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**FREQUENTLY ASKED QUESTIONS
CONCERNING RETIRED LAW ENFORCEMENT OFFICER
PERMITS TO CARRY FIREARMS AND THE FEDERAL LAW
ENFORCEMENT OFFICER SAFETY ACT OF 2004 (LEOSA)**

1. Who can qualify for a retired law enforcement officer permit to carry a firearm?

N.J.S.A. 2C:39-6(L) sets forth the requirements for a permit to carry by a retired law enforcement officer (RLEO). Every RLEO residing in New Jersey who wishes to carry a firearm must meet the New Jersey statutory standards and obtain a retired officer permit to carry (RPO permit) in accordance with N.J.S.A. 2C:39-6(L).

2. Does LEOSA provide an alternate path for RLEOs living in New Jersey to carry a firearm without applying for an RPO permit under State law?

No. The purpose of LEOSA is to bar criminal prosecution of retired LEOs who carry concealed firearms in interstate commerce. See *In re Casaleggio*, 420 N.J. Super. 121, 128 (App. Div. 2011). In enacting LEOSA, the drafters explained that the law was “designed to protect officers and their families from vindictive criminals, and to allow thousands of equipped, trained and certified law enforcement officers, whether on-duty, off-duty or retired, to carry concealed firearms in situations where they can respond immediately to a crime across state and other jurisdictional lines.” *Casaleggio*, 420 N.J. Super. at 127. The New Jersey Legislature’s amendment to N.J.S.A. 2C:39-6(L) to include reference to LEOSA was made “to permit retired law enforcement officers from other states ... who are domiciled in New Jersey to carry a firearm, provided they meet the same training and qualification standards that New Jersey retirees must meet under the law.” *Casaleggio*, 420 N.J. Super. at 128. LEOSA therefore does not provide an



alternate path to eligibility to carry a firearm where an RLEO living in New Jersey is not eligible for an RPO permit under State law. Cassaleggio, 420 N.J.Super. at 128-29.

3. If a retiree only wants to carry for personal protection, can they just qualify twice a year?

An RLEO must meet each of the requirements of N.J.S.A. 2C:39-6(L) in order to carry a firearm, even if they only intend to do so for personal protection. Also, an RLEO must have in his or her possession at all times while carrying a firearm the identification card issued by the New Jersey State Police Superintendent and a card demonstrating proof of qualification twice a year in the use of the handgun he or she is permitted to carry.

If the RLEO wants to carry across state lines, LEOSA requires that the RLEO qualify with their handgun in the same manner as active police officers. Therefore, if a New Jersey RLEO wants to carry across state lines, he or she must qualify twice a year in the same manner, and using the same standards, as the Attorney General Guidelines require for active duty police officers.

4. Can retirees carry hollow point bullets, and does LEOSA provide any additional authority outside of New Jersey law to carry hollow point bullets?

No, New Jersey RLEOs cannot carry hollow point bullets. N.J.S.A. 2C:39-3(f) states that, with very few narrow exceptions (none of which apply to an RLEO), only active law enforcement officers are authorized to carry hollow point bullets. LEOSA does not provide any additional authority for an RLEO residing in New Jersey to carry hollow point bullets because it is impermissible under State law.

5. Generally, what ammunition is acceptable?

RLEOs can generally use any type of commercially available ammunition, so long as it is not hollow point. Pursuant to N.J.S.A. 2C:39-17 (effective June 13, 2018), an RLEO may possess and carry a large capacity ammunition magazine which is capable of holding up to 15 rounds of ammunition that can be fed continuously and directly into a semi-automatic handgun. However, pursuant to N.J.S.A. 2C:39-20 (effective August 12, 2018), any RLEO who carries a large capacity magazine capable of holding up to 15 rounds must separately register the firearm with the New Jersey State Police.

6. Are retirees required to have a flashlight with them if they are carrying at night?

No. The flashlight is required only for qualifying in order to meet the LEOSA standards, which require that RLEOs carrying firearms across state lines qualify with their handgun in the same manner as active duty law enforcement officers. Since 2003, the Attorney General's Guidelines on Semi-Annual Firearms Qualification and Requalification Standards for New Jersey Law Enforcement require all active duty police officers to carry a handheld or gun-mounted light during the handgun night qualification course.

