

LEOSA FOR KENTUCKY LAW ENFORCEMENT

2016

Kentucky Department of Criminal Justice Training

It has been a dozen years since the Law Enforcement Officers Safety Act, better known as LEOSA, was signed into law in 2004. During that time, there have been several revisions of note, of which active and qualified retired law enforcement officers should be aware.

The original bill, posted as H.R. 218, was signed into law on July 22, 2004, by then-President George W. Bush, becoming Public Law 108-277. It was subsequently codified as 18 U.S.C. §926B and C. (Although still commonly referred to as HR 218, once the bill passed and was signed into law, it is more properly called by the name of the Act, its Public Law number or its statutory citation.) As originally passed, active officers and officers who retired after an aggregate of 15 years of service, or due to a service-connected disability, and who had a nonforfeitable right to benefits under the agency's retirement plan, qualified under LEOSA. Subsequently, however, as a result of changes made in 2010, under the Law Enforcement Officers Safety Act Improvements Act, the number of aggregate years was dropped to 10 years to qualify, and the term retirement was replaced by separation. In addition, the requirement that the officer have rights to retirement benefits was also eliminated. (Further changes added named federal officers and modified the types of ammunition that may be carried.) Finally, in 2013, changes were made to LEOSA as a result of the National Defense Authorization Act (NDAA), P.L. 112-239. Those changes clarified and affirmed that military police officers and civilian police officers employed by the U.S. government fell under the definitions of the law for both active and retired officers.

LEOSA, however, does not give, across the United States, the right for either an out-of-state active officer or a qualified separated officer to carry as an active officer in that state might do. (The rights of officers within the state would be covered by state law.) LEOSA does not completely preempt state and local law. If an officer is carrying under LEOSA, private entities may restrict the carrying of concealed firearms on their premises, and state and local governments may also do so. LEOSA does not supersede the provisions of the federal Gun-Free School Zone Act (GFSZA), either, which prohibits the carrying of a firearm within 1,000 feet of an elementary or secondary school (up through high school). (Under the GFSZA allows on-duty officers to carry, off-duty or LEOSA holders may only carry in that area if they have the rights to do so under their own state law, in their own state.) LEOSA holders must also abide by any federal laws regarding federal buildings and lands, as well as the regulations that apply to air travel. For national parks, pursuant to 36 U.S.C. § 2.4, an individual may carry a firearm in the park, but not in a federal building, so long as they are in compliance with the laws of the state or states which the park occupies.

So, what does that mean for Kentucky law enforcement officers and retired/separated officers? Kentucky law, in fact, extends the rights of LEOSA holders, and gun owners in general, much more broadly than most other states. In Kentucky, under the provisions of KRS 527.020 and KRS 237.137, an active officer, who meets the definition of state law provided in KRS 527.020, whether full or part-time, may carry anywhere in the Commonwealth, with the only exceptions being the locations specifically listed in KRS 527 – such as correctional facilities. (Federal properties, of course, do not fall under Kentucky's jurisdiction.) Arguably, however, some categories of officer who do not fall under that law may, in fact, qualify to carry under LEOSA's provisions for active officers. There is continuing debate, but as yet, no resolution, to the issue of how much regulation a law enforcement agency, or state law, may place on an

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active officer who qualifies to carry under the provisions of LEOSA, but who may not so qualify under an individual state's law.

