

H.R.218 – The Right to Carry

*One Hundred Eighth Congress Of the United States of America
AT THE SECOND SESSION*

Begun and held at the City of Washington on Tuesday, the twentieth day of January, two thousand and four

An Act

To amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Law Enforcement Officers Safety Act of 2004".

SEC. 2. EXEMPTION OF QUALIFIED LAW ENFORCEMENT OFFICERS FROM STATE LAWS PROHIBITING THE CARRYING OF CONCEALED FIREARMS.

(a) In General- Chapter 44 of title 18, United States Code, is amended by inserting after section 926A the following:

'Sec. 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).
- (b) Clerical Amendment- The table of sections for such chapter is amended by inserting after the item relating to section 926A the following:
- 926B. Carrying of concealed firearms by qualified law enforcement officers.

SEC. 3. EXEMPTION OF QUALIFIED RETIRED LAW ENFORCEMENT OFFICERS FROM STATE LAWS PROHIBITING THE CARRYING OF CONCEALED FIREARMS.

- (a) In General- Chapter 44 of title 18, United States Code, is further amended by inserting after section 926B the following:

Sec. 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).

(b) Clerical Amendment- The table of sections for such chapter is further amended by inserting after the item relating to section 926B the following:
926C. Carrying of concealed firearms by qualified retired law enforcement officers.

Speaker of the House of Representatives.

Vice President of the United States and President of the Senate.