



United States Department of the Interior

NATIONAL PARK SERVICE UNITED STATES PARK POLICE

Headquarters
1100 Ohio Drive, S.W.
Washington, D.C. 20024

IN REPLY REFER TO:

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Memorandum No. 6
(Series 2005)

To: The Force

From: Chief, United States Park Police

Subject: Law Enforcement Officers Safety Act of 2004

This memorandum details Public Law 108-277, Law Enforcement Officers Safety Act of 2004, which is codified at 18 U.S.C. §§ 926B and 926C. This Act exempts, with certain limitations and conditions, "qualified" active and retired law enforcement officers who carry certain identification from certain State and local laws prohibiting the carrying of certain concealed firearms. This memorandum also details how qualified retired Force officers may obtain Force photographic identification and firearms certification.

Under pertinent parts of the Act, an active Force officer is a "qualified law enforcement officer" if the officer is not the subject of any disciplinary action by the agency, meets standards established 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 Federal law from receiving a firearm. Under pertinent parts of the Act, a retired Force officer is a "qualified retired law enforcement officer" if the officer retired in good standing from service as a law enforcement officer other than for reasons of mental instability, before retirement was regularly employed as an officer for an aggregate of 15 years or more or retired from service, after completing any applicable probationary period of such service, due to a 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 either the agency's or 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 Federal law from receiving a firearm.

All active and retired officers are reminded that they are not exempt from applicable Federal laws as well as any other State and local laws, and that the misuse of a firearm always carries the potential for personal civil and perhaps criminal liability. Further, the Force assumes no liability if a qualified retired officer is provided Force photographic identification and/or certification, and any such documentation remains the property of the Force.

I. Law Enforcement Officers Safety Act of 2004

A. With respect to active Force officers, 18 U.S.C. § 926B provides as follows:

(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 machine gun (as defined in [26 USC § 5845]);

(2) any firearm silencer (as defined in [18 USC § 921]); and

(3) any destructive device (as defined in [18 USC § 921]).

B. With respect to retired Force officers, 18 U.S.C. § 926C provides as follows:

(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 non forfeitable 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 machine gun (as defined in [26 USC § 5845]);

(2) any firearm silencer (as defined in [18 USC § 921]); and

(3) a destructive device (as defined in [18 USC § 921]).

II. United States Park Police Identification/Firearms Certification Process under the Law Enforcement Officers Safety Act of 2004

A. For qualified Force officers, the only photographic identification required under 18 U.S.C. §§ 926B(d) is the Force-issued standard photographic identification.

B. For qualified retired Force officers, there are two possible types of photographic identification/firearms certification:

(a). Under 18 U.S.C. §§ 926C(d)(1), the Force may issue photographic identification that also contains a certification that indicates that the retiree has, within the previous twelve months, been tested or otherwise been found by the Force to meet its standards for the training and qualifications required for active Force officers to carry a firearm of the same type as the concealed firearm.

For qualified Force retirees to obtain such photographic identification/firearms certification under the Act, you must submit a request to the Human Resources Office, United States Park Police, 1100 Ohio Drive, SW., ATTN: Personnel Security Unit, Washington, DC 20024. A retiree who attends a photograph session may turn in the completed package, including the Personnel Firearms Training Report at that time, or mail in the completed package as set forth herein.

The annual firearms training and qualification for qualified Force retirees can be accomplished in one of two ways. Retirees can attend firearms training at one of the ranges designated by the United States Park Police. The dates and times for this training will be posted on the Force's Webpage, the Weekly Bulletin, or the nearest Field Office or Headquarters can be contacted. In instances where this is not convenient, as in the case of a retiree living out of state, the training may be provided at a local law enforcement agency, if this service is made available. The retiree will be provided the mandated safety brief, description of the required course of fire, and a Retired Personnel Firearms Training Report.

The retiree must complete the mandated training under the supervision of a qualified range officer and return the completed forms to the Training Branch. If qualification is completed during the retiree's annual certification and the Force Firearms Instructor determines that it is adequate, the Instructor will issue a qualification sticker good for one year. Persons qualified at other ranges will be mailed their annual qualification sticker upon receipt of the completed form by the Training Branch.

Qualified retired officers must undergo a National Instant Criminal Background Check System ("NICS") check if they are purchasing a firearm for their own use, and Federal firearms licensees must still complete and retain required records under the Gun Control Act. As a condition of issuance of the authorization, the retiree's fingerprints will be taken and maintained in the Department database, each year, and the authorization will be revoked at any time should the holder become ineligible to possess a firearm. The retiree's physician must complete a form certifying the retiree's physical and mental health. If a medical condition is present, the retiree

will be asked for physician's certification as to his/her capability to carry a firearm. This will be a yearly requirement following retirement.

(b). Under 18 U.S.C. §§ 926C(d)(2)(A), the Force may issue photographic identification that simply indicates that the individual is a retired Force officer. In such circumstances, under 18 U.S.C. §§ 926C(d)(2)(B) the retiree must then obtain a certification issued by the State in which the retiree 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.”

Finally, this memorandum addresses retirees who would like to take advantage of the Law Enforcement Officers Safety Act of 2004. United States Park Police retirees who possess concealed handgun authorization by the Commonwealth of Virginia or the State of Maryland are free to continue to use their current permit, within the permit’s specified limits, as well as within those States where reciprocity has been established.

Nothing in this memorandum creates any rights, privileges, or benefits, substantive or procedural, enforceable by any party against the United States, its departments, agencies, or other entities, or its officers or employees, or any other person.

Questions concerning this memorandum may be directed to the Planning and Development Unit at (202) 619-7385.