For separated officers, the matter is a bit more complicated. To legally carry under LEOSA, a retired officer must have a photographic ID card that indicates that they were employed by the agency that issues the card for at least the requisite number of years and a separate certification that indicates that, not less than one year before, they have qualified with the same type of firearm at the standard set by state law. Under current interpretation, that "type" would be, for example, a semi-automatic pistol or a revolver, not necessary the same model of firearm. Under Kentucky law, the minimum qualification is set in KRS 237.140(4), and the same statute indicates who may supervise such qualification. Federal law does not provide any particular format for proof of that qualification. (Although some law enforcement agencies include the qualification as part of the identification card that would require a reissuance of the card itself every year.) It also provides for law enforcement agencies to set dates for firearms qualification for their own retired officers. Kentucky law provides an additional method, however, that effectively provides the officer with both a Kentucky CCDW, valid for five years, and a LEOSA card that indicates they have satisfied the retirement and qualification requirements, under KRS 237.140, by submitting the required paperwork to the Kentucky State Police. (See <http://www.kentuckystatepolice.org/ccdw/leosa.html>.) Note, for example, that LEOSA alone does not allow the carrying in a federal park, for example, and having a state CCDW with reciprocity may extend benefits in addition to those provided by LEOSA, depending upon an individual state's laws. (Officers are advised to carry agency "retired" credentials, as well, as the federal LEOSA law requires that such ID be issued by the officer's agency. Nothing, however, obligates a law enforcement agency to provide a duly separated employee with such credentials.)

With respect to carrying at locations protected by the GFSZA, reflected in Kentucky under KRS 527.070, arguably, there is no prohibition in carrying by a retired/separated LEOSA holder, as the latter changes in KRS 527.020 and KRS 237.137 both explicitly prevent any such prohibition and allow LEOSA holders to carry anywhere an on-duty peace officer is permitted to carry. This is not necessarily the case in other states, however, as this requires a Kentucky state law and not a provision under federal LEOSA.

In summary, Kentucky officers who are entitled to LEOSA under their active status need only carry photographic identification that indicates their employing law enforcement agency, and many such IDs now include such language as part of the identification card itself. Retired/Separated officers require more than simply a retired credential, however, to qualify to carry under LEOSA (and thus also take advantage of the provisions that allow statewide concealed carry in Kentucky) – it is also necessary to have, and carry proof, that the holder has qualified with the same type of firearm as required within the last year. Taking advantage of the process offered through the Kentucky State Police provides the officer with a state-issued CCDW as well, which may be beneficial in some circumstances.

For further information, and the full text of the relevant federal and state laws, please go to the Informational (White) Papers section of the Kentucky Department of Criminal Justice Training, Legal Section, website at <https://docjt.ky.gov/legal/>.

RELEVANT FEDERAL LAW

18 U.S. Code § 926B - Carrying of concealed firearms by qualified law enforcement officers

(a)Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is a qualified law enforcement officer and who is carrying the identification required by subsection (d) may

Effective 6/13/2016

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 the possession of concealed firearms on their property; or

(2)prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.

(c)As used in this section, the term “qualified law enforcement officer” means an employee of a governmental agency who—

(1)is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers of arrest or apprehension under section 807(b) of title 10, United States Code (article 7(b) of the Uniform Code of Military Justice);

(2)is authorized by the agency to carry a firearm;

(3)is not the subject of any disciplinary action by the agency which could result in suspension or loss of police powers;

(4)meets standards, if any, established by the agency which require the employee to regularly qualify in the use of a firearm;

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

(6)is not prohibited by Federal law from receiving a firearm.

(d)The identification required by this subsection is the photographic identification issued by the governmental agency for which the individual is employed that identifies the employee as a police officer or law enforcement officer of the agency.

(e)As used in this section, the term “firearm”—

(1)except as provided in this subsection, has the same meaning as in section 921 of this title;

(2)includes ammunition not expressly prohibited by Federal law or subject to the provisions of the National Firearms Act; and

(3)does not include—

(A)any machinegun (as defined in section 5845 of the National Firearms Act);

(B)any firearm silencer (as defined in section 921 of this title); and

(C)any destructive device (as defined in section 921 of this title).

(f)For the purposes of this section, a law enforcement officer of the Amtrak Police

Department, a law enforcement officer of the Federal Reserve, 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 of any person for, any violation of law, and has statutory powers of arrest or apprehension under section 807(b) of title 10, United States Code (article 7(b) of the Uniform Code of Military Justice).

