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**FREQUENTLY ASKED QUESTIONS
CONCERNING RETIRED LAW ENFORCEMENT OFFICER
PERMITS TO CARRY FIREARMS AND THE FEDERAL LAW
ENFORCEMENT OFFICER SAFETY ACT OF 2004 (LEOSA)**

1. Definitions

For purposes of this FAQ, the terms below are defined as follows:

Retired Law Enforcement Officer or “RLEO”: An individual who has retired or separated from employment as a law enforcement officer with a federal, state, or local law enforcement agency. This term is used herein in a general and descriptive manner, and does not alter the definition of a “law enforcement officer” or “law enforcement agency” in any other law.

Qualified Retired Law Enforcement Officer or “QRLEO”: An individual who satisfies all of the requirements of the Law Enforcement Officers Safety Act of 2004 (“LEOSA”) to be considered a QRLEO, as discussed in the answer to Question 4. See 18 U.S.C. 926C(c).

2. What is LEOSA?

LEOSA is a federal law that was enacted on July 22, 2004, and amended by the Law Enforcement Officers Safety Act Improvements Act of 2010 and the National Defense Authorization Act of 2013. See 18 U.S.C. 926A-C. LEOSA bars the criminal prosecution of RLEOs who meet LEOSA’s statutory requirements for carrying concealed firearms in interstate commerce subject to certain conditions and limitations.

3. Who is qualified to carry a firearm under LEOSA?

18 U.S.C. 926C(a) provides: “Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is a [QRLEO] 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).” Accordingly, an RLEO may carry a concealed firearm that has been



shipped or transported in interstate or foreign commerce provided that they: (1) are a QRLEO as defined by LEOSA, see 18 U.S.C. 926C(c); and (2) are carrying photographic identification that is compliant with LEOSA's requirements. See 926C(d)(1)-(2).

4. Who is a QRLEO?

LEOSA defines the term QRLEO as an individual who meets all of the following requirements:

- A. The individual separated in good standing from service with a public agency as a law enforcement officer ("LEO"). 18 U.S.C. 926C(c)(1). This includes service as a LEO for state and local law enforcement agencies. It also includes service with the Amtrak Police Department, as a LEO of the Federal Reserve, and service as a law enforcement or police officer of the executive branch of the Federal Government. See 18 U.S.C. 926C(e)(2).
- B. Before the RLEO separated from a public agency as a LEO, they were authorized by law to engage in the prevention, detection, investigation, or prosecution of, or in the incarceration of, any person for any violation of the law and had statutory powers of arrest. See 18 U.S.C. 926C(c)(2).
- C. Prior to separating from service, the RLEO served as a LEO for an aggregate of 10 years or more or retired from service as a LEO, after completing any applicable probationary period of such service, due to a service connected disability, as determined by the law enforcement agency from which the RLEO separated. See 18 U.S.C. 926C(c)(3)(A) to (B).
- D. During the most recent 12-month period, the RLEO has met, at their own expense, the standards for qualification in firearms training for active law enforcement officers, as determined by the former agency of the RLEO, the State in which the RLEO resides or, if the State has not established such standards, either a law enforcement agency within the State in which the RLEO 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. See 18 U.S.C. 926C(c)(4).
- E. The RLEO has not been officially found by a qualified medical professional employed by the agency from which they separated from service to be unqualified for reasons relating to mental health and as a result of this finding will not be issued LEOSA-compliant photographic identification by their former agency. See 18 U.S.C. 926C(5)(A).
- F. The RLEO has not entered into an agreement with the agency from which they separated from service in which they acknowledged they are not qualified under this section for reasons relating to mental health and for those reasons will not receive or accept LEOSA-compliant photographic identification. See 18 U.S.C. 926C(5)(B).
- G. The RLEO is not currently under the influence of alcohol or intoxicating or hallucinatory drugs or substances while carrying a concealed firearm. See 18 U.S.C. 926C(c)(6).
- H. The RLEO is not prohibited by Federal law from receiving a firearm. See 18 U.S.C. 926C(c)(7); see also, e.g., 18 U.S.C. 922.



5. What identification is required by LEOSA?

In addition to meeting the criteria to be a QRLEO, in order to be compliant with LEOSA, an individual must possess either:

- A. A photographic identification issued by the agency from which the RLEO retired that indicates they have, not less recently than one year prior, been tested or otherwise found by the agency to meet the standards established by the agency for training and qualification for active law enforcement officers to carry a firearm, see 18 U.S.C. 926C(d)(1); or
- B. A photographic identification issued by the agency from which the RLEO retired, and a “certification issued by the State in which the individual resides that indicates that the individual has, not less than one year [prior] . . . been tested or otherwise found by the State to meet the standards established by the State for training and qualification for active law enforcement officers to carry a firearm of the same type as the concealed firearm.” See 18 U.S.C. 926C(d)(2).

