

General Order

Houston Police Department



ISSUE DATE:

April 3, 2017

NO.

400-06

REFERENCE: Supersedes all prior conflicting Circulars and Directives, and General Order 400-06, dated April 28, 2015

SUBJECT: CARRYING CONCEALED FIREARMS

POLICY

This General Order applies to all active and retired classified employees desiring to carry a concealed firearm under the Law Enforcement Officers Safety Act of 2004 (LEOSA) as amended by the Law Enforcement Officers Safety Act Improvements Act of 2010 and the National Defense Authorization Act of 2013.

Under LEOSA, qualified active and qualified honorably retired police officers may be allowed to carry a concealed firearm in any jurisdiction in the United States or United States Territories. However, the act does not create a right to do so. Active officers who are carrying a firearm while off duty in another state do not have law enforcement authority unless specifically granted that authority by that state. LEOSA pertains only to the authority to carry concealed firearms.

Any state may restrict where an officer may carry a concealed firearm while in their jurisdiction. LEOSA does not authorize active or retired officers to carry a firearm in otherwise prohibited locations. Officers should check the laws of the states where they intend to carry to ensure they are in compliance before traveling out of state.

Officers shall be responsible for adhering to LEOSA standards and following all department policies regarding qualification with and carrying and control of firearms.

Retired officers applying for certification to carry a concealed firearm in Texas only shall see General Order 400-05, **Firearms Qualification and Control**, section entitled, *Qualification for Retired Officers*.

DEFINITIONS

Firearm. For the purposes of this General Order, a firearm is any weapon capable of expelling a projectile by the action of an explosive. This includes any lawful ammunition.

A firearm does NOT include any type of:

- a. Machine gun.
- b. Silencer for a firearm.
- c. Destructive device (as defined in 18 United States Code Annotated [U.S.C.A.] §921).
- d. Antique firearm (or replica) made in or before 1898 or firearm using ammunition no longer manufactured.

Qualified Active Officer. An employee of a governmental agency who meets all of the stipulations as outlined in LEOSA. Stipulations include all of the following.

The officer:

- a. Has statutory powers of arrest and 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.
- b. Is authorized by the employing agency to carry a firearm.
- c. Is not the subject of any disciplinary action by the employing agency that could result in suspension or loss of police powers.
- d. Meets all standards established by the employing agency requiring the employee to regularly qualify in the use of a firearm.
- e. Is not under the influence of alcohol or any intoxicating or hallucinatory drug or substance (see General Order 300-28, **Use of Intoxicants**).
- f. Is not prohibited by federal law from receiving a firearm.

Qualified Retired Officer. Any retired law enforcement officer who meets all of the stipulations as outlined in LEOSA.

LEOSA stipulations include that the individual:

- a. Separated from service in good standing with a public agency as a law enforcement officer.
- b. Prior to separation, had statutory powers of arrest and 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.
- c. Served as a law enforcement officer for an aggregate of 10 years or more; or after completing any applicable probationary period, separated from service as a law enforcement officer due to a service connected disability as determined by the employing agency.
- d. During the most recent 12-month period, met the agency's or state's standards for training and qualification for active law enforcement officers to carry a firearm of the same type (revolver, semi-automatic, or both) as the concealed firearm.
- e. Has not been officially found by a qualified medical professional employed by the agency to be unqualified for reasons relating to mental health.
- f. Has not entered into an agreement with the agency, in which that individual acknowledges he or she is not qualified for reasons relating to mental health.
- g. Is not under the influence of alcohol or any intoxicating or hallucinatory drug or substance (see General Order 300-28, **Use of Intoxicants**).
- h. Is not prohibited by federal law from receiving a firearm.