(Added Pub. L. 108–277, § 2(a), July 22, 2004, 118 Stat. 865; amended Pub. L. 111–272, § 2(a), (b), Oct. 12, 2010, 124 Stat. 2855; Pub. L. 112–239, div. A, title X, § 1089(1), Jan. 2, 2013, 126 Stat. 1970.)

18 U.S. Code § 926C - Carrying of concealed firearms by qualified retired law enforcement officers

(a)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).

(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 the possession of concealed firearms on their property; or

(2)prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.

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

(1)separated from service in good standing from service with a public agency as a law enforcement officer;

(2)before such separation, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest or apprehension under section 807(b) of title 10, United States Code (article 7(b) of the Uniform Code of Military Justice);

(3)(A)before such separation, served as a law enforcement officer for an aggregate of 10 years or more; or

(B) separated 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) 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 determined by the former agency of the individual, the State in which the individual resides or, if the State has not established such standards, either a law enforcement agency within the State in which the individual resides or the standards used by a certified firearms instructor that is qualified to conduct a firearms qualification test for active duty officers within that State;

(5)(A) has not been officially found by a qualified medical professional employed by the agency to be unqualified for reasons relating to mental health and as a result of this finding will not be issued the photographic identification as described in subsection (d)(1); or

(B) has not entered into an agreement with the agency from which the individual is separating from service in which that individual acknowledges he or she is not qualified under this section for reasons relating to mental health and for those reasons will not receive or accept the photographic identification as described in subsection (d)(1);

(6) is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and

(7) 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 separated from service as a law enforcement officer that identifies the person as having been employed as a police officer or law enforcement officer and 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 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 separated from service as a law enforcement officer that identifies the person as having been employed as a police officer or law enforcement officer; and

(B) a certification issued by the State in which the individual resides or by a certified firearms instructor that is qualified to conduct a firearms qualification test for active duty officers within that State that indicates that the individual has, not less than 1 year before the date the individual is carrying the concealed firearm, been tested or 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.

(e) As used in this section—

(1) the term “firearm”—

(A) except as provided in this paragraph, has the same meaning as in section 921 of this title;

(B) includes ammunition not expressly prohibited by Federal law or subject to the provisions of the National Firearms Act; and

(C) does not include—

(i) any machinegun (as defined in section 5845 of the National Firearms Act);

(ii) any firearm silencer (as defined in section 921 of this title); and

(iii) any destructive device (as defined in section 921 of this title); and

(2) the term “service with a public agency as a law enforcement officer” includes service as a law enforcement officer of the Amtrak Police Department, service as a law enforcement officer of the Federal Reserve, or service as a law enforcement or police officer of the executive branch of the Federal Government.

(Added Pub. L. 108–277, § 3(a), July 22, 2004, 118 Stat. 866; amended Pub. L. 111–272, § 2(c), Oct. 12, 2010, 124 Stat. 2855; Pub. L. 112–239, div. A, title X, § 1089(2), Jan. 2, 2013, 126 Stat. 1971.)

RELEVANT KENTUCKY STATUTES

527.020 Carrying concealed deadly weapon.

(1) A person is guilty of carrying a concealed weapon when he or she carries concealed a firearm or other deadly weapon on or about his or her person.

(2) Peace officers and certified court security officers, when necessary for their protection in the discharge of their official duties; United States mail carriers when actually engaged in their duties; and agents and messengers of express companies, when necessary for their protection in the discharge of their official duties, may carry concealed weapons on or about their person.

(3) The director of the Division of Law Enforcement in the Department of Fish and Wildlife Resources, conservation officers of the Department of Fish and Wildlife Resources, and policemen directly employed by state, county, city, or urban-county governments may carry concealed deadly weapons on or about their person at all times within the Commonwealth of Kentucky, when expressly authorized to do so by law or by the government employing the officer.

