

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 3370
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Criminal Justice
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law exempts honorably retired peace officers and federal criminal investigators who hold a weapons proficiency certificate and a photo identification card issued by a state or local law enforcement agency in accordance with certain requirements from the offenses of unlawful carrying of a weapon and possessing or going with a weapon in a place where weapons are prohibited. These officers may demonstrate weapons proficiency by submitting an affidavit that includes, among other facts, that the officer honorably retired after not less than a total of 15 years of service as a commissioned officer with one or more state or local law enforcement agencies.

Critics assert that legislative action is necessary to ensure that certain retired law enforcement officers who separated from employment with a law enforcement agency in good standing after many years of service or separated due to a service-connected disability have the opportunity to demonstrate weapons proficiency to carry a firearm in the same manner as other honorably retired peace officers in Texas. C.S.H.B. 3370 seeks to extend the ability to demonstrate weapons proficiency and qualify for the exemption to certain retired law enforcement officers as defined under federal law who have less than the prescribed period of service.

C.S.H.B. 3370 amends current law relating to the authority of certain retired peace officers and former reserve law enforcement officers to carry certain firearms.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter H, Chapter 411, Government Code, by adding Section 411.1992, as follows:

Sec. 411.1992. FORMER RESERVE LAW ENFORCEMENT OFFICERS. (a) Authorizes a person who served as a reserve law enforcement officer, as defined by Section 1701.001 (Definitions), Occupations Code, not less than a total of 15 years with one or more state or local law enforcement agencies to apply for a license under this subchapter (License to Carry a Concealed Handgun) at any time.

(b) Requires the applicant to submit to the Department of Public Safety of the State of Texas (DPS) two complete sets of legible and classifiable fingerprints and a sworn statement from the head of the law enforcement agency at which the applicant last served as a reserve law enforcement officer. Prohibits a head of a law enforcement agency from refusing to issue a statement under this subsection. Requires DPS, if the applicant alleges that the statement is untrue, to investigate the validity of the statement. Requires that the statement include:

(1) the name and rank of the applicant;

(2) the status of the applicant;

(3) whether the applicant was accused of misconduct at any time during the applicant's term of service and the disposition of that accusation;

(4) a description of the physical and mental condition of the applicant;

(5) a list of the types of weapons the applicant demonstrated proficiency with during the applicant's term of service; and

(6) a recommendation from the agency head regarding the issuance of a license under this subchapter.

(c) Authorizes DPS to issue a license under this subchapter to an applicant under this section if the applicant was a reserve law enforcement officer for not less than a total of 15 years with one or more state or local law enforcement agencies and is physically and emotionally fit to possess a handgun.

(d) Requires an applicant under this section to pay a fee of \$25 for a license issued under this subchapter.

(e) Requires a former reserve law enforcement officer who obtains a license as provided by this section to maintain, for the category of weapon licensed, the proficiency required for the person under Section 1701.357 (Weapons Proficiency for Certain Retired Peace Officers and Federal Law Enforcement Officers), Occupations Code. Requires DPS or the local law enforcement agency at which the person last served as a reserve law enforcement officer to allow the person an opportunity to annually demonstrate the required proficiency. Requires that the proficiency be reported to DPS on application and renewal.

(f) Provides that a license issued under this section expires as provided by Section 411.183 (Expiration).

SECTION 2. Amends the heading to Section 1701.357, Occupations Code, to read as follows:

Sec. 1701.357. WEAPONS PROFICIENCY FOR CERTAIN RETIRED PEACE OFFICERS AND FEDERAL LAW ENFORCEMENT OFFICERS AND FOR FORMER RESERVE LAW ENFORCEMENT OFFICERS.

SECTION 3. Amends Section 1701.357, Occupations Code, by amending Subsections (a), (b), (c), and (d) and adding Subsections (b-1), (c-1), and (j), as follows:

(a) Provides that this section applies only to certain individuals, including a former reserve law enforcement officer who served in that capacity not less than a total of 15 years with one or more state or local law enforcement agencies. Makes nonsubstantive changes.

(b) Authorizes the head of a state or local law enforcement agency to allow an honorably retired peace officer 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 years of service as a commissioned officer with one or more state or local law enforcement agencies; or before completing 15 years of service as a commissioned officer with one or more state or local law enforcement agencies, separated from employment with the agency or agencies and is a qualified retired law enforcement officer, as defined by 18 U.S.C. Section 926C; and

(2)-(3) Makes no change to these subdivisions.

(b-1) Authorizes the head of a state or local law enforcement agency to allow a person who served as a reserve law enforcement officer as described by Subsection (a)(4) an opportunity to demonstrate weapons proficiency if the person provides to the agency a sworn affidavit stating that:

(1) the person served not less than a total of 15 years as a reserve law enforcement officer with one or more state or local law enforcement agencies;

(2) the person's appointment as a reserve law enforcement officer was not revoked or suspended for any period during the person's term of service; and

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

(c) Requires the agency to issue the certificate to a person described by Subsection (a)(4) who satisfactorily demonstrates weapons proficiency under Subsection (b-1). Requires the agency to maintain records of any person, rather than any retired officer, who holds a certificate issued under this section.

(c-1) Creates this subsection from existing text. Provides that proof, for purposes of Subsection (c), rather than for purposes of this subsection, that a retired officer is entitled to receive a pension or annuity or is not entitled to receive a pension or annuity only because the agency that last employed the retired officer does not offer a pension or annuity may include a retired peace officer identification card issued under Subchapter H (Peace Officer Identification Cards), Chapter 614, Government Code.

(d) Authorizes a person, rather than authorizes a retired officer, to whom this section applies to request an annual evaluation of weapons proficiency and issuance of a certificate of proficiency as needed to comply with applicable federal or other laws.

(j) Requires the head of the state or local law enforcement agency at which the person last served as a reserved law enforcement officer, on request of a person described by Subsection (a)(4), to issue to the person identification that indicates the person's status. Requires that an identification under this subsection include a photograph of the person.

SECTION 4. Amends Section 46.15(a), Penal Code, as follows:

(a) Provides that Sections 46.02 (Unlawful Carrying Weapons) and 46.03 (Places Weapons Prohibited) do not apply to:

(1)-(4) Makes no change to these subdivisions;

(5) an honorably retired peace officer, qualified retired law enforcement officer, a federal criminal investigator, or former reserve law enforcement officer who holds a certificate of proficiency issued under Section 1701.357 (Weapons Proficiency for Certain Retired Peace Officers and Federal Law Enforcement Officers), Occupations Code, and is carrying a photo identification that is issued by a federal, state, or local law enforcement agency, as applicable, and that verifies that the officer is:

(A) an honorably retired peace officer;

(B) a qualified retired law enforcement officer;

(C) a federal criminal investigator; or

(D) a former reserve law enforcement officer who has served in that capacity not less than a total of 15 years with one or more state or local law enforcement agencies; or

(6)-(9) Makes no change to these subdivisions.

Deletes existing text providing that Sections 46.02 and 46.03 do not apply to an honorably retired peace officer or federal criminal investigator who holds a certificate of proficiency issued under Section 1701.357, Occupations Code, and is carrying a photo identification that verifies that the officer honorably retired after not less than 15 years of service as a commissioned officer and is issued by a state or local law enforcement agency.

SECTION 5. Provides that the change in law made by this Act to Section 46.15, Penal Code, applies only to an offense committed on or after the effective date of this Act. Provides that an offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. Provides that, for purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 6. Effective date: September 1, 2013.