

FAQ's - "Law Enforcement Officers Safety Act of 2004"  
Codified at 18 U.S.C. 21 926A *et seq.*  
Also known as "HR 218"

We receive a lot of calls about the "Law Enforcement Officers Safety Act", more popularly known as "HR 218". Here are some common questions and answers. A copy of the statute can found at the end of this document.

**What does the statute allow me to do?**

This statute was adopted by Congress to allow a law enforcement officer or retired law enforcement officer to carry a concealed firearm in the State where the officer lives, and to transport that firearm to other States. The statute provides for -

- a. Qualifications to carry a firearm under this law.
- b. Identification that must be carried by the officer.
- c. Exceptions to the law.

**Who can transport a concealed weapon under this law?**

You must be a "qualified law enforcement officer" or a "qualified retired law enforcement officer" as defined in the law.

**What are the qualification requirements for a retired law enforcement officer?**

According to the law, being a "qualified retired law enforcement officer" means -

- a. You separated in good standing from service with a public agency as a law enforcement officer, *AND*
- b. Before separation from your Agency, you were authorized by law to "engage in or supervise the prevention, detection, investigation, or prosecution of any violation of law, and had statutory powers of arrest", *AND*
- c. Before your separation from your Agency, you served as a law enforcement officer for at least 10 years, *OR* you separated from your Agency (after completing your agency's probationary period), due to a service-connected disability (as determined by that agency), *AND*
- d. During the most recent 12 month period, you have met, at your expense, the standards for qualification in firearms training for active

- law enforcement officers as determined by your former agency, or the standards of the State in which you reside, *AND*
- e. you have not been “officially found by a qualified medical professional” to be unqualified for reasons “relating to mental health”
  - f. You are not under the influence of an intoxicating or hallucinatory drug or substance, *AND*
  - g. You are not prohibited by Federal law from receiving a firearm.

### **What identification is required for a retired law enforcement officer?**

The law requires that you carry one of two types of identification. You must carry either --

- 1. A photo I.D. issued by the agency from which you separated that indicates that, within the last 12 months, you have met the standards established by your agency for active law enforcement officers to carry a firearm, *OR*
- 2. A photo I.D. issued by the agency from which you retired *AND* proof from your State that shows that, within the last 12 months, you have met the standards established by your State for active law enforcement officers to carry a firearm.

### **What are the qualification requirements for an active law enforcement officer?**

You are considered a qualified active law enforcement officer under the statute if –

- a. You are authorized by law to “engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and have statutory powers of arrest”, *AND*
- b. You are authorized by your agency to carry a firearm, *AND*
- c. You are not subject to any disciplinary action by your agency, *AND*
- d. You meet the standards of your agency and those standards require you to regularly qualify in the use of a firearm, *AND*
- e. You are not under the influence of an intoxicating or hallucinatory drug or substance, *AND*
- f. You are not prohibited by Federal law from receiving a firearm

**What identification is required for an active law enforcement officer?**

The photographic identification issued by your agency.

**What “course of fire” is required to qualify?**

This may vary. The statute says it is the course of fire required by your employing agency, or the agency from which you separated, OR the course of fire required by your State.

**What type of firearm am I allowed to transport?**

A firearm of the “same type” as the one with which you qualified. The statute is not any more specific than this.

**What does the statute NOT allow me to do?**

The statute does not offer you any protection if you –

- a. Carry the firearm onto private property where the owner lawfully prohibits or restricts concealed firearms on their property, *OR*
- b. Possess firearms on a State or local government property, installation, building, base, or park, if prohibited by the State, *OR*
- c. Transport machine guns, firearm silencers, or “destructive devices”.

Statutes:

(from Cornell Law School U.S. Code service, retrieved April 6, 2011

[www.law.cornell.edu/uscode](http://www.law.cornell.edu/uscode))

**18 U.S.C. § 926A. Interstate transportation of firearms**

Notwithstanding any other provision of any law or any rule or regulation of a State or any political subdivision thereof, any person who is not otherwise prohibited by this chapter from transporting, shipping, or receiving a firearm shall be entitled to transport a firearm for any lawful purpose from any place where he may lawfully possess and carry such firearm to any other place where he may lawfully possess and carry such firearm if, during such transportation the firearm is unloaded, and neither the firearm nor any ammunition being transported is readily accessible or is directly accessible from the passenger compartment of such transporting vehicle: Provided, That in the case of a vehicle without a compartment separate from the driver’s compartment the firearm or ammunition shall be contained in a locked container other than the glove compartment or console.

## **18 U.S.C. § 926B. Carrying of concealed firearms by qualified law enforcement officers**

**(a)** Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is a qualified law enforcement officer and who is carrying the identification required by subsection (d) may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce, subject to subsection (b).

