

Mr. Williams--

Thanks for your e mail. We have had a lot of questions about this in the past couple of years. This is going to be a long answer to a short question, and I apologize, but I want to be thorough.

I'm sure you're familiar with the federal law on concealed carry by active and retired law enforcement officers. Here is the text of the law as passed by Congress in 2004 (note that the first provision, 18 U.S.C. 926B deals with active LEOs; 18 U.S.C. 926C deals with retired LEOs):

§ 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;
- (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" does not include--

- (1) any machinegun (as defined in section 5845 of the National Firearms Act);
- (2) any firearm silencer (as defined in section 921 of this title); and
- (3) any destructive device (as defined in section 921 of this title).

§ 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) retired in good standing from service with a public agency as a law enforcement officer, other than for reasons of mental instability;

(2) 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;

(3)(A) before such retirement, was regularly employed as a law enforcement officer for an aggregate of 15 years or more; or

(B) retired 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) has a nonforfeitable right to benefits under the retirement plan of the agency;

(5) 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;

(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 retired 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 standards established by the agency for training and qualification for active law enforcement officers 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 retired from service as a law enforcement officer; and

(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.

(e) As used in this section, the term "firearm" does not include--

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

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

(3) a destructive device (as defined in section 921 of this title).

OK. So that's the federal law that was passed. As you may know, the basic idea, as I understand it, was to recognize the fact that we have many able-bodied and able-minded LEOs, both active

and retired. And just because they're off-duty, out of their jurisdiction, or retired doesn't mean that we want them to intervene because they're not "on the clock."

Now, as you can see, the requirements that a qualifying person must meet are spelled out, as to both active and retired LEOs. And there's a state piece of it relating to the identification that must be carried (essentially, for active duty: the ID they would otherwise carry; for retired: a certification from the state indicating that they are current on training, qualifications, etc.).

So there arose a question of state implementation as to the retired LEOs seeking certification. As you may know, Missouri peace officers are certified by the Peace Officer Standards and Training (POST) Commission, which is within the Missouri Department of Public Safety.

And to be honest, I have not heard much about what POST or the Department have done. I have only heard anecdotally that some retired LEOs have had difficulty getting the necessary certification. Let me drill down on that a little more and report back.

So that's where we are vis-a-vis the federal law. There is a new state law that addresses this issue, though, and may alleviate any concerns and/or confusion regarding state implementation of the federal law.

As you have probably heard, the Missouri General Assembly passed legislation (SBs 62 & 41) making a number of changes to our firearms laws and our laws relating to the use of force.

Here's a link to the version of the combined bills that passed:

<http://www.senate.mo.gov/07info/pdf-bill/tat/SB62.pdf> . Called the "Castle Doctrine Bill," this legislation contains a provision addressing concealed carry by retired LEOs. Those changes went into effect on Tuesday August 28. Prior to the change, any POST-certified LEO (whether state, county, or municipal) could carry concealed whether on or off duty and whether within or outside of his/her jurisdiction. That provision remains, and SBs 62 & 41 added to it language that authorizes "all qualified retired peace officers" to carry concealed, provided they meet a definition provided by the Bill and that they carry the identification required by the Bill. (This is found on page 6 of the .pdf version of the Bill).

Here's the definition (from page 8 of the .pdf version):

10. As used in this section "qualified retired peace officer" means an individual who:

- (1) Retired in good standing from service with a public agency as a peace officer, other than for reasons of mental instability;
- (2) 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;
- (3) Before such retirement, was regularly employed as a peace officer for an aggregate of fifteen 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 such agency;
- (4) Has a nonforfeitable right to benefits under the retirement plan of the agency if such a plan is available;
- (5) During the most recent twelve-month period, has met, at the expense of the individual, the standards for training and qualification for active peace officers to carry firearms;

- (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.

(Look familiar? Almost identical to the federal law included above).

Here is the section dealing with the identification that must be carried (from page 9 of the .pdf version):

11. The identification required by subdivision (1) of subsection 2 of this section is:

- (1) A photographic identification issued by the agency from which the individual retired from service as a peace 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 standards established by the agency for training and qualification for active peace officers to carry a firearm of the same type as the concealed firearm; or
- (2) A photographic identification issued by the agency from which the individual retired from service as a peace officer; and
- (3) 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 peace officers to carry a firearm of the same type as the concealed firearm.

(Again, almost identical to the federal law).

So, as you can see, an individual who meets the definition of "qualified retired peace officer" in Section 571.030.10 of the Revised Statutes of Missouri, and carries the identification required by Section 571.030.11, does not commit the crime of unlawful use of a weapon if he/she carries a concealed firearm.

I hope this answers your questions. I will try to see what I can find on POST's implementation of HR 218's provisions, especially because my guess is that POST will be the agency issuing the certifications described in Section 571.030.11(3). Sorry about the length of this answer. I just thought it would be helpful to include the actual text of the relevant laws.