(4) Persons, except those specified in subsection (5) of this section, licensed to carry a concealed deadly weapon pursuant to KRS 237.110 may carry a firearm or other concealed deadly weapon on or about their persons at all times within the Commonwealth of Kentucky, if the firearm or concealed deadly weapon is carried in conformity with the requirements of that section. Unless otherwise specifically provided by the Kentucky Revised Statutes or applicable federal law, no criminal penalty shall attach to carrying a concealed firearm or other deadly weapon with a permit at any location at which an unconcealed firearm or other deadly weapon may be constitutionally carried. No person or organization, public or private, shall prohibit a person licensed to carry a concealed deadly weapon from possessing a firearm, ammunition, or both, or other deadly weapon in his or her vehicle in compliance with the provisions of KRS 237.110 and 237.115. Any attempt by a person or organization, public or private, to violate the provisions of this subsection may be the subject of an action for appropriate relief or for damages in a Circuit Court or District Court of competent jurisdiction.

(5)(a) The following persons, if they hold a license to carry a concealed deadly weapon pursuant to KRS 237.110 or 237.138 to 237.142, may carry a firearm or other concealed deadly weapon on or about their persons at all times and at all locations within the Commonwealth of Kentucky, without any limitation other than as provided in this subsection:

1. A Commonwealth's attorney or assistant Commonwealth's attorney;
2. A retired Commonwealth's attorney or retired assistant Commonwealth's attorney;
3. A county attorney or assistant county attorney;
4. A retired county attorney or retired assistant county attorney;
5. A justice or judge of the Court of Justice;
6. A retired or senior status justice or judge of the Court of Justice; and
7. A retired peace officer who holds a concealed deadly weapon license issued pursuant to the federal Law Enforcement Officers Safety Act, 18 U.S.C. sec. 926C, and KRS 237.138 to 237.142.

(b) The provisions of this subsection shall not authorize a person specified in this subsection to carry a concealed deadly weapon in a detention facility as defined in KRS 520.010 or on the premises of a detention facility without the permission of the warden, jailer, or other person in charge of the facility, or the permission of a person authorized by the warden, jailer, or other person in charge of the detention facility to give such permission. As used in this section, "detention facility" does not include courtrooms, facilities, or other premises used by the Court of Justice or administered by the Administrative Office of the Courts.

(c) A person specified in this section who is issued a concealed deadly weapon license shall be issued a license which bears on its face the statement that it is valid at all locations within the Commonwealth of Kentucky and may have such other identifying characteristics as determined by the Department of Kentucky State Police.

(6)(a) Except provided in this subsection, the following persons may carry concealed deadly weapons on or about their person at all times and at all locations within the Commonwealth of Kentucky:

1. An elected sheriff and full-time and part-time deputy sheriffs certified pursuant to KRS 15.380 to 15.404 when expressly authorized to do so by the unit of government employing the officer;
2. An elected jailer and a deputy jailer who has successfully completed Department of

Corrections basic training and maintains his or her current in-service training when expressly authorized to do so by the jailer; and

3. The department head or any employee of a corrections department in any jurisdiction where the office of elected jailer has been merged with the office of sheriff who has successfully completed Department of Corrections basic training and maintains his or her current in-service training when expressly authorized to do so by the unit of government by which he or she is employed.

(b) The provisions of this subsection shall not authorize a person specified in this subsection to carry a concealed deadly weapon in a detention facility as defined in KRS 520.010 or on the premises of a detention facility without the permission of the warden, jailer, or other person in charge of the facility, or the permission of a person authorized by the warden, jailer, or other person in charge of the detention facility to give such permission. As used in this section, "detention facility" does not include courtrooms, facilities, or other premises used by the Court of Justice or administered by the Administrative Office of the Courts.

(7)(a) A full-time paid peace officer of a government agency from another state or territory of the United States or an elected sheriff from another territory of the United States may carry a concealed deadly weapon in Kentucky, on or off duty, if the other state or territory accords a Kentucky full-time paid peace officer and a Kentucky elected sheriff the same rights by law. If the other state or territory limits a Kentucky full-time paid peace officer or elected sheriff to carrying a concealed deadly weapon while on duty, then that same restriction shall apply to a full-time paid peace officer or elected sheriff from that state or territory.

