

Nationwide Concealed Carry for Active and Retired Law Enforcement Officers

A legal approach to concealed carry by first responders

By Jason M. Wong

On July 22, 2004, President Bush signed into law the Law Enforcement Officers' Safety Act of 2004, also known by the acronym LEOSA. By enacting the law, qualified active and retired law enforcement officers may carry concealed nationwide, based solely upon their law enforcement credentials in States that may otherwise restrict the concealed carry of a firearm. Bear in mind that although law enforcement officers may carry a concealed firearm legally, there are specific requirements and limitations within the law that officers should be aware of. Disregarding the law may unnecessarily expose officers to liability that can easily be avoided by simply knowing the limitations and restrictions under the law.

Who does the law apply to? The law applies to active and retired law enforcement officers, and defines both terms within the statute. An active law enforcement officer is defined as:

- an officer that 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;
- is authorized by the agency to carry a firearm;
- is not the subject of any disciplinary action by the agency;
- meets standards, if any, established by the agency which require the employee to regularly qualify in the use of a firearm;
- is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and
- is not prohibited by State or Federal law from receiving a firearm.

So far, so good. Any officer in good standing that is not intoxicated, and meets the above requirements on an annual basis may carry concealed, subject to additional limitations.

Retired Law Enforcement Officers may also carry concealed under Federal law. A retired law enforcement officer is defined under the law as an officer that has:

- retired in good standing from service with a public agency as a law enforcement officer, other than for reasons of mental instability;
- before such retirement, 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;
- before such retirement, was regularly employed as a law enforcement officer for an aggregate of 15 years or more; or retired from service with such agency, after completing any applicable probationary period of such service-connected disability, as determined by such agency;
- has a non-forfeitable right to benefits under the retirement plan of the agency;
- during the most recent 12 month period, has met, at the expense of the individual, the State's standards for training and qualification for active law enforcement officers to carry firearms;
- is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and
- is not prohibited by State or Federal law from receiving a firearm.

If a retired law enforcement officer has met the above requirements, he may qualify under the law to carry concealed.

Being qualified is only the first step to being permitted to carry a concealed weapon nationwide. Both active and retired officers must carry some form of identification which verifies their status. For an active officer, acceptable identification includes photographic identification issued by the government agency that employs the individual officer. Retired officers must produce photographic identification issued by the government agency that employed the individual officer, and annual certification that the retired officer has met the standards established by the agency for training and qualification for active law enforcement officers to carry a firearm. Active officers are typically made to qualify with their duty weapon on an annual basis; retired officers must also qualify on an annual basis in order to be eligible to carry concealed under the law..

What are the limitations and restrictions to carrying concealed? Officers should be aware that the LEOSA allows the officer to carry concealed in any State, territory, or possession of the

United States. This allows officers to carry concealed in all fifty States, the District of Columbia, Puerto Rico, Guam, and American Samoa. Under LEOSA, an active or retired officer would not be required to hold a State issued permit for carrying a concealed firearm. It is entirely legal for an active or retired law enforcement officer that qualifies under LEOSA to carry a concealed weapon in New York City, and the States of California, New Jersey, and Hawaii – locations that are notoriously anti-gun, and generally prohibit the concealed carry of a firearm.

There are two types of State laws that are not overridden by LEOSA. First, private property owners may continue to restrict the possession of concealed weapons on private property. (you may want to add a blurb about the new ruling which permitted employees to have legally owned weapons on their employers property as long as they were secured in thier vehicles) Often, shopping malls, casinos, and restaurants will prohibit concealed weapons on their property. Second, States may prohibit or restrict the possession of firearms on any State or local government property. This may include a State owned building, courthouse, or park. Law enforcement officers must comply with State law on these two issues. It is important to conduct a little bit of research to know where and when a concealed weapon may be carried when travelling through different jurisdictions. In general terms, law enforcement officers that qualify under LEOSA are free to disregard all other state and local laws that govern the carrying of concealed firearms.

What type of weapon may be carried concealed? LEOSA is specific in types of prohibited firearms. Under the definitions within LEOSA, officers may not carry a machine gun, silencer, or destructive device as a concealed weapon. In general terms, officers should limit their concealed weapons to a reliable pistol with factory loaded ammunition to avoid unnecessary scrutiny and potential liability in the event that the firearm is needed for self defense.

What happens if you're stopped while outside of your jurisdiction? First, identify yourself as a law enforcement officer. You're likely to not be in uniform, and will be otherwise indistinguishable from the general population. Produce your identification, and inform the official of your status as a law enforcement officer. Be aware that some officers may not be aware that concealed carry by law enforcement officers within their jurisdiction is legal, and may

challenge your ability to carry concealed. If travelling outside of your jurisdiction, it may be helpful to carry a copy of LEOSA with you to educate and inform officers that are unaware of the law. Copies of the law may be found online by searching the Library of Congress website, located at <http://thomas.loc.gov>.

Knowing the law, and ensuring that all legal requirements of LEOSA are met will result in officers being able to legally and effectively carry a concealed weapon throughout the U.S., in locations where a concealed permit is virtually impossible to obtain.

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