days of the purchase. Eligible law enforcement and public safety personnel would include peace officers, firefighters, licensed paramedics, certified emergency medical technicians, fire or emergency medical services dispatchers, licensed county jailers, or corrections officers.

The nearest surviving relative of a commissioned officer who died or was permanently disabled under honorable conditions in the line of duty could buy the firearm, badge, or other equipment. A third party, such as an association of law enforcement officers or public safety personnel, could buy the badge, weapon, or other equipment to present it to the retired officer or to a surviving relative. A person who bought such a badge, weapon, insignia, or uniform

would have to affix it permanently to a plaque or place it in a display case.

The bill would amend Government Code, sec. 614.053 to require local as well as state governmental law enforcement agencies to establish fair market value for firearms and other equipment sold to retired officers, surviving relatives, or third parties. A local government's purchasing agent would have to oversee the sale of firearms or other items sold under these provisions.

The bill would take effect September 1, 2003.

**SUPPORTERS
SAY:**

Presentation of mementoes such as badges or service revolvers to retiring local law enforcement or public safety personnel is a common practice, even though it is technically illegal to give away government property. Raising such issues may not be appropriate when honoring a law enforcement or public safety officer posthumously. CSHB 14 would provide a workable mechanism to set a fair market price for such items and an equitable way to bridge the gap in current law. A law enforcement or public safety association should be able to buy the badge, insignia, weapon, or uniform to recognize the service of a retired officer or to honor the memory of a fallen comrade.

The requirement that the badge, gun, or other equipment be permanently affixed to a plaque or placed in a display case would help prevent potential misuse of these items. CSHB 14 specifically would prohibit the sale of prohibited weapons.

CSHB 14 properly would include local purchasing agents in the process of setting the sales price of officers' firearms or other equipment. A purchasing agent has the legal responsibility to purchase, track, and dispose of property for the political subdivision. These agents have the necessary expertise and autonomy from the law enforcement agency to make correct decisions on establishing the market value of these items. Internet research can help determine the price for unique items such as badges or insignia. Requiring a purchasing agent to set the fair market price would protect both the law enforcement or public safety agency and the interests of local taxpayers.

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**OPPONENTS
SAY:**

CSHB 14 would set the vague requirement that the purchase price must be fair market value without defining more specifically how to arrive at that amount.

NOTES:

The committee substitute would allow retired law enforcement and public safety personnel, rather than peace officers or firefighters, to qualify to buy badges, insignia, weapons, or uniforms, and it specifically added county jailers and corrections officers. The substitute also added the requirement that the local government's purchasing agent oversee the sale of a firearm or other item.

SB 192 by Barrientos, the companion bill, has been referred to the Senate Intergovernmental Relations Committee.