

HOW DOES HR-218 (THE LAW ENFORCEMENT OFFICERS SAFETY ACT) APPLY TO YOU IN 2015?

By John Comparetto, Immediate Past President Lodge 188



On July 22, 2004, President George W. Bush signed into law the 'Law Enforcement Officers Safety Act', commonly known to us as LEOSA or HR-218. It was amended in 2010 and 2013.

The law afforded qualified active law enforcement officers (QLEO) and qualified retired law enforcement officers (QRLEO) the privilege of carrying a CONCEALED firearm in all 50 states, Washington DC, Puerto Rico and all U.S. Possessions such as the US Virgin Islands.

The amendments changed the number of aggregate years of service to 10 and eliminated the need to have a pension. This added military and DOD police, Amtrak Police, Federal Reserve Police and the Executive Branch of the US Government. IN ADDITION, amendments opened the door to part-time, auxiliaries, reserve and volunteer officers, (they must meet the definition to include 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; Is authorized by the Agency to carry a firearm, is not subject of any disciplinary action of the agency which could result in loss of police powers, meets standards, if any, established by the agency which require the employee to regularly qualify in the use of firearms, is not under the influence of alcohol or drugs, and is not prohibited by federal law from receiving a firearm)

In 2013, the amendment was slipped into a DOD bill and did not allow our organizations to scrutinize the wording. The military wanted the ability to distinguish who was allowed to carry firearms. Hidden within the amendment was language that now mandated that all QLEOs and RQLEOs carry a photo ID that "identifies the employee as a police or law enforcement officer of the agency (or for retirees, as having been employed as a police or law enforcement officer).

Why is this a problem? Because nothing in the law requires agencies to issue a "Retired" ID to their members. And, now, if they don't indicate that you were a police or law enforcement officer you do not qualify under HR-218.

LETS REVIEW NYPD

Look at your ID Card. Unless your rank is Police Officer, no where does it say that you are or were a police officer. Technicality, maybe. My retired ID Card says LIEUTENANT. Common sense dictates that an NYPD Lieutenant or a Detective, Sergeant, Captain or Chief is or was a police officer. I don't believe there will be a problem but again, it only takes one over zealous officer to have you become the test case. Nothing we can do about this now.

My Retired NJ Chiefs ID Card states the following on the reverse:

The bearer of this card is a duly sworn law enforcement officer and is authorized to carry a firearm in accordance with New Jersey Title 40 and the Law Enforcement Officers Safety Act, HR-218 (United States Code, Chapter 44 of Title 18) I, of course, worded these even prior to the amendment so as to be as clear as possible (Thanks to my yearly attendance at the SHEEPDOG ACADEMY)



WHERE CAN'T WE CARRY

- No good in federal facilities**
- No good on federal park land**
(But a carry permit is)
- No good in privately owned POSTED locations**
- No good in licensed premises in some states**
(Must check local state law)
- No good in GUN FREE SCHOOL ZONES**

(Note: you cannot be anywhere in the Borough of Manhattan and not be within 1000' of a school zone)
However, many states Concealed Weapons Permits allow you to carry within these GFSZ.

I recommend that you apply for and carry as many Concealed Weapons Permits as you can. This includes Florida, Utah and keep your NY Permit. A recent Court ruling in NYS now allows part-time residents to have a permit. This permit exempts you from GFSZ in NY.

NOTE: YOU ARE NOT COVERED UNDER LEOSA IF YOU ARE UNDER THE INFLUENCE OF ALCOHOL OR NARCOTICS. Be advised that North Carolina has a law that you cannot carry a firearm with "ANY AMOUNT OF ALCOHOL IN YOUR SYSTEM



DO I NEED A CONCEALED WEAPONS PERMIT IN NYS IF I CARRY UNDER HR-218

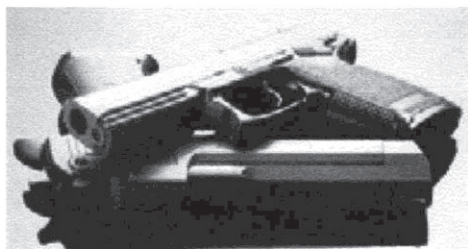
NO YOU DON'T, BUT In many states you do not need a concealed carry permit to own or possess a handgun. However, in NY State you can not legally touch a handgun without a permit. HR-218 would of course exempt you. But here is the problem. If you let your HR-218 expire, say on July 1, you would be in criminal possession of a weapon on July 2. You couldn't legally go to a range and qualify. WHY PUT YOURSELF IN THIS POSITION. Keep your permit. Plus, why would you want to become overtime for some rookie cop who has no clue as to why you have no permit.

MUST WE CARRY CONCEALED

I have attended the Sheepdog Academy training on HR-218 for at least the past 7 or 8 years. Steve Mannion, an Attorney (and now U.S. Magistrate) is the countries leading expert on HR-218) Each year I attempted to argue a point with him about HR-218. Steve stated that HR-218 requires that you carry "CONCEALED". He would give an example of a guy getting out of a car and his sport jacket is caught around his holster/gun and the firearm is now exposed. Steve said "YOU ARE NOT COVERED BY HR-218". I argued that I can't believe the law didn't cover that. WELL, a recent court case in NYC (of course) proved me 100% wrong.

A 65 year old retired NJ Deputy was working for a Traffic Management Company following Hurricane Sandy. He was directing traffic near the city hall area. Each time he raised his arms to direct traffic his yellow vest went up and his holstered firearm showed. Someone dialed 9-11. NYPD responded and sat across the street videotaping him. They confronted him. He had his retired ID, his HR-218 qualification card and a copy of the law. For some reason they brought him in for investigation. They called the Sheriff's Dept where he retired from in 1995. No one knew him so they arrested him (I can't explain this). His lawyer made a motion to dismiss under LEOSA. The Judge ruled that he was NOT COVERED BY LEOSA BECAUSE THE WEAPON WAS NOT CONCEALED. He ended up having to plea to a Misdemeanor or risk 3 1/2 year minimum mandatory. Be careful and make sure its concealed.

AMMO AND MAGAZINE RESTRICTIONS



You are permitted under HR-218 to carry any ammo not banned by the US Government. So yes, you can carry hollowpoints in New Jersey. You cannot carry ammo deemed to be armor piercing by the government.

HR-218 does not exempt us from magazine bans. NY SAFE Act says that you can only have up to 7 rounds in a magazine not capable of holding more than 10 rounds. Retired NY COPS ONLY may be exempt from this but only with the firearms that they carried and qualified with prior to retiring. A Federal Judge in the Buffalo area has a stay on this but many District Attorneys don't seem to care. Check State laws that you are traveling to regarding magazine capacity.

WHAT ARE WE DOING TO IMPROVE LEOSA

In 2013 myself, retired Chief Jay Kopstein and retired Sgt. Dave Furman came up with a proposal that I presented at the National FOP Convention as an Amendment to a Resolution supporting HR-218. The amendment has the FOP supporting any legislation that would exempt us from Magazine Capacity and Gun Free School Zones.

We are also trying to word additional exemptions to include a less restrictive definition of concealed as well as our ability to carry on private posted property and not be charged with a gun crime. Hope to get some members of Congress to write this bill. If I can help you with any matter related to HR-218, ***I can be emailed at: CHIEF-COMP@aol.com*** Also, check out Sheepdogacademy.com Try to attend at least one of his trainings.

Stay safe

Fraternally

John Comparetto

Immediate Past President Lodge 188

Chief-Retired

Passaic County Sheriff Dept

Lieutenant- Retired

NYPD