

SUBJECT: Weapons proficiency certificates for certain retired police officers

COMMITTEE: Law Enforcement — favorable, without amendment

VOTE: 6 ayes — Driver, Latham, Allen, Frost, Ortiz, West

0 nays

1 absent — Vo

WITNESSES: For — W.M. “Bill” Elkin, Houston Police Retired Officers Association; Victor Lee Stolley; (*Registered, but did not testify*: Tom Gaylor, Texas Municipal Police Association; Deborah Ingersoll, Texas State Troopers Association)

Against — None

On — (*Registered, but did not testify*: James Heironimus, J. Frank Woodall, Texas Commission on Law Enforcement Officer Standards and Education)

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 or other illegal weapons is prohibited. This prohibition does not apply to peace officers, regardless of whether the officer is discharging official duties while carrying the weapon, or to retired peace officers who hold a certificate of weapons proficiency.

Under Occupations Code, sec. 1701.357, to qualify for a certificate of weapons proficiency, retired peace officers must have at least 15 years of service as commissioned officers and be able to provide proof that they are receiving retirement benefits from one or more state or local law enforcement agencies.

DIGEST: HB 638 would amend Occupations Code, sec. 1701.357 to allow retired peace officers to qualify for a certificate of weapons proficiency if they did not receive a pension or annuity only because the law enforcement agency for which they worked did not offer pensions or annuities to its retirees. The bill would change the description of retirement benefits to

pensions or annuities.

The bill would take effect September 1, 2007, and would apply to weapons proficiency applications filed on or after that date.

**SUPPORTERS
SAY:**

HB 638 would address a problem in rural areas throughout the state since adoption in 2003 of a state law, SB 117 by Staples, allowing retired peace officers to carry a weapon. Under that law, to qualify for a certificate of weapons proficiency, retired officers must be able to prove they are receiving retirement benefits from one or more state or local law enforcement agencies. However, many rural communities do not offer pensions and other retirement benefits to retired peace officers, so retired officers in these communities cannot qualify for the right to carry a weapon.

This statutory requirement has denied officers who served honorably for 20, 30 or even 40 years the right to protect themselves. In determining whether a retired officer qualifies for a certificate, it should make no difference whether the officer receives retirement benefits.

Experienced, well-trained, retired officers still can serve their communities. To qualify for a weapons proficiency certificate, retired officers must meet strict legal, physical and psychological standards. By removing the requirement that these retirees also must receive a pension, HB 638 would extend the privilege of carrying a weapon to all qualified, retired peace officers.

**OPPONENTS
SAY:**

The state should not add to the proliferation of guns in society, even for retired law enforcement officers. Whether or not these officers receive a pension, they should not be allowed to carry weapons if they are not on active duty.

**OTHER
OPPONENTS
SAY:**

HB 638 also should authorize the state or local law enforcement agency to issue a form of identification indicating that the officer was honorably retired. Officers who qualify for this identification should be able to receive it regardless of whether they qualify for a pension.