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### LAW ENFORCEMENT OFFICERS SAFETY ACT OF 2007

SEPTEMBER 5, 2007.—Ordered to be printed

Mr. LEAHY, from the Committee on Judiciary,  
submitted the following

#### R E P O R T

together with

#### MINORITY VIEWS

[To accompany S. 376]

The Committee on the Judiciary, to which was referred the bill (S. 376), to amend title 18, United States Code, to improve the provisions relating to the carrying of concealed weapons by law enforcement officers, and for other purposes, having considered the same, reports favorably thereon and recommends that the bill do pass.

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#### I. PURPOSE AND NEED FOR S. 376

##### A. SUMMARY

The purpose of S. 376, the Law Enforcement Officers Safety Act of 2007 is to amend current law to improve the processes by which retired officers can receive certification to carry concealed firearms across State lines, to refine the eligibility requirements for retired

law enforcement officers, and to clarify that officers employed by both Amtrak and the executive branch are covered by LEOSA's provisions.

#### B. BACKGROUND AND NEED FOR LEGISLATION

On January 24, 2007, Judiciary Committee Chairman Patrick Leahy introduced the Law Enforcement Officers Safety Act of 2007, S. 376, to make amendments to the existing law (18 U.S.C. §§ 926B, 926C). Judiciary Committee Ranking Member Arlen Specter, and Senators John Cornyn and Jon Kyl are original cosponsors of the bill. Senators Max Baucus, Chuck Grassley, Jeff Sessions, Kent Conrad, Pete Domenici, and Gordon Smith joined as cosponsors.

Since the enactment of the Law Enforcement Officers Safety Act of 2003, varying State laws and regulations have hindered the consistent and effective implementation of the law, particularly with respect to qualified retired law enforcement officers. Under current law, qualified retired law enforcement officers must carry photographic identification issued by the agency at which they were employed and documentation that certifies they have met, within the most recent 12-month period, the active duty law enforcement standards for qualification for a firearm of the same type as the one they intend to carry. Currently, the certification component of this document must be issued by the retired officer's former agency or by the State in which the retired officer resides.<sup>1</sup>

Adding to the uncertainty in this regard was a memorandum issued on January 31, 2005 by then-Attorney General of the United States John Ashcroft. In his memorandum to all law enforcement agencies under the Department of Justice,<sup>2</sup> Attorney General Ashcroft directed:

Individual components shall not themselves train or qualify retired employees to carry a firearm, as authorized under the law. In order to be authorized under the Act to carry a firearm, a retired qualified LEO from a DOJ component must qualify pursuant to 18 U.S.C. § 926C(d)(2)(B), and in accordance with state standards for active LEOs.<sup>3</sup>

The effect of the Attorney General's memorandum was to preclude officers who had retired from service with a Department of Justice component from certification pursuant to 18 U.S.C. § 926C(d)(1),<sup>4</sup> which provides that a qualified retired officer may satisfy the law with a single identification card from their agency denoting both prior service with the agency and firearms testing within one year prior to the date of carriage. The practical result

<sup>1</sup> 18 U.S.C. § 926C(d)(1) & (2).

<sup>2</sup> Bureau of Alcohol, Tobacco, Firearms, and Explosives; Drug Enforcement Administration; Federal Bureau of Investigation; Federal Bureau of Prisons; The Inspector General; United States Marshals Service.

<sup>3</sup> Memorandum from the Attorney General, January 31, 2005, available at <http://www.usdoj.gov/olp/agmemo01312005.pdf> (last visited July 9, 2007).

<sup>4</sup> (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  
18 U.S.C. § 926C(d)(1).

of the Attorney General's directive was to subject officers who had retired from Federal law enforcement to varying State procedures in order to satisfy the firearms testing requirement of 18 U.S.C. § 926C(d)(2)(B).

To remedy the difficulties that have arisen in some jurisdictions for retired law enforcement officers, S. 376 provides that a "certified firearms instructor" may conduct testing and qualify retired law enforcement officers using the active duty standards for qualification in firearms training as established by the State. Moreover, S. 376 also provides that if the State has not established such standards, the qualified instructor may conduct testing pursuant to standards set by any law enforcement agency within that State.

This change would enable any certified firearms instructor to qualify a retired officer using either the standards set by the State in which the instructor is certified and the officer resides, or in the absence of such standards—or the recognition thereof—the standards of any law enforcement agency in the State.

