

STOCKTON POLICE DEPARTMENT

GENERAL ORDER

LAW ENFORCEMENT OFFICERS SAFETY ACT  
SUBJECT

DATE: January 17, 2006

NO: Q-1p

FROM: CHIEF ERIC JONES

TO: ALL PERSONNEL

INDEX: LAW ENFORCEMENT OFFICERS SAFETY ACT

I. POLICY

The Stockton Police Department shall comply with the provision of H.R. 218 (Law Enforcement Officers Safety Act of 2004).

II. PURPOSE

The goal is to meet and regulate the firearms qualification and certification process for qualified current and retired officers desiring to carry concealed weapons in accordance with the provisions of HR 218 (Law Enforcement Officers' Safety Act 2004).

III. LAW

In January 2004, Chapter 44 of Title 18, United States Code, was amended to exempt current and qualified retired officers from state laws prohibiting the carrying of concealed firearms, as long as they meet defined criteria, as follows:

Section 926B. "Carrying of Concealed Firearms by Qualified Law Enforcement Officers"

- (a) Notwithstanding any other provision of the law of any state or political subdivision thereof, an individual who is a qualified law enforcement officer and carries 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 possession of concealed firearms on their property.
  - (2) Prohibit or restrict possession of firearms on any state or local government property, installation, building, base, or park.
- (c) For this Section, "qualified law enforcement officer" means an employee of a governmental agency who:
  - (1) Is authorized to engage in or supervise the prevention, detection, investigation, prosecution, or 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 requires the employee to regularly qualify in the use of a firearm.
  - (5) Is not under the influence of alcohol or other intoxicating or hallucinatory drug or substance.
  - (6) Is not prohibited by federal law from receiving a firearm.
- (d) 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) "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 the National Firearms Act.
- (3) Any destructive devices as defined in Section 921 of the National Firearms Act.

Section 926C, "Carrying of Concealed Firearms by Qualified Retired Law Enforcement Officers"

(a) Notwithstanding any other provision of the law of any state or political subdivision thereof, an individual who is a qualified law enforcement officer and carries 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 possession of concealed firearms on their property.
- (2) Prohibit or restrict possession of firearms on any state or local government property, installation, building, base, or park.

(c) For this Section, "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 retirement was authorized to engage in or supervise the prevention, detection, investigation, prosecution, or incarceration of any person for any violation of law and had statutory powers of arrest.
- (3) Before retirement, was regularly employed as a law enforcement officer for an aggregate of 15 years or more.
- (4) Retired from service with such agency after completing applicable probationary period of such service, due to a service connected disability, as determined by such agency.
- (5) Has a nonforfeitable right to benefits under the retirement plan of the agency.
- (6) 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.
- (7) Is not under the influence of alcohol or other intoxicating or hallucinatory drug or substance.
- (8) Is not prohibited by federal law from receiving a firearm.

(d) Identification required by this subsection includes:

- (1) Photographic identification issued by the agency from which the individual retired from service as a law enforcement officer that indicates the individual has not less than one year prior to the date the individual is carrying the concealed firearm, been tested or otherwise found by the agency to meet 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.
- (2) Photographic identification issued by the agency from which the individual retired from service as a law enforcement officer.
- (3) Certification issued by the state in which the individual resides, that indicates the individual has, not less than one year prior to the date the individual is carrying the concealed firearm, been tested or otherwise found by the agency to meet 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) "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 the National Firearms Act.
  - (3) Any destructive devices as defined in Section 921 of the National Firearms Act.

#### **IV. PROCEDURE:**

- (a) Qualified member's responsibility:
  - (1) Contact the Department's Range Master to arrange a time for qualifying at the Department's Range.
  - (2) Supply their own weapon and sufficient amount of ammunition needed to qualify.
  - (3) Qualify under the Department standard.
  - (4) Get a new identification card with the HR218 endorsement from the supervisor of the Field Evidence Section.
- (b) Range Master's responsibility:
  - (1) Notify the Personnel & Training supervisor of the request for qualification.
  - (2) Monitor the qualification of the qualified member.
  - (3) Complete a Range Qualification Certification form.
  - (4) Send the original Range Qualification Certification form to the Personnel & Training supervisor for record keeping.
  - (5) Notify the Personnel & Training supervisor of the qualification results.
- (c) Personnel & Training supervisor will authorize issuance of the new identification card.