(b) The provisions of this subsection shall not authorize a person specified in this subsection to carry a concealed deadly weapon in a detention facility as defined in KRS 520.010 or on the premises of a detention facility without the permission of the warden, jailer, or other person in charge of the facility, or the permission of a person authorized by the warden, jailer, or other person in charge of the detention facility to give such permission. As used in this section, "detention facility" does not include courtrooms, facilities, or other premises used by the Court of Justice or administered by the Administrative Office of the Courts.

(8) A loaded or unloaded firearm or other deadly weapon shall not be deemed concealed on or about the person if it is located in any enclosed container, compartment, or storage space installed as original equipment in a motor vehicle by its manufacturer, including but not limited to a glove compartment, center console, or seat pocket, regardless of whether said enclosed container, storage space, or compartment is locked, unlocked, or does not have a locking mechanism. No person or organization, public or private, shall prohibit a person from keeping a loaded or unloaded firearm or ammunition, or both, or other deadly weapon in a vehicle in accordance with the provisions of this subsection. Any attempt by a person or organization, public or private, to violate the provisions of this subsection may be the subject of an action for appropriate relief or for damages in a Circuit Court or District Court of competent jurisdiction. This subsection shall not apply to any person prohibited from possessing a firearm pursuant to KRS 527.040.

(9) The provisions of this section shall not apply to a person who carries a concealed deadly weapon on or about his or her person without a license issued pursuant to KRS 237.110:

(a) If he or she is the owner of the property or has the permission of the owner of the property, on real property which he or she or his or her spouse, parent, grandparent, or child owns;

(b) If he or she is the lessee of the property or has the permission of the lessee of the property, on real property which he or she or his or her spouse, parent, grandparent, or child occupies pursuant to a lease; or

(c) If he or she is the sole proprietor of the business, on real property owned or leased by the business. (10) Carrying a concealed weapon is a Class A misdemeanor, unless the defendant has been previously convicted of a felony in which a deadly weapon was possessed, used, or displayed, in which case it is a Class D felony.

KRS 237.137 Concealed carry authority for off-duty and certified retired peace officers.

Off-duty peace officers authorized to do so by the government employing the officer and retired peace officers certified under KRS 237.138 to 237.142 may carry concealed firearms on or about their persons at all times and at any location within the Commonwealth where an on-duty peace officer is permitted to carry firearms. 237.138 Application of KRS 237.138 to 237.142 to retired peace officers. KRS 237.138 to

237.142 shall apply to any elected or appointed peace officer who is honorably retired and who:
(1) Meets the provisions of the federal Law Enforcement Officers Safety Act, 18 U.S.C. sec. 926C;

(2) Meets the provisions of KRS 237.138 to 237.142; and

(3) Desires to carry a concealed deadly weapon in conformity with the provisions of the federal Law Enforcement Officers Safety Act, 18 U.S.C. sec. 926C.

237.138 Application of KRS 237.138 to 237.142 to retired peace officers.

KRS 237.138 to 237.142 shall apply to any elected or appointed peace officer who is honorably retired and who:

(1) Meets the provisions of the federal Law Enforcement Officers Safety Act, 18 U.S.C. sec. 926C;

(2) Meets the provisions of KRS 237.138 to 237.142; and

(3) Desires to carry a concealed deadly weapon in conformity with the provisions of the federal Law Enforcement Officers Safety Act, 18 U.S.C. sec. 926C.

237.140 Certification for retired peace officer to carry concealed deadly weapon -- Administrative regulations -- Requirements -- Firearms instruction.

(1)(a) Certification for a retired peace officer to carry a concealed deadly weapon pursuant to KRS 237.138 to 237.142 shall be administered by the Department of Kentucky State Police.

(b) Costs of certification shall be paid for by moneys generated by the concealed deadly weapon license program under KRS 15.383 and collected by the Department of Kentucky State Police pursuant to that section.