The legislation would also make clear that those active and retired law enforcement officers who are or were employed by the Amtrak Police Department meet the definition of "qualified active law enforcement officer" and "qualified retired law enforcement officer."<sup>5</sup> Under current law, because Amtrak is, under Title 49, "not a department, agency, or instrumentality of the United States Government,"<sup>6</sup> police officers employed by Amtrak do not meet the definition in LEOSA, which requires them to be an "employee of a governmental agency."<sup>7</sup>

The Amtrak Police Department, first accredited in 1992, has been reaccredited twice—in 1997 and 2002 by the Commission on Accreditation for Law Enforcement Agencies (CALEA). The department has a K-9 team, a Drug Enforcement Unit, an Aviation Unit, and a Mobile Command Center. Amtrak police officers are assigned to the Federal Bureau of Investigation's (FBI) Joint Terrorism Task Force (JTTF) and Joint Operations Center in Washington, D.C. In 1999, Congress amended the Omnibus Crime Control and Safe Streets Act of 1968 to allow railroad police officers to attend the FBI's National Academy for Law Enforcement Training.<sup>8</sup> To date, several Amtrak officers have successfully completed that program.

Further, in the most recent report on Federal law enforcement officers available, entitled *Federal Law Enforcement Officers, 2004*, the U.S. Department of Justice, Bureau of Justice Statistics listed the Amtrak Police Department as a Federal law enforcement agency.<sup>9</sup>

In light of the fact that the officers of the Amtrak Police Department are Federal law enforcement officers and, but for the language in Title 49, would clearly meet the definition in LEOSA, it is appropriate for these officers to be eligible for the benefits of LEOSA. For these reasons, S. 376 expands the definitions in 18 U.S.C. §§ 926B and 926C to include the officers employed by the Amtrak Police Department.

<sup>5</sup> 18 U.S.C. §§ 926B(c) & 926C(c).

<sup>6</sup> 49 U.S.C. § 24301(a)(3).

<sup>7</sup> 18 U.S.C. § 926B(c).

<sup>8</sup> 42 U.S.C. § 3771(a).

<sup>9</sup> Bureau of Justice Statistics, *Bulletin, Federal Law Enforcement Officers, 2004*, July, 2006, available at <http://www.ojp.usdoj.gov/bjs/pub/pdf/fleo04.pdf> (last visited July 18, 2007).

The bill also addresses two other issues that have unduly restricted retired officers from being eligible for the privileges conferred under LEOSA. The bill reduces the required years of service, from 15 to 10, that a retired officer must have in order to be eligible for LEOSA certification. This change is responsive to the reality that some law enforcement officers enter the field as a second career, often subsequent to military service. This change is intended to include those officers who entered the law enforcement field later in their careers, but who are no less dedicated to the profession.

The bill also removes the requirement in existing law that a retired officer be entitled to “non-forfeitable” retirement benefits. Some small State and local law enforcement agencies do not provide these benefits, and this requirement had the effect of disqualifying otherwise eligible retired officers.

## II. LEGISLATIVE HISTORY AND COMMITTEE CONSIDERATION

In 2004, Congress passed, and President Bush signed into law the Law Enforcement Officers Safety Act of 2003 (PL 108–277). The Senate version of that bill (S. 253) was co-sponsored by 70 senators and was reported out of the Judiciary Committee on March 6, 2003 by a vote of 18–1. It was agreed to in the House of Representatives by a voice vote on June 23, 2004, and passed by unanimous consent in the Senate on July 7, 2004. The President signed the Law Enforcement Officers Safety Act of 2003 into law on June 22, 2004.

The history of the Law Enforcement Officers Safety Act of 2003 is recounted in Senate Report 108–029.

Chairman Leahy introduced S. 376 on January 24, 2007, and the bill was referred to the Senate Judiciary Committee. The bill was first listed on the Committee’s agenda on March 1, 2007. The measure was held over for a number of weeks, until May 15, 2007, when the Committee met in open session and reported the bill favorably by voice vote and without amendment.

## III. SECTION-BY-SECTION SUMMARY

Section 1 designates the short title of the bill as the “Law Enforcement Officers Safety Act of 2007”.

Section 2(a) adds a subsection to 18 U.S.C. § 926B making explicit that Amtrak police and executive branch law enforcement officers are included under the statute regulating concealed weapons carrying by active duty officers.