7. Does a retired law enforcement officer have to qualify with each firearm he or she intends to carry?

Yes, if an RLEO wants to carry different firearms, he or she must qualify with each firearm pursuant to N.J.S.A. 2C:39-6(L), which provides that the retired LEO qualify twice a year “in the use of the handgun he is permitted to carry.”

a. Is it acceptable to carry a similar type of firearm as the one the RLEO used to qualify?

No. RLEOs must qualify with each firearm he or she wishes to carry pursuant to N.J.S.A. 2C:39-6(L). The model and serial number of each firearm must be set forth on the RPO Firearms Record pursuant to the Attorney General’s Guidelines on Semi-Annual Firearms Qualification and Requalification Standards for New Jersey Law Enforcement (Definition of “Firearms Record”).

8. Does LEOSA only allow the concealed carrying of firearms?

Yes. LEOSA only permits concealed carrying of firearms by RLEOs. 18 U.S.C. 926C(a) provides: “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).” (Emphasis added.)

9. Does New Jersey law allow retired law enforcement officers to openly carry firearms?

Generally yes, as New Jersey law does not distinguish between open and concealed carry for any person who receives a permit to carry a firearm, except whatever limitations the court may place on the person in issuing the permit.

10. Does the Security Officer Registration Act (SORA) authorize security officers to carry firearms openly?

SORA does not address how a security officer may be permitted to carry a firearm. A Security Officer Company will generally request whatever limitations it deems appropriate on the permit application for a particular employee, for example, authorization to carry only while on shift or while working and commuting.

11. What documents should the retiree have on them when they are carrying?

- a. An NJ RLEO must have their NJ-issued RPO permit with them at all times while carrying a firearm, whether openly or concealed.
- b. An out of state RLEO traveling into or through New Jersey, or an NJ RLEO traveling outside of NJ, must have either (1) an ID card issued by the agency

from which the individual separated from service as an LEO indicating that the person was employed as an LEO and has been qualified in the past 12 months in the firearms qualification test for active duty officers; or (2) an ID card from the agency from which the LEO retired identifying the person as having been employed as an LEO and a certification from the State in which the person resides that indicates that the person qualified in the past 12 months in the firearms qualification test for active duty officers. See 18 U.S.C. 926C(d).

12. When can a person privately transfer or sell a firearm without using a licensed retail dealer?

Generally, all private firearms transfers must be conducted through a licensed retail dealer so that the parties to the transaction are subject to a background check. N.J.S.A. 2C:58-3(a)(2) (effective June 13, 2018) creates a limited exception to the general rule. This limited exception allows private transfers without a background check only between (a) members of an immediate family; (b) law enforcement officers; (c) collectors; or (d) where the transfer is only temporary.

a. What is the definition of “family?”

The term “immediate family” is defined in N.J.S.A. 2C:58-3(n) as: a spouse, domestic partner as defined in N.J.S.A. 26:8A-3, partner in a civil union as defined in N.J.S.A. 37:1-29, parent, stepparent, grandparent, sibling, stepsibling, child, stepchild, and grandchild, as related by blood or by law.

b. What is the definition of “law enforcement?”

The term “law enforcement officer” in the amendment only applies to current active law enforcement officers, not RLEOs.

13. Who can qualify to be a “qualified firearms instructor?” Is there any difference under LEOSA or New Jersey law?

In order to become a “qualified firearms instructor” eligible to conduct firearms qualification courses for RLEOs, an instructor must make an application to the State Police and provide a certification that they are a qualified firearms instructor pursuant to Police Training Commission standards, NRA standards, or NJSP standards. Approved applicants will be added to the list of qualified firearms instructors maintained by the State Police. LEOSA standards for qualified firearms instructors are generally similar, but a LEOSA instructor who is not registered with the NJSP cannot issue a qualification for purposes of New Jersey law.