

## **LAW ENFORCEMENT OFFICERS SAFETY ACT OF 2004 OVERVIEW**

**9459**

(No. 13 January 2011)

The Law Enforcement Officers Safety Act was signed into law in July, 2004. The law intends to assist in increasing homeland security by relaxing the current restrictions imposed upon law enforcement officers who wish to carry a concealed weapon outside of their home state.

The law addresses two specific concerns: qualified law enforcement officers carrying concealed weapons across state boundaries; and the ability of qualified retired law enforcement officers to carry a concealed weapon across state boundaries.

## **QUALIFIED LAW ENFORCEMENT OFFICERS**

**9459.1**

(No. 13 January 2011)

## **ACTIVE UNIFORMED EMPLOYEES**

**9459.1.1**

(No. 13 January 2011)

- (1) Must be authorized to conduct law enforcement activities and has powers of arrest.
- (2) Is authorized by the agency to carry a firearm.
- (3) Is not the subject of any disciplinary action.
- (4) Meets qualification standards for the firearm being carried as set forth by the Department.
- (5) Is not under the influence of alcohol or another intoxicating, hallucinatory drug or substance; and is not prohibited by federal law from receiving a firearm.
- (6) The identification required is the photographic identification issued by the Department.
- (7) The term firearm does not include any machine gun, any firearm silencer, or any destructive device.
- (8) These terms do not supersede any laws of any state that permit private persons to prohibit or restrict the possession of firearms on private property or any laws of any state to prohibit or restrict the possession of firearms on state or local government property, installation, building, base or park.

## **RETIRED UNIFORMED EMPLOYEES**

**9459.1.2**

(No. 13 January 2011)

- (1) Must be retired in good standing from service with the Department as a uniformed member, other than for reasons of mental instability
- (2) Before retirement, was regularly employed as a uniformed member for an aggregate of 15 years or more; or
- (3) Retired from service after completing probation with the Department due to a service-connected disability and has a right to benefits under the retirement plan of the Department.
- (4) Is not under the influence of alcohol or another intoxicating, hallucinatory drug or substance; and is not prohibited by federal law from receiving a firearm.
- (5) The identification required is the photographic identification issued by the Department.
- (6) The term firearm does not include any machine gun, any firearm silencer, or any destructive device.
- (7) These terms do not supersede any laws of any state that permit private persons to prohibit or restrict the possession of firearms on private property or any laws of any state to prohibit or restrict the possession of firearms on state or local government property, installation, building, base, or park.

## **EMPLOYEES' RESPONSIBILITY**

**9459.2**

(No. 13 January 2011)

## **ACTIVE UNIFORMED EMPLOYEES**

**9459.2.1**

(No. 13 January 2011)

Officers must be currently qualified with the firearm being carried as outlined in Force and Weaponry Sections 9450 – 9459.

Any use or threatened use of deadly force under the provisions of HR 218 conducted by any uniformed member in another state shall:

- (1) Immediately report the incident according to section 9452.7, Discharge of Firearms.
- (2) Uniformed employees shall immediately notify next level of command.
- (3) All incidents shall be documented in accordance with the Department case report writing manual.
- (4) Appropriate documentation will be generated by the uniformed employees command.

## **RETIRED UNIFORMED EMPLOYEES**

**9459.2.2**

(No. 13 January 2011)

Must annually qualify with a firearm based on the same qualification standards as uniformed employees as outlined in section 9452. The retired uniformed employee may contact the Unit Fire Prevention Bureau, Region Deputy Chief of Fire Prevention or the Sacramento Deputy Chief of Law Enforcement to obtain a copy of the qualification course and standards.

Retired uniformed employees are responsible for supplying his/her own holster, a minimum of 100 rounds of ammunition, hearing protection, eye protection and body armor. If the Retiree chooses not to purchase body armor they shall sign a Department approved waiver.

