

# LEOSA FACT SHEET

A copy of the Law Enforcement Officers Safety Act (LEOSA, Public Law 108-277, 18 U.S.C. 926B-C) is attached. Your attention is directed especially to the provisions of Section 3 of the Act (18 U.S.C. 926C) entitled "Exemption of Qualified Retired Law Enforcement Officers from State Laws Prohibiting the Carrying of Concealed Firearms".

You will note that Section 3 of LEOSA is essentially a State law preemption statute in that it exempts "a qualified retired law enforcement officer" (see the definition below) who is carrying the required "identification" (see the definition below) from most (but not all) state and local laws that prohibit the carrying of concealed weapons. It is important to note that LEOSA contains no exemption for retirees from Federal statutes and regulations (to include those relating to firearms aboard commercial aircraft).

**"A Qualified Retired Law Enforcement Officer"** is, consistent with the provisions of LEOSA at 18 U.S.C. 926C(c), an officer or agent retired from a DHS Component or predecessor agency who:

- A. Retired in good standing from service with a public agency as a law enforcement officer, other than for reasons of mental instability;
- B. 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;
- C. Before such retirement, was regularly employed as a law enforcement officer for an aggregate of 10 years or more; or Retired from service with such agency, after completing any applicable probationary period of such service, due to a service-connected disability, as determined by the Component;
- D. Has a non-forfeitable right to benefits under the retirement plan of the Component;
- E. 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;
- F. Is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and
- G. Is not prohibited by Federal law from receiving a firearm.

<sup>5</sup> Federal law also precludes aliens from receiving a firearm if the alien is illegally or unlawfully present in the United States or, except as provided in 18 U.S.C. 922(y)(2), has been admitted to the United States under a non-immigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(26)).

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**"Those Prohibited by Federal Law From Receiving a Firearm"** include, consistent with the provisions of 18 U.S.C. 922(g) and (n), any person who:

- A. Has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;
- B. Is a fugitive from justice;
- C. Is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));
- D. Has been adjudicated as a mental defective or who has been committed to a mental institution;
- E. Has been discharged from the Armed Forces under dishonorable conditions;
- F. Having been a citizen of the United States, has renounced his or her citizenship;
- G. Is subject to a court order that:
  - (1) Was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;
  - (2) Restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and
  - (3) Includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury;

H. Has been convicted in any court of a misdemeanor crime of domestic violence; or

I. Is under indictment for a crime punishable by imprisonment for a term exceeding one year. It is important to note that retirees who either now or at some future time no longer meet any one of the requirements or become subject to any one of these prohibitions set out above would no longer be covered under the exemptions from State and local firearms laws contained in LEOSA.

On an annual basis, the retiree shall certify to the Component in writing, or in a manner acceptable to the Component, that the retiree is not subject to any of the disqualifiers in 18 U.S.C. 922(g) and (n) that would prohibit an individual from receiving a firearm.

**"Identification"** is, for the purposes of DHS's implementation of the LEOSA, and consistent with the provisions of LEOSA at 18 U.S.C. 926C(d)(2), defined as:

- A. A photographic identification issued by the Component from which the individual retired from service as a law enforcement officer; and

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B. A certification issued by the State in which the individual resides 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 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.

***Certifications Issued By the State:*** To meet LEOSA requirements, law enforcement retirees from DHS Components and their predecessor agencies must annually "be tested or otherwise be found ...to meet ...standards" by a non-DHS entity authorized to issue "a certification ...by the State in which the [retiree] resides" indicating that the retiree has "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..." The availability of such "certifications" varies by State, and it is the responsibility of the individual DHS law enforcement retiree to determine and meet the requirements of his or her state of residence for obtaining this "certification." DHS Components will not perform or assist with annual firearms testing for their retirees.

Retirees are reminded:

A. That they must have their DHS Component (or predecessor agency) "photographic identification" **and** up-to-date annual State firearms testing "certification" in their possession at all times when they will be carrying a concealed firearm under the authority of LEOSA. Possession of the "photographic identification" alone does not authorize a retiree to carry a concealed firearm.

B. That, in order to carry a concealed weapon under the authority of LEOSA, they must, in addition to having the required "photographic identification" and current State firearms testing "certification" in their possession, also be in compliance with all of the other requirements (set out above) of the Act concerning being a "Qualified Retired Law Enforcement Officer" who is not "Prohibited by Federal Law From Receiving a Firearm".

C. That the required DHS Component (or predecessor agency) "photographic identification" is only for the purpose of identifying them as being a retired law enforcement officer from that Component or former agency. Neither that "identification" nor LEOSA confer law enforcement status or arrest authority. The identification and the LEOSA law enforcement status do not authorize retirees to engage in any law enforcement activities or investigations.