6. Who can qualify for a RLEO program permit to carry a firearm (“RPO Permit”) under New Jersey law?

N.J.S.A. 2C:39-6(L) sets forth those law enforcement agencies whose retired members can seek an RPO Permit. In addition, an RLEO must “semi-annually qualif[y] in the use of the handgun the officer is permitted to carry in accordance with the requirements and procedures established by the Attorney General pursuant to [N.J.S.A. 2C:39-6(j)],” . . . “pay[] the actual costs associated with those semi-annual qualifications, and be “75 years of age or younger”

7. Does LEOSA provide an alternate path for RLEOs who separated from a New Jersey law enforcement agency and who reside in New Jersey to carry a firearm in New Jersey without an RPO Permit?

No. Every RLEO residing in New Jersey who wishes to carry a firearm in New Jersey, and who separated from a New Jersey law enforcement agency, must meet the state statutory standards and obtain an RPO Permit in accordance with N.J.S.A. 2C:39-6(L). That is because “Congress, by adopting LEOSA, did not and could not constitutionally require a state to issue documents in furtherance of this federal firearms program.” In re Wheeler, 433 N.J. Super. 560, 622 (App. Div. 2013). Being a QRLEO alone does not qualify an RLEO to concealed carry in New Jersey. See, e.g., In re Casaleggio, 420 N.J. Super. 121, 127 (App. Div. 2011). To the contrary, LEOSA “merely preempts a state’s ability to preclude, or change the requirements for, carrying the firearm interstate, if the state of former employment permits licensing of the retired officer.” In re Carry Permit of Andros, 403 N.J. Super. 271, 279 (App. Div. 2008). With respect to its own RLEOs, New Jersey sets the requirements for the issuance of identification required by LEOSA, discussed above in the answer to Question 4. See 18 U.S.C. 926C(d)(1) to (2).

8. May RLEOs who are considered QRLEOs under LEOSA, who reside in New Jersey, and who separated from an out-of-state or federal law enforcement agency, carry a firearm without applying for an RPO permit under State law?



Yes, provided that the RLEO meets all of the requirements of LEOSA. The RLEO must be a QRLEO as defined by LEOSA, discussed above in the answer to Question 4, see 18 U.S.C. 926C(c), and possess the identification required by LEOSA, discussed above in the answer to Question 5. See 18 U.S.C. 926C(d)(1) to (2).

9. If a New Jersey RLEO only wants to carry for personal protection, can they just qualify twice a year?

As discussed in the answer to Question 7, an RLEO residing in New Jersey who wishes to carry a firearm, and who separated from a New Jersey law enforcement agency, must meet the New Jersey statutory standards and obtain an RPO Permit in accordance with N.J.S.A. 2C:39-6(L), even if they only intend to do so for personal protection.

10. If I reside in New Jersey and my former New Jersey law enforcement agency issues me an identification card, does that identification card substitute for an RPO Permit if I want to carry my firearm in New Jersey?

No. As discussed in the answer to Question 7, if an RLEO who separated from a New Jersey law enforcement agency and resides in New Jersey wants to carry in New Jersey, they must meet the New Jersey statutory standards and obtain an RPO Permit in accordance with N.J.S.A. 2C:39-6(L).

If an RLEO who separated from a New Jersey law enforcement agency and resides in New Jersey wants to carry across state lines using an identification card issued by their former New Jersey law enforcement agency, they may do so if they meet LEOSA's requirements, (see Questions 3-5), including satisfying the same firearms training requirements as active duty law enforcement officers — the Attorney General's "Semi-Annual Firearms Qualification and Requalification Standards for New Jersey Law Enforcement." RLEOs are responsible for complying with LEOSA's requirements and the laws of other states in regards to their standards for permitting separated or retired law enforcement officers from other states who travel through their states to carry firearms.

11. Can separated or retired New Jersey state or local law enforcement officers domiciled out-of-state carry their firearm if they visit New Jersey?"

RLEOs who separated or retired from a New Jersey state or local law enforcement agency who are domiciled out-of-state must meet the LEOSA requirements (see Questions 3-5) in order to carry their firearm if they travel to New Jersey. A separated or retired New Jersey state or local law enforcement officer domiciled out-of-state who meets those requirements does not need a New Jersey RPO permit in order to carry their firearms if they travel through or visit New Jersey.

12. Can New Jersey RLEOs carry hollow point bullets in New Jersey, and does LEOSA provide any additional authority outside of New Jersey law to carry hollow point bullets?

