

SUBJECT: Allowing retired peace officers to carry handguns

COMMITTEE: Law Enforcement — favorable, without amendment

VOTE: 6 ayes — Driver, Garza, Hupp, Davis, Hegar, Keel
0 nays
0 absent
1 present not voting — Burnam

SENATE VOTE: On final passage, March 27— 31-0, on Local and Uncontested Calendar

WITNESSES: *(On House companion, HB 141:)*
For — Dave Barber, Texas Police Chiefs Association; Wilfred Navarro, Houston Police Retired Officers Association; *(On committee substitute:)* Donald Lee, Texas Conference of Urban Counties

Against — None

On — Steve Glenn, 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, illegal knives, clubs, or certain other weapons are prohibited.

The 75th Legislature enacted HB 311 by Place that amended sec. 46.15 to provide that secs. 46.02 and 46.03 do not apply to peace officers, regardless of whether the officer is discharging official duties while carrying the weapon.

DIGEST: CSSB 117 would allow the head of a state or local law enforcement agency to allow an honorably retired peace officer to take a weapons proficiency test if the officer provided an affidavit stating that the officer:

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

The law enforcement agency would issue a certificate of proficiency to be valid for two years. The agency would be required to keep records on any retired officer who qualified for the certificate and could set and collect a fee to cover expenses in testing the retired officer or issuing the certificate.

CSSB 117 would amend Penal Code, sec. 46.15 to provide that secs. 46.02 and 46.03, restricting the carrying of weapons, did not apply to an honorably retired peace officer who held a certificate of proficiency and carried a photo identification issued by the agency to verify that the officer was honorably retired after at least 20 years of service.

The bill would take effect September 1, 2003.

**SUPPORTERS
SAY:**

Retired officers who served honorably for 20, 30, or even 40 years should be allowed to carry their weapons to protect themselves. The risks associated with police work do not end once an officer leaves a law enforcement agency. A criminal, especially one whom an officer helped send to a long prison sentence, might want to harass or harm the retired officer. These officers have the right to protect themselves and should be allowed to carry their handguns in retirement.

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 the recent war in Iraq. Retirees also might be able to fill out the ranks of police departments in smaller cities that had limited resources to hire additional officers.

CSSB 117 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. Requiring a two-year certificate would be a reasonable compromise between the yearly standard for current officers and the four-year requirement for concealed handgun license holders.

Allowing retired officers to keep their handguns would serve as a way for communities to acknowledge retired officers' many years of sacrifice and service.

**OPPONENTS
SAY:**

Because more guns can lead to more violence, the state should not add to the proliferation of guns 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.

**OTHER
OPPONENTS
SAY:**

Allowing retired officers to qualify in weapons proficiency every two years, rather than yearly as required for active law enforcement officers, would create two sets of standards within a department. Retired and active officers should be held to a single standard.

NOTES:

The substitute differs from the Senate engrossed bill in that it would make the certificate of proficiency valid for two years rather than one and would allow the head of the law enforcement agency to authorize the weapons proficiency test and to set and collect a fee for administering the program.

HB 141 by Hope, the companion bill, was reported favorably as substituted by the House Law Enforcement Committee on March 26.