The retired uniformed employee shall contact the Unit Fire Prevention Bureau, Region Deputy Chief of Fire Prevention or the Sacramento Deputy Chief of Law Enforcement for the area in which they wish to conduct their qualification shoot to determine when the next scheduled range day is and schedule an appointment with a Firearms Instructor.

The retired uniformed employee shall provide the Unit Fire Prevention Bureau Chief, Region Deputy Chief of Fire Prevention or the Deputy Chief of Law Enforcement with sufficient information (i.e., name and date of birth) so as to allow a criminal history check to be conducted prior to qualification. The criminal history check is conducted to ensure the retired uniformed employee is free of any domestic violence convictions, felony convictions or other criminal convictions that would prevent them from lawfully possessing a firearm.

The Firearms Instructor shall conduct a firearms Safety and operational check to determine the weapons functionality and ensure it is in proper working condition. The firearm shall be one that can be drawn from a holster that is worn on the hip or other means authorized by the firearms instructor, and can be reloaded within the time frames outlined in section 9543 departmental Firearms Handgun Qualification Courses.

The Firearms Instructor shall use sound professional judgment when evaluating the retired uniformed employee and their firearm. If the Firearms Instructor determines, through the criminal history check or through evaluation on the firing line, the retired uniformed employee is unable to perform the required tasks or is unable to safely manipulate the firearm, the Firearms Instructor shall submit a confidential memorandum through channels (Unit, Region, Sacramento) to the Deputy Chief of Law Enforcement. If serious safety concerns arise in regards to the retired uniformed employee carrying a firearm, telephonic notification to Deputy Chief of Law Enforcement would be appropriate. Following the telephonic notification, a confidential memorandum will be prepared outlining the circumstances surrounding the disqualification and forwarded through channels (Unit, Region, Sacramento) to the Deputy Chief of Law Enforcement.

If the retired uniformed employee is unable to qualify, they may make an appointment with the Firearms Instructor for another scheduled range date. The retired uniformed employee shall be limited to two attempts to qualify on separate days within a calendar year.

Upon successful qualification of the retired uniformed employee, the Firearms Instructor shall complete and forward through the appropriate chain of command (Unit, Region, Sacramento), the CAL FIRE Peace Officer Identification Request form. Sacramento Law Enforcement will issue the HR 218 Compliance Certification Card, which is valid for one year. The retired uniformed employee shall keep the proof of certification with their photographic Honorably Retired Peace Officer identification issued by the Department.

**NOTE: HR 218 does not allow for retired uniformed employees to carry their firearms on their person while on a commercial aircraft.**

## **GUIDELINES TO FOLLOW WHEN CAL FIRE PERSONNEL COME IN CONTACT WITH LAW ENFORCEMENT OFFICERS FROM OTHER STATES. 9459.3**

(No. 13 January 2011)

When CAL FIRE personnel come in contact with active or retired law enforcement officers from other states that are carrying concealed weapons, the following actions shall be taken:

### **ACTIVE LAW ENFORCEMENT OFFICERS 9459.3.1**

(No. 13 January 2011)

- (1) Inspect the officer's agency issued identification.
- (2) Verify the officer's state issued driver license.

### **RETIRED LAW ENFORCEMENT OFFICERS 9459.3.2**

(No. 13 January 2011)

- (1) Inspect the retired officer's agency issued identification.
- (2) Verify the retired officer's state issued driver license or other valid form of identification.

NOTE: The stipulations set forth in the law provides an agency the choice of two identification options. Both options are acceptable and legal under the stipulations of HR 218.

Option #1: A photo ID card issued by the agency from which the individual retired. It must indicate the retiree has, within the past 12 months, been tested or otherwise found by the agency to meet the standards established by the agency for training and qualification for active officers to carry a firearm of the same type as the retiree's firearm.

Option #2: A photo ID card issued by the agency from which the individual retired as a law enforcement officer and a certification issued by the state in which the individual has, within the past 12 months, been tested or otherwise found by the state to meet the standards established by the state for training and qualification for active officers to carry a firearm of the same type as the retiree's firearm.

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## Forms or Form Samples