RLEOs who retired from a New Jersey law enforcement agency and reside in New Jersey cannot carry hollow point bullets in New Jersey. N.J.S.A. 2C:39-3(f) states that, with very few, narrow exceptions (none of which apply to an RLEO), only active law enforcement officers are authorized to carry hollow point bullets.



Under LEOSA, **all other RLEOs** who meet the applicable requirements (see Questions 3-5) may carry any “firearm” as defined by LEOSA. See U.S.C. 926C(e)(1)(A). That term includes “ammunition not expressly prohibited by Federal law or subject to the provisions of the National Firearms Act.” 18 U.S.C. 926C(e)(1)(B). However, LEOSA precludes the carrying of “machine guns,” as defined in 26 U.S.C. 5845(b), “silencers,” as defined in 18 U.S.C. 921(24), and “destructive devices,” as defined in 18 U.S.C. 921(a)(4). See 18 U.S.C. 926C(e)(A-C).

13. Generally, what ammunition is acceptable for RLEOs who retired from a New Jersey law enforcement agency?

New Jersey RLEOs can generally use any type of commercially available ammunition, so long as it is not hollow point. Additionally, pursuant to N.J.S.A. 2C:39-17 (effective June 13, 2018), an RLEO with an RPO permit may possess and carry a large capacity ammunition magazine which is capable of holding up to 15 rounds of ammunition that can be fed continuously and directly into a semiautomatic handgun.

14. Are New Jersey RLEOs required to have a flashlight with them if they are carrying at night?

No. The flashlight is required only as a part of meeting the Attorney General’s “Semi-Annual Firearms Qualification and Requalification Standards for New Jersey Law Enforcement.” Since 2003, those standards have required all active duty police officers to carry a handheld or gun-mounted light during the handgun night qualification course. Any individual attempting to qualify according to those standards, including RLEOs with an RPO Permit or those seeking the identification required by LEOSA, is required to fulfill the same handgun night qualification course. But the flashlight requirement is not required for regular carrying of a firearm at night.

15. Does a RLEO have to qualify with each firearm they intend to carry?

Yes, if a New Jersey RLEO with an RPO Permit wants to carry different firearms, they must qualify with each firearm pursuant to N.J.S.A. 2C:39-6(L), which provides that the RLEO qualify twice a year “in the use of the handgun [they are] permitted to carry.”

Similarly, as discussed in the answer to Question 5, QRLEOs carrying pursuant to LEOSA must possess documentation that they have satisfied applicable active duty standards for qualification in firearms training to carry a firearm of the same type as the concealed firearm. See 18 U.S.C. 926C(d)(1) to (2).

16. Is it acceptable to carry a similar type of firearm as the one the RLEO used to qualify?

No. RLEOs must qualify with each firearm they wish to carry pursuant to N.J.S.A. 2C:39-6(L). The model and serial number of each firearm must be set forth on the RPO Firearms Record pursuant to the Attorney General’s Guidelines on Semi-Annual Firearms Qualification and Requalification Standards for New Jersey Law Enforcement (Definition of “Firearms Record”).



17. Does LEOSA only allow the concealed carrying of firearms?

Yes. LEOSA only permits concealed carrying of firearms by RLEOs who meet LEOSA's requirements. See 18 U.S.C. 926C(a) (“. . .an individual who is a [QRLEO] and who is carrying the identification required by [LEOSA] may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce. . . .”) (emphasis added). LEOSA further states that it “shall not be construed to supersede or limit the laws of any State” that “permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property” or “prohibit or restrict possession of firearms on any State or local government property, installation, building, base, or park.” 18 U.S.C. 926C(b)((1)-(2).

18. Does New Jersey law allow RLEOs to openly carry firearms?

RPO permits issued by the Superintendent of the State Police allow a permit holder to carry a firearm openly or concealed; however, the issuance of an RPO permit itself does not excuse a permit holder from otherwise abiding by the law.

19. Does the Security Officer Registration Act (“SORA”) authorize security officers to carry firearms openly?

No. The armed security officer certification does not, on its own, authorize the open or conceal carrying of a firearm. The certification only permits the applicant or card holder to legally work for a security company as an armed officer after they have first obtained approval for the State of New Jersey Permit to Carry a Handgun. QRLEOs who wish to carry openly for employment purposes are still required to obtain an RPO permit. Such application must be made separately through the municipal police department where the applicant resides. See N.J.S.A. 2C:58-4. Any restriction on the carrying of the firearm is made by the Superior Court when reviewing the Permit to Carry a Handgun application.