(c) The Department of Kentucky State Police shall promulgate administrative regulations in accordance with KRS Chapter 13A necessary to implement the provisions of KRS 237.138 to 237.142. The regulations shall allow the validity of any license or certifying documentation issued to the retired peace officer under this section to be extended in yearly increments not more than four (4) times. To facilitate this objective, the regulations may authorize the material required by subsection (2) of this section to be submitted to the person supervising the firearms qualifications under subsection (4)(b) of this section, with that person then submitting the material to the Department of Kentucky State

Police and signing the license or certification in a manner that satisfies the requirements of federal law as to the retiree's passage of the required yearly firearms testing.

(2) Each retired peace officer who desires certification to carry a concealed deadly weapon shall annually submit:

(a) Evidence of retired status to the commissioner of the Department of Kentucky State Police together with all information required by federal law, this section, and administrative regulations promulgated pursuant to this section;

(b) Evidence of successful completion of firearms qualification required under this section; and

(c) A notarized statement that he or she is not prohibited by state or federal law from possessing a firearm.

(3) Each law enforcement agency that employed the retired peace officer, or at which the retired peace officer served in an elected capacity, shall provide to the retired officer and the Department of Kentucky State Police the information required by federal law, this section, and the administrative regulations promulgated pursuant to this section in a prompt and efficient manner, without charge either to the Department of Kentucky State Police or the retiree.

(4)(a) Each retired peace officer shall annually fire twenty (20) rounds at an adult size silhouette target at a range of twenty-one (21) feet, with a handgun, and shall hit the target not less than eleven (11) times to obtain or maintain certification under KRS 237.138 to 237.142.

(b) The rounds fired pursuant to paragraph (a) of this subsection shall be done under the supervision of:

1. A firearms instructor of the retiree's former employing agency;

2. A currently certified peace officer who has successfully completed a Kentucky Law Enforcement Council approved firearms instructor course;

3. A Department of Criminal Justice Training certified police firearms instructor or instructor trainer; or

4. A Department of Criminal Justice Training certified concealed carry instructor or instructor trainer.

(c) A firearms instructor may, if not compensated pursuant to paragraph (d) of this subsection, charge each participant a fee of not more than twenty dollars (\$20), which shall include the cost of the range, firearms instructor, range

personnel, targets, and all other costs associated therewith, but not the cost of ammunition. Ammunition, or the cost of ammunition, shall be provided by the retiree.

(d) A local or state law enforcement agency that desires to conduct firearms qualification for its retirees shall schedule not less than two (2) dates for firearms qualification per year, and those dates shall be approximately six (6) months apart. The local or state law enforcement agency may charge each participant a fee of not more than twenty dollars (\$20), which shall include the cost of use of the range, firearms instructor, range personnel, targets, and all other costs associated therewith, but not the cost of ammunition. Ammunition, or the cost of ammunition, shall be provided by the retiree.

(e) No employer or appointing authority of a firearms instructor who has successfully completed a Kentucky Law Enforcement Council approved firearms instructor course, Department of Criminal Justice Training certified police firearms instructor or instructor trainer, or Department of Criminal Justice Training certified concealed carry instructor or instructor trainer shall prohibit or in any way limit the instructor

from qualifying active or retired peace officers in conformity with KRS 237.138 or 237.142 while that instructor is off duty. No employer or appointing authority of an instructor specified in this paragraph shall be liable in civil damages for the actions or omissions of the instructor during qualification of active or retired peace officers when that instructor is off duty. 237.142 Availability of range facilities for retired peace officers.

(1) The following agencies of the Commonwealth shall make range facilities available not less than four (4) days per year for firearms qualification by retired peace officers seeking certification pursuant to the provisions of KRS 237.138 to 237.142:

- (a) The Justice and Public Safety Cabinet;
- (b) The Department of Military Affairs; and
- (c) The Department of Fish and Wildlife Resources.

(2) Firearms qualification may be conducted at any location, public or private, at which a handgun may be safely fired. The safety of the location at which firing takes place shall be the responsibility of the instructor conducting the qualification.