Section 2(b)(1)(A) amends 18 U.S.C. § 926C to reduce to 10 years, from 15 years, the duration of service as a law enforcement officer required in order to be qualified to carry a concealed weapon once retired. Section 2(b)(1)(B) eliminates the requirement that a “qualified retired law enforcement officer” have a non-forfeitable right to retirement benefits and expands the list of organizations qualified to certify the retired officer’s firearms training. Section 2(b)(1)(C) renumbers certain paragraphs.

Section 2(b)(2)(A) clarifies language describing the identification retired officers with concealed weapons are required to carry. Section 2(b)(2)(B) allows instructors who conduct firearms qualification tests on active duty officers to also certify retired officers.

Section 2(b)(3) adds a subsection making explicit that Amtrak police and executive branch law enforcement officers are included under the statute regulating concealed weapons carrying by retired officers.

#### IV. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with paragraph 11(a) of rule XXVI, of the Standing Rules of the Senate, the Committee sets forth, with respect to the bill, S. 1140, the following estimate prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, May 29, 2007.*

Hon. PATRICK J. LEAHY,  
*Chairman, Committee on the Judiciary,*  
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 376, the Law Enforcement Officers Safety Act of 2007. If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz.

Sincerely,

PETER R. ORSZAG,  
*Director.*

Enclosure.

#### *S. 376—Law Enforcement Officers Safety Act of 2007*

Current law exempts certain active and retired law enforcement officers from most state and local laws prohibiting the carrying of concealed firearms. S. 376 would clarify that officers of the Amtrak Police Department and the executive branch of the federal government would qualify as individuals who may carry concealed firearms. The bill also would change the requirements that retired officers must meet to carry concealed firearms. CBO estimates that implementing the bill would result in no significant costs to the federal government. Enacting S. 376 would not affect direct spending or receipts.

S. 376 contains an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA) because it would expand a current mandate that preempts certain state or local laws prohibiting the carrying of concealed weapons. Currently, federal law allows active and retired law enforcement officers who meet certain requirements to carry concealed weapons; this authority preempts some state and local statutes that prohibit private citizens or law enforcement officers from carrying such weapons. S. 376 would increase the number of current and former officers who would be allowed to carry concealed weapons. CBO estimates that the costs, if any, to those governments would be insignificant and well below the annual threshold established in that act (\$66 million in 2007, adjusted annually for inflation). S. 376 contains no new private-sector mandates as defined in UMRA.

The CBO staff contacts for this estimate are Mark Grabowicz (for federal costs), and Melissa Merrell (for the impact on state and local governments). This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

#### V. REGULATORY IMPACT STATEMENT

In compliance with rule XXVI of the standing Rules of the Senate, the Committee finds that no significant regulatory impact will result from the enactment of S. 376.

#### VI. CONCLUSION

In passing the Law Enforcement Officers Safety Act of 2003, the Senate recognized that law enforcement officers are never off-duty. The bill the Committee reports in 110th Congress continues this recognition by making changes to existing law necessary to ensure that qualified retired officers are able to gain the privileges and protections Congress originally intended in the Law Enforcement Officers Safety Act of 2003.

## VII. MINORITY VIEWS OF SENATOR KENNEDY

I strongly oppose S. 376, which amends the Law Enforcement Officers Safety Act of 2004 (LEOSA). The bill is a serious step in the wrong direction and will undermine the safety of our communities and our police officers by further overriding state and local gun-safety laws. It will also weaken the ability of police departments to enforce rules and policies on when and how their own officers can carry firearms. Because of the substantial danger of S. 376 to police officers and communities, it is vigorously opposed by the International Association of Chiefs of Police and the National Sheriffs' Association.

### A. S. 376 WILL FURTHER WEAKEN THE ABILITY OF STATES AND LOCAL GOVERNMENTS TO REGULATE FIREARMS IN THEIR COMMUNITIES

Every year, thousands of our fellow citizens are killed by guns. The devastating tragedy that occurred at Virginia Tech last April shocked the nation. The country was united in extending our deepest condolences and prayers to the students, faculty, and families affected by that brutal crime. Many of the victims were young men and women in the prime of their lives. They were sons and daughters, brothers and sisters, friends and neighbors. Yet, as part of this ill-conceived measure, the Committee has approved provisions to allow even more people to carry concealed weapons in our communities.

