

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. Copies of the statutes can be 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?

18 U.S. C. Section 926C

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

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- a. You retired in good standing from a public agency as a law enforcement officer, and you retired for reasons other than mental instability, *AND*
- b. Before retirement, you were 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 or apprehension under section [807 \(b\)](#) of title [10](#), United States Code (article 7(b) of the Uniform Code of Military Justice)", *AND*
- c. Before your retirement, you were regularly employed as a law enforcement officer for an aggregate of at least 10 years, *OR* you retired (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 your State's standards qualification in firearms training for active law enforcement officers to carry firearms, *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 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 retired 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? 18 U.S.C. Section 926B

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 has statutory powers of arrest or apprehension under section [807 \(b\)](#) of title [10](#), United States Code (article 7(b) of the Uniform Code of Military Justice)”, *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 which could result in suspension or loss of police powers, *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 will vary. The statute says it is the course of fire required by your employing agency, or the agency from which you retired, 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”.

18 U.S.C. Section 926B (retrieved from cornell.edu U.S. Code Service, 3-19-14)

(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 or apprehension under section [807 \(b\)](#) of title [10](#), United States Code (article 7(b) of the Uniform Code of Military Justice);

(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 that identifies the employee as a police officer or law enforcement officer of the agency.

(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 or apprehension under section [807 \(b\)](#) of title [10](#), United States Code (article 7(b) of the Uniform Code of Military Justice).

18 U.S.C. Section 926C (retrieved from Cornell.edu U.S. Code Service, 3-19-14)

(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 or apprehension under section [807 \(b\)](#) of title [10](#), United States Code (article 7(b) of the Uniform Code of Military Justice);

(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 identifies the person as having been employed as a police officer or law enforcement officer and 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 that identifies the person as having been employed as a police officer or 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 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.