20. What documents should the RLEO have on them when they are carrying?

- A. An RLEO who resides in New Jersey and who retired from a New Jersey law enforcement agency must have their RPO permit with them at all times while carrying a firearm in New Jersey, whether openly or concealed.
- B. The following categories of RLEOs must have in their possession the LEOSA-compliant identification required by 18 U.S.C. 926C(d)(1) or (2), as discussed above in the answer to Question 4:
 - i. A QRLEO who resides in New Jersey and who retired from an out-of-state or federal law enforcement agency.
 - ii. A QRLEO who resides outside of New Jersey and is traveling into or through New Jersey.
 - iii. A QRLEO who resides in New Jersey but is traveling elsewhere in the United States.



21. When can a person privately transfer or sell a firearm without using a licensed retail dealer?

Generally, all private transfers of firearms, as defined by N.J.A.C. 13:54-1.2, must be conducted through a licensed retail dealer so that the parties to the transaction are subject to a background check. N.J.S.A. 2C:58-3(a)(2) recognizes limited exceptions to this general rule for handguns, and N.J.S.A. 2C:58-3(b)(2) recognizes identical exceptions to this general rule for antique cannons, rifles, and shotguns. These limited exceptions allows private transfers without a licensed retail dealer only between (a) members of an immediate family; (b) law enforcement officers; (c) collectors; or (d) where the transfer is only temporary.

A. What is the definition of “family?”

The term “immediate family” is defined in N.J.S.A. 2C:58-3(n) as: a spouse, domestic partner as defined in N.J.S.A. 26:8A-3, partner in a civil union as defined in N.J.S.A. 37:1-29, parent, stepparent, grandparent, sibling, stepsibling, child, stepchild, and grandchild, as related by blood or by law.

B. What is the definition of “law enforcement?”

The term “law enforcement officer” in the amendment only applies to current active law enforcement officers, not RLEOs.

C. What is the definition of “collector?”

N.J.S.A. 2C:58-3(a)(2)(c) and N.J.S.A. 2C:58-3(b)(2)(c) incorporate the definition of “collector” stated in 18 U.S.C. 921(a)(13): “any person who acquires, holds, or disposes of firearms as curios or relics” The term “curios or relics” is defined by 27 CFR 478.11 as “[f]irearms which are of special interest to collectors” that: (1) were manufactured at least 50 years prior to the current date, not including replicas; (2) were certified by “by the curator of a municipal, State, or Federal museum which exhibits firearms to be curios or relics of museum interest”; and/or (3) which “derive a substantial part of their monetary value from the fact that they are novel, rare, bizarre, or because of their association with some historical figure, period, or event. Proof of qualification of a particular firearm under this category may be established by evidence of present value and evidence that like firearms are not available except as collector’s items, or that the value of like firearms available in ordinary commercial channels is substantially less.” Under N.J.S.A. 2C:58-3(a)(2)(c) and N.J.S.A. 2C:58-3(b)(2)(c), for a collector under this definition to fit within the exception, they must also possess a valid “Collector of Curios and Relics License” issued by the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

This exception only permits the private transfer of firearms by one collector to another collector without a licensed retail dealer. It does not affect a collector’s obligation to transfer firearms to non-collectors through a licensed retail dealer or obtain a firearm purchaser identification card and/or a handgun purchase permit under N.J.S.A. 2C:58-3(a)(1) and N.J.S.A. 2C:58-3(b)(1). However, collectors, like the general public, do not need to obtain a firearms purchaser identification card to acquire a rifle or shotgun that is an antique firearm within the definition of N.J.A.C. 13:54-1.2, meaning any rifle or shotgun that “is incapable of being fired or discharged, or which does not fire fixed ammunition regardless of the date of manufacture, or was manufactured before 1898, for which



cartridge ammunition is not commercially available, and is possessed as a curiosity or ornament or for its historical significance or value.” While collectors remain obligated to possess a firearm purchaser identification card and/or a handgun purchase permit when acquiring any other firearms, they are not subject to the restriction on the number of handguns that a person may acquire on each permit and within any 30-day period under N.J.S.A. 2C:58-3(i)(2).

D. What is the definition of a “temporary transfer?”

For additional information on the “temporary transfer” exceptions, refer to N.J.S.A. 2C:58-3.1 and -3.2.

22. Who can qualify to be a “qualified firearms instructor?” Is there any difference under LEOSA or New Jersey law?

In order to become a “qualified firearms instructor” eligible to conduct firearms qualification courses for RLEOs, an instructor must make an application to the State Police and provide a certification that they are a qualified firearms instructor pursuant to Police Training Commission standards, NRA standards, or NJSP standards. Approved applicants will be added to the list of qualified firearms instructors maintained by the State Police. LEOSA standards for qualified firearms instructors are generally similar, but a LEOSA instructor who is not registered with the NJSP cannot issue a qualification for purposes of New Jersey law.

