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Law Enforcement Officers Safety Act of 2004

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Summary

The Law Enforcement Officers Safety Act of 2004 (H.R. 218) was signed into law on July 22, 2004 (P.L. 108-277). The act amends the federal criminal code in order to authorize a qualified law enforcement officer, carrying photographic governmental agency identification, to carry a concealed firearm, notwithstanding any state or local law. This report summarizes the act's provisions dealing with the carrying of concealed weapons by qualified law enforcement officers.

The Law Enforcement Officers Safety Act of 2004 (H.R. 218) exempts qualified current and former law enforcement officers employed by local, state, or federal law enforcement agencies from state laws prohibiting the carrying of concealed firearms.¹ The act does not supersede federal law that governs the carrying of firearms onto aircraft, federal buildings, federal property, and national parks, nor does it limit the laws of any states that permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property, nor does it supersede state laws that prohibit or restrict the possession of firearms on any state or local government property, installation, building, base, or park. The House passed H.R. 218 on June 23, 2004. The Senate passed it, without amendment by unanimous consent, on July 7, 2004. President Bush signed the bill into law, P.L. 108-277, on July 22, 2004.

Prior to this act, states controlled within their borders who may carry concealed weapons and when law enforcement officers may carry firearms. Before this legislation was enacted, a state decided whether to allow out-of-state officers to carry a concealed weapon within its borders. Prior federal law allowed active, but not retired, federal law enforcement officers to carry a concealed weapon anywhere within the jurisdiction of the United States. However, prior law did not allow active or retired state or local law enforcement officers to carry a concealed weapon unless permitted under state law. H.R. 218 overrides contrary state laws and permits retired and active officers (whether state, local, or federal) to carry a concealed weapon anywhere within the United States. According to the House report, this act is designed to protect officers and their families from criminals they have arrested and to allow qualified officers, whether on-duty or off-

¹ This report was prepared under the general supervision of Marie Morris, Legislative Attorney.

duty or retired, to carry concealed firearms across state and other jurisdictional lines where they can respond immediately to a crime.² Essentially, the act allows law enforcement officers to travel interstate with a firearm.

The act creates two new sections in Title 18. Section 926B covers “qualified law enforcement officers,” and Section 926C covers “qualified retired law enforcement officers.” The two sections are virtually identical, with several additional requirements being placed on qualified retired law enforcement officers. Section 926B defines a current governmental agency law enforcement officer as one who is authorized to carry a firearm, who is not the subject of disciplinary action, who meets agency standards that require the employee to regularly qualify in the use of a firearm, and who is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance. Section 926C defines a “qualified retired law enforcement officer” as one who retired in good standing from a public agency service, who was regularly employed as a law enforcement officer for at least 15 years, who has a nonforfeitable right to agency retirement benefits, who has met the state’s standards for training and qualification for active law enforcement officers to carry firearms during the most recent 12-month period, and who is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance.

This act does not authorize officers to carry machine guns, as defined by section 5845 of the National Firearms Act, or silencers or destructive devices, as defined in section 921, chapter 44, title 18 U.S.C. It also requires that retired law enforcement officers qualify at their own expense to be able to carry the firearm that they have been permitted to carry by their state or agency. This act requires that active officers carry photographic identification issued by their agency, but retired officers must carry both documentation stating that they are qualified to carry their firearm by their state or agency and photographic identification.

² H.Rept. 108-560, 108th Congress, 2d Session, June 22, 2004.

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