The overall rate of firearm deaths among children is nearly twelve times higher in the United States than in other industrial countries. These deaths are senseless, and we all know that the vast majority of them could be prevented by sensible gun laws. It is shameful that we are not doing more in Congress to achieve gun safety and reduce gun violence. The "gun show loophole," which allows firearms to be purchased illegally at gun shows, should have been closed long ago, and there are many other steps that Congress should take to protect citizens from the scourge of gun violence.

At the very least, Congress should refrain from interfering with gun-safety laws enacted by states and local governments. Before LEOSA was enacted in 2004, each state had the authority to decide what kind of concealed-carry law, if any, best fit the needs of its communities. But the 2004 Act took away the ability of state and local police departments to enforce rules and policies on when and how their own officers can carry weapons. If we are going to amend the Act, we should give back the power of local police to run their own departments, not further undermine their ability to protect their citizens.

No evidence supported the need for the law when it was first enacted. States and local governments adequately met the interests and needs of their active duty and retired law enforcement officers. Consider, for example, New Jersey law. In 1995, retired police

Chief John Deventer was shot and killed while heroically trying to stop a robbery. His death prompted New Jersey to enact a law allowing retired officers to carry handguns under a number of conditions. In drafting this law, the New Jersey legislature made a deliberate effort to balance the safety of police officers with the safety of the public, by including a number of important safeguards not contained in LEOSA. For example:

- The New Jersey law is limited to handguns. LEOSA is not.
- The New Jersey law has a maximum age of 70. LEOSA does not.
- Under New Jersey's law, retired police officers must file renewal applications every year. There is no application process under LEOSA.
- The New Jersey law requires retirees to list all their guns. No such record is required under LEOSA.
- The New Jersey law gives a police department the discretion to deny permits to retirees. No such discretion is provided under LEOSA.

By enacting LEOSA, Congress essentially eliminated all of the safeguards in the New Jersey statute, as well as the judgment of other states that have considered this issue. We had no evidence of the need for this legislation in 2004, and we have none now. It is critical that our policies be guided by research and evaluation.

This legislation was adopted as Title IV of the School Safety and Law Enforcement Improvements Act of 2007 during the August 2nd Judiciary Committee meeting. At that time, I introduced an amendment adopted by unanimous consent that requires the Government Accountability Office to conduct a study of the number of active and retired law enforcement officers who carry concealed firearms under the provisions established by LEOSA. It would have made more sense to conduct such a study prior to enacting legislation that puts more guns on the street.

In the 1990's, Boston, New York, and other cities made substantial progress in the war on crime, precisely because they were able to pass laws that addressed the factors that lead to violence—including the prevalence of firearms in inner cities. As Congressman Henry Hyde has said, "the best decisions on fighting crime are made at the local level." By overriding all local gun-safety laws, LEOSA compromised the ability of cities to fight crime. Congress has no business overriding the judgment of states and local governments in deciding whether concealed weapons should be prohibited.

S. 376 neither promotes consistent training policies among different police jurisdictions nor limits the conditions under which officers may use their firearms. The idea that more crimes will be prevented when more concealed weapons are carried by untrained and unregulated out-of-state, off-duty and retired officers is pure fiction. The International Association of Chiefs of Police (IACP), one of the oldest and largest associations of law enforcement executives, has identified the dangers of this legislation in a recent letter to the Committee,

"[S. 376] would severely weaken the eligibility and training requirements for retired police officers to carry concealed weapons. The IACP believes that states and localities should have the right to establish standards that de-



termine who is eligible to carry firearms in their communities . . . Specifically, the provisions of [S. 376] would mandate that, in the absence of state standards, the standards set by any police department within the state would become the de facto standard for the entire state.

For example, in the absence of state standards:

- The standards for Vermont could be set by the Fairlee Police Department (one sworn officer);
- The standards for Pennsylvania could be set by the Dauphin Police Department (two sworn officers);
- The standards for Illinois could be set by the Cordova Police Department (one sworn officer);
- The standards for California could be set by the Etna Police Department (two sworn officers);
- The standards for Massachusetts could be set by the Brookfield Police Department (one sworn officer)."

For these and other reasons, the IACP concluded that S. 376 "would undercut the ability of state and local law enforcement agencies to determine what standards best meet the needs of the departments and the communities they serve."