**(b)** This section shall not be construed to supersede or limit the laws of any State that—

- (1)** permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or
- (2)** prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.

**(c)** As used in this section, the term “qualified law enforcement officer” means an employee of a governmental agency who—

- (1)** is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers of arrest;
- (2)** is authorized by the agency to carry a firearm;
- (3)** is not the subject of any disciplinary action by the agency which could result in suspension or loss of police powers;
- (4)** meets standards, if any, established by the agency which require the employee to regularly qualify in the use of a firearm;
- (5)** is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and
- (6)** is not prohibited by Federal law from receiving a firearm.

**(d)** The identification required by this subsection is the photographic identification issued by the governmental agency for which the individual is employed as a law enforcement officer.

**(e)** As used in this section, the term “firearm”--

- (1)** except as provided in this subsection, has the same meaning as in section 921 of this title;
- (2)** includes ammunition not expressly prohibited by Federal law or subject to the provisions of the National Firearms Act; and
- (3)** does not include--
  - (A)** any machinegun (as defined in section 5845 of the National Firearms Act);

- (B)** any firearm silencer (as defined in section 921 of this title); and
- (C)** any destructive device (as defined in section 921 of this title).

**(f)** For the purposes of this section, a law enforcement officer of the Amtrak Police Department, a law enforcement officer of the Federal Reserve, or a law enforcement or police officer of the executive branch of the Federal Government qualifies as an employee of a governmental agency who is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers of arrest.

### **18 U.S.C. § 926C. Carrying of concealed firearms by qualified retired law enforcement officers**

**(a)** Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is a qualified retired law enforcement officer and who is carrying the identification required by subsection (d) may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce, subject to subsection (b).

**(b)** This section shall not be construed to supersede or limit the laws of any State that—

- (1)** permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or
- (2)** prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.

**(c)** As used in this section, the term “qualified retired law enforcement officer” means an individual who—

- (1)** separated from service in good standing from service with a public agency as a law enforcement officer;
- (2)** before such separation, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest;
- (3)**
  - (A)** before such separation, served as a law enforcement officer for an aggregate of 10 years or more; or
  - (B)** separated from service with such agency, after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency;

**(4)** during the most recent 12-month period, has met, at the expense of the individual, the standards for qualification in firearms training for active law enforcement officers, as determined by the former agency of the individual, the State in which the individual resides or, if the State has not established such standards, either a law enforcement agency within the State in which the individual resides or the standards used by a certified firearms instructor that is qualified to conduct a firearms qualification test for active duty officers within that State;

**(5)**

**(A)** has not been officially found by a qualified medical professional employed by the agency to be unqualified for reasons relating to mental health and as a result of this finding will not be issued the photographic identification as described in subsection (d)(1); or

**(B)** has not entered into an agreement with the agency from which the individual is separating from service in which that individual acknowledges he or she is not qualified under this section for reasons relating to mental health and for those reasons will not receive or accept the photographic identification as described in subsection (d)(1);

**(6)** is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and

**(7)** is not prohibited by Federal law from receiving a firearm.

**(d)** The identification required by this subsection is—

**(1)** a photographic identification issued by the agency from which the individual separated from service as a law enforcement officer that indicates that the individual has, not less recently than one year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the agency to meet the active duty standards for qualification in firearms training as established by the agency to carry a firearm of the same type as the concealed firearm;

or

**(2)**

**(A)** a photographic identification issued by the agency from which the individual separated from service as a law enforcement officer; and

**(B)** a certification issued by the State in which the individual resides or by a certified firearms instructor that is qualified to conduct a firearms qualification test for active duty officers within that State that indicates that the individual has, not less than 1 year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the State or

by a certified firearms instructor that is qualified to conduct a firearms qualification test for active duty officers within that State to have met--

- (I)** the active duty standards for qualification in firearms training, as established by the State, to carry a firearm of the same type as the concealed firearm; or
- (II)** if the State has not established such standards, standards set by any law enforcement agency within that State to carry a firearm of the same type as the concealed firearm

**(e)** As used in this section—

**(1)** the term `firearm'--

**(A)** except as provided in this paragraph, has the same meaning as in section 921 of this title;

**(B)** includes ammunition not expressly prohibited by Federal law or subject to the provisions of the National Firearms Act; and

**(C)** does not include--

**(i)** any machinegun (as defined in section 5845 of the National Firearms Act);

**(ii)** any firearm silencer (as defined in section 921 of this title); and

**(iii)** any destructive device (as defined in section 921 of this title); and

**(2)** the term `service with a public agency as a law enforcement officer' includes service as a law enforcement officer of the Amtrak Police Department, service as a law enforcement officer of the Federal Reserve, or service as a law enforcement or police officer of the executive branch of the Federal Government.