1 RESTRICTIONS

Qualified active and qualified retired officers are permitted to carry a concealed firearm under LEOSA subject to the following restrictions:

Federal Restrictions

- a. Federal, state, and local governments, and sovereign tribal nations can prohibit or restrict the possession of firearms on its properties, airports, buildings, bases, installations, parks, or other designated gun free zones. Additionally, any person, business, or entity is permitted to prohibit or restrict the possession of concealed firearms on property under the control of that person, business, or entity.
- b. Qualified active or qualified retired law enforcement officers must have on their person a current photographic identification (ID) issued by their employing agency or former employing agency if retired. It is also suggested employees carry on their person an additional government photographic ID (e.g., driver license or passport).

HPD Restrictions

- a. Employees shall comply with all department directives, orders, policies, and procedures concerning qualification with and carrying and control of concealed firearms (see General Order 400-05, **Firearms Qualification and Control**).
- b. Active and retired officers who have been issued an ID by HPD are restricted from carrying a firearm if they are under the influence of alcohol or any intoxicating or hallucinatory drug or substance. Active and retired officers are also restricted from carrying a firearm if over-the-counter or prescribed medicine may impair their mental or physical condition.

2 PHOTOGRAPHIC ID REQUIREMENTS

Under 18 U.S.C.A. §926B(d), the photographic ID issued to qualified active officers by their employing governmental agencies is sufficient to comply with the requirements of LEOSA. The Houston Police Department's ID cards for active officers shall contain the language, "The holder qualifies for the right to carry a firearm under federal law, 18 U.S.C.A. §926B."

In order for a qualified retired officer to comply with the requirements of LEOSA, the photographic ID must be issued by the agency from which the individual separated from service. The retired officer must also be tested and found to meet the standards for training and qualification for active law enforcement officers to carry a firearm of the same type as the concealed firearm.

The identification issued by the Houston Police Department to retired officers qualifying under LEOSA shall contain the language, "The holder qualifies for the right to carry a firearm under federal law, 18 U.S.C.A. §926C."

When questions arise regarding the legal status of a person who is carrying a firearm under LEOSA, classified officers shall consult the Harris County District Attorney's Office. If there is a question regarding the validity of a particular ID, the issuing agency shall be contacted.

3 PROCEDURES AFTER SEPARATION FROM HPD

Upon initial separation, honorably retired HPD officers may be issued a photographic departmental identification by the Employee Services Division (ESD) indicating their retirement status.

Applications to carry a concealed firearm should be submitted to ESD no more than two weeks prior to the retirement date. ESD shall verify that all the requirements have been met prior to certification.

Upon approval, applicants shall be required to demonstrate firearm proficiency prior to receiving certification. The proof of proficiency shall be for the same type of firearm as the concealed firearm.

4 RENEWAL OF ID WITH CERTIFICATE OF FIREARM PROFICIENCY

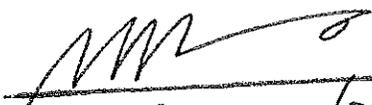
ESD shall conduct an internal review, criminal history check, and state driver license verification on all renewal applicants. TCOLE licenses may be checked since retired police officers might be working as peace officers for other law enforcement agencies.

Correspondence, including the results of the background check and firearm proficiency test, shall be prepared by ESD and forwarded to the Office of Legal Services for review. Upon final approval, ESD shall issue the retiree the appropriate honorably retired ID with certificate of firearm proficiency.

5 RELATED GENERAL ORDERS AND REFERENCE MATERIAL

100-03, Definitions of Terms
200-08, Conduct and Authority
200-16, Firearm and Soft-Impact Weapon Discharges
300-10, Transitional Duty Assignment
300-15, Appearance and Grooming Standards – Classified
300-28, Use of Intoxicants
300-35, Phase Down Program
400-02, HPD Badges, Identification Cards, and Challenge Coins
400-05, Firearms Qualification and Control
500-01, Effecting Arrests and Searches
600-05, Special Threat Situations
600-17, Response to Resistance
700-01, Property/Evidence Control Regulations
18 U.S.C.A. §921, §926B, and §926C


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Approved 3/31/2017
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