Law enforcement leaders face extremely difficult challenges today. With crime rates on the rise again and new concerns about domestic security, police chiefs are forced to do more with less. The weak economy has forced cities and states to cut back on funding for law enforcement. The Administration's budget proposes to eliminate all federal funding for such vital programs as the COPS Universal Hiring Program, the Byrne Grant Program, and the Local Law Enforcement Block Grant Program. The last thing Congress should do now is pass a bill that expands the civil liability of police departments and nullifies the ability of police chiefs to regulate their own officers' use of firearms and maintain discipline.

Those who want to amend LEOSA have offered no evidence that states and local governments are unable or unwilling to decide these important issues for themselves. They have offered no explanation why Congress is better suited than states, cities, and towns to decide how to best protect police officers, schoolchildren, churchgoers, and other members of their communities. Congress should bolster, not undermine, the efforts of states and local governments to protect their citizens from gun violence.

LEOSA has also jeopardized most "safe harbor" laws at the state level by essentially overriding laws that categorically prohibit guns in churches and other houses of worship, since only laws that permit private entities to post signs prohibiting concealed firearms on their property remain in force. In most states, churches are not currently required to post signs in order to have a gun-free zone.

LEOSA has even preempted laws that prohibit concealed weapons in places where alcohol is served. Surely, it is reasonable for a state to prohibit individuals from bringing guns into bars, to prevent the extreme danger that results when liquor and firearms come together. Yet Congress allowed this legislation to go forward and now this measure will make it even easier for a retired officer to get a gun—regardless of state and local laws. We should not be compounding that mistake by further damaging firearms laws with the provisions contained in S. 376.

B. S. 376 WILL UNDERMINE THE SAFETY OF OUR COMMUNITIES AND  
THE SAFETY OF POLICE OFFICERS

S. 376 will also allow less qualified retired officers to carry concealed weapons. The provision changes the service requirement from a retired officer who was regularly employed for an aggregate of fifteen years or more to a retired officer who served for ten years. The measure also strikes the provision that requires a retired officer to have obtained a non-forfeitable right to benefits under the agency's retirement plan. These changes erode the few safeguards in the original Act. Greater numbers of less qualified officers will now be able to legally carry concealed weapons, making local communities even more dangerous.

I introduced an amendment at the August 2nd Judiciary Committee meeting to Title IV of the School Safety and Law Enforcement Improvements Act of 2007, which emphasized that nothing in LEOSA should be construed to limit or supersede state or local laws that prohibit or restrict the possession of a concealed firearm by an officer who has retired under threat of disciplinary action, who has been dismissed for emotional problems, who leaves the force prior to a disciplinary or competency hearing, or who, after retiring, becomes unfit to carry a concealed weapon. Unfortunately, the Committee rejected this amendment by a vote of 9 to 10.

Make no mistake. There are numerous cases in which both active duty and retired officers have used firearms with deadly consequences. Recently, a Prince George's County police officer and former Homeland Security official was indicted in August 2007 on charges of murder and attempted-murder. The officer fired on two unarmed delivery men last January, killing one and seriously wounding the other. The same officer was charged in a second gun-related case after he pulled a gun on a real estate appraiser who accidentally knocked on his door. In another disturbing case, a retired New York Police Department police officer was charged with shooting and killing his ex-wife. There's no question that such incidents will increase if this legislation becomes law and allows less qualified officers who do not receive ongoing training to carry concealed weapons. As the National Sheriff's Association pointed out in a letter of February 28, 2007, ". . . carrying a firearm is a privilege that is bestowed upon those retired law enforcement officers that have dedicated their lives to protect the safety of our citizens, and when considering the expansion of such a privilege we must not act hastily."

There is not even a requirement in S. 376 that a retiree demonstrate a special need for a firearm. The legislation provides only that an officer must have technically left law enforcement in "good standing." It is clear, however, that sub-par government employees are often routinely released from their positions without a formal finding of misconduct. The bill does not draw a distinction between officers who served ably and those who did not. Officers who retire in "good standing" while under investigation for domestic violence, racial profiling, excessive force, or substance abuse could still qualify for broad concealed-carry authority for the remainder of their lives.

