

**SUBJECT:** Allowing certain honorably retired peace officers to carry weapons

**COMMITTEE:** Law Enforcement — favorable, without amendment

**VOTE:** 6 ayes — Driver, Jackson, Frost, Hegar, Hupp, Veasey  
0 nays  
1 present not voting — Burnam

**SENATE VOTE:** On final passage, April 21 — 31-0, on Local and Uncontested Calendar

**WITNESSES:** For — Charles Brawner, Texas School District Police Chief’s Association; Gary M. Brye, Southeast Texas Law Enforcement Administrators Association; Bill Elkin, Houston Police Retired Officers Association; Tom Gaylor, Texas Municipal Police Association; David Russell, Frisco Police Officers Association  
  
Against — None

**BACKGROUND:** Penal Code, sec. 46.02 prohibits carrying a handgun, illegal knife, or club on or about one’s person, and sec. 46.03 lists places where carrying firearms, illegal knives, clubs, or certain other weapons are prohibited. Penal Code, sec. 46.15 provides that secs. 46.02 and 46.03 do not apply to certain categories of people, including:

- an honorably retired peace officers or federal criminal investigator who holds a certificate of proficiency and carries photo identification to verify that the officer or investigator retired honorably after at least 20 years of service, or
- a peace officer from another state with which the attorney general has negotiated a reciprocal agreement that allows Texas peace officers to carry weapons in that state.

Occupations Code, sec. 1701.357 allows certain honorably retired peace officers — sheriffs and their deputies, constables and their deputies, city police and marshals, and Parks and Wildlife Commission law enforcement officers — and federal criminal investigators — agents of the Federal

Bureau of Investigation and the Drug Enforcement Administration — to apply to take a weapons proficiency test. The officer or investigator must provide an affidavit stating that the officer:

- retired after at least 20 years of service;
- never had a license revoked or suspended during the term of service as a commissioned peace officer or investigator; and
- has no psychological or physical disability that would interfere with the officer's proper handling of a handgun.

The weapons proficiency certificate is valid for two years.

**DIGEST:**

SB 578 would allow all honorably retired peace officers and federal criminal investigators to apply to take a weapons proficiency test. This would include an additional 32 categories of peace officers, including city park patrolmen and investigators for the Board of Medical Examiners, and an additional nine categories of federal criminal investigators, including Central Intelligence Agency special agents and U.S. Postal Service inspectors.

The bill would allow a peace officer or federal criminal investigator who had retired after 15 years, rather than 20 years, of service to apply to take a weapons proficiency test. The officer or investigator would be required to prove that he or she was receiving retirement benefits based on service. The officer or investigator could request an annual, rather than biennial, test in order to comply with other laws.

SB 578 would amend Penal Code, sec. 46.15 to state that secs. 46.02 and 46.03 would not apply to an honorably retired peace officer or federal criminal investigator who held a certificate of proficiency and carried a photo identification to verify that the officer or investigator was honorably retired after at least 15 years, rather than 20 years, of service. The bill would amend sec. 46.15 to exempt from secs. 46.02 and 46.03 a peace officer from another state, without regard to whether the attorney general had negotiated a reciprocal agreement with that state.

The bill would take effect September 1, 2005.

**SUPPORTERS  
SAY:**

SB 578 appropriately would authorize all retired peace officers and federal criminal investigators to carry weapons in Texas, a privilege enjoyed by their counterparts in active service. Experienced, well-trained, retired

officers still can serve their communities. They could help provide additional homeland security that is necessary following the 9/11 terrorist attacks and during the current war in Iraq. In addition, allowing retired officers to keep their handguns would serve as a way for communities to acknowledge retired officers' many years of sacrifice and service.

The bill would require retired officers to meet strict legal, physical, and psychological standards even before they could take the exacting test for weapons proficiency. Law enforcement proficiency tests measure an officer's ability to fire a weapon with either hand in a variety of conditions as well as testing an officer's ability to shoot the "bad guy" without harming anyone else.

SB 578 would make changes to match those made by the federal government to allow retired officers to carry weapons after 15 years of service.

**OPPONENTS  
SAY:**

SB 578 dramatically would increase the number of people authorized to carry weapons, including handguns and illegal knives, in Texas. The bill would allow such people as retired postal service investigators and others with little weapons training to carry weapons. These people would be authorized to carry weapons in such places as schools, polling places, and racetracks. Because more guns lead to more violence, the state should not add to the proliferation of weapons in society, even for retired law enforcement officers. Retired military personnel are not permitted to drive tanks or carry bazookas and neither should retired peace officers continue to carry their weapons.