Congress should also support emerging technologies, such as microstamping, which can allow law enforcement to make more effective use of evidence found at crime scenes. Microstamping uses lasers to make precise, microscopic engravings on the firing pin and chamber of a weapon, which are transferred onto the cartridge casing when the weapon is fired. The process transfers the gun's make, model and serial number to the casing, and can yield important information to law enforcement officers investigating crimes. This technology will substantially improve law enforcement's ability to act quickly to identify and link shell casings found at a crime scene to the individual handgun from which it was fired. In fact, microstamping may have enabled investigators of the Virginia Tech shooting to identify the perpetrator more quickly, by analyzing microstamped markings on the casings left behind at the first crime scene.

I also introduced an amendment at the August 2nd Judiciary Committee meeting to require stricter standards, so that only truly competent persons could qualify to carry concealed firearms. The Committee rejected the amendment by a vote of 6 to 13. I also offered an amendment to require certain firearms manufactured, imported or sold by Federal firearms licensees to be capable of microstamping ammunition. The Committee failed to approve the amendment by a vote of 8 to 11.

#### C. CONCLUSION

Each state and local government should be allowed to make its own judgment as to when citizens and out-of-state visitors may carry concealed weapons—and whether active or retired law enforcement officers should be included in or exempted from any prohibition. In the words of the International Association of Chiefs of Police, it is “essential that state and local governments maintain the ability to legislate concealed carry laws that best fit the needs of their communities.”

Allowing greater numbers of less qualified off-duty or retired officers with concealed weapons to go into other jurisdictions will only make conditions more dangerous for police officers and civilians. As the Executive Director of the IACP explained in a letter of March 7, 2007:

The ability of law enforcement agencies to establish, implement, and maintain firearms standards and training requirements varies greatly from state to state and from jurisdiction to jurisdiction. Some jurisdictions have developed rigorous training programs and have established strict standards of accountability and stringent firearms policies while other jurisdictions have not. This legislation would undercut the ability of state and local law enforcement agencies to determine what standards best meet the needs of the departments and the communities they serve.

LEOSA will unnecessarily damage the efforts of states and local governments to protect their citizens from gun violence. It will also expose state and local governments to unnecessary liability and nullify the ability of police chiefs to maintain discipline and control within their own departments. I regret that the Committee did not

correct the bill's most serious flaws. The nation will be better served if Congress puts aside this misguided effort to further weaken state and local control over concealed carry laws, and turns its attention instead to measures we know will reduce crime and improve the safety of police officers and all Americans.

#### VIII. CHANGES IN EXISTING LAW

Pursuant to the requirements of paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

#### Title 18, United States Code, Part I, Chapter 44. Firearms

\* \* \*

#### **SEC. 926B. CARRYING OF CONCEALED FIREARMS BY QUALIFIED LAW ENFORCEMENT OFFICERS.**

\* \* \*

*(f) For purposes of this section, a law enforcement officer of the Amtrak Police Department or a law enforcement or police officer of the executive branch of the Federal Government qualifies as an employee of a governmental agency who is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration for, any violation of the law, and has statutory powers of arrest*

\* \* \*

#### **SECTION 926C. CARRYING OF CONCEALED FIREARMS BY QUALIFIED RETIRED LAW ENFORCEMENT OFFICERS**

\* \* \*

(c) As used in this section, the term "qualified retired law enforcement officer" means an individual who—

\* \* \*

(3)(A) before such retirement, **[was regularly employed as a law enforcement officer for an aggregate of 15 years or more]** *served as a law enforcement officer for an aggregate of 10 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]** *during the most recent 12-month period, has met, at the expense of the individual, the standards for qualification in firearms training for active law enforcement officers as set by the former agency, the State in which the officer resides or a law enforcement agency within the State in which the officer resides;*

**[(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)]** *(5) is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and*

[(7)] (6) 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] *to meet the active duty standards for qualification in firearms training as established by the agency 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.] *Otherwise found by the State or a certified firearms instructor that is qualified to conduct a firearms qualification test for active duty officers within that State to have met—*

*(i) the active duty standards for qualification in firearms training as established by the State to carry a firearm of the same type as the concealed firearm; or*

*(ii) if the State has not established such standards, standards set by any law enforcement agency within that State to carry a firearm of the same type as the concealed firearm.*

\* \* \*

*(f) In this section, the term ‘service with a public agency as a law enforcement officer’ includes service as a law enforcement officer of the Amtrak Police Department or as a law enforcement or police officer of the executive branch of the Federal Government.*