

JAN 18 2019

A BILL FOR AN ACT

RELATING TO FIREARMS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the federal Law
2 Enforcement Officers Safety Act of 2004 (LEOSA), Public Law
3 108-277, was intended to afford active and retired law
4 enforcement officers the privilege of carrying a concealed
5 firearm across state lines. The LEOSA was amended by the Law
6 Enforcement Officers Safety Act Improvements Act of 2010, Public
7 Law 111-272, to include former officers who have separated after
8 serving as law enforcement officers for ten years or more. The
9 LEOSA was amended again by section 1089 of the National Defense
10 Authorization Act for Fiscal Year 2013, Public Law 112-239, to
11 include a certain category of military employees with statutory
12 powers of arrest or apprehension. However, since the enactment
13 of the second amendment of the LEOSA, varying state approaches
14 to implementation have hindered the consistent and effective
15 operation of the federal law, especially with respect to
16 qualified retired law enforcement officers.



1 Under the LEOSA, as amended, qualified retired law
2 enforcement officers who wish to carry a concealed firearm in
3 any of the fifty states are required to carry a photographic
4 identification that is issued by the agency from which the
5 qualified retired law enforcement officer was employed that
6 indicates or is accompanied by a firearm certification. If the
7 photographic identification does not indicate that the retired
8 officer has met firearm training standards, then the
9 photographic identification is required to be accompanied by a
10 firearm certification that is issued by the state in which the
11 qualified retired law enforcement officer resides or by a
12 certified firearms instructor who is qualified to conduct
13 firearms qualification tests for active duty officers within
14 that state. The firearm certification must also certify that
15 the qualified retired law enforcement officer has met, within
16 the most recent twelve-month period, the active law enforcement
17 standards for qualification, as determined by the state, to
18 carry a firearm of the same type as the firearm the qualified
19 retired law enforcement officer intends to conceal and carry.
20 If the state that the qualified retired law enforcement officer
21 resides in has not established any qualification standards, then



1 standards established by any law enforcement agency within that
2 state may be used. Currently, Hawaii has not formerly
3 established firearm qualification standards for qualified
4 retired law enforcement officers residing in the State or a
5 statutory framework to uniformly permit active and qualified
6 retired law enforcement officers to carry a concealed weapon in
7 Hawaii pursuant to the LEOSA, as amended.

8 The purpose of this Act is to authorize the department of
9 the attorney general to develop and implement a state program to
10 allow active and qualified retired law enforcement officers to
11 carry a concealed firearm in Hawaii pursuant to the LEOSA, as
12 amended.

13 SECTION 2. Chapter 134, Hawaii Revised Statutes, is
14 amended by adding a new part to be appropriately designated and
15 to read as follows:

16 "PART . CARRYING OF CONCEALED FIREARMS BY LAW ENFORCEMENT
17 OFFICERS

18 §134- Purpose. The purpose of this part is to authorize
19 the attorney general to develop and implement a state program to
20 allow qualified active and qualified retired law enforcement
21 officers to carry a concealed firearm in Hawaii pursuant to the



1 Law Enforcement Officers Safety Act of 2004 as codified and
2 amended in title 18 United States Code sections 926B and 926C.

3 **§134- Compliance with federal and state laws.** (a) To
4 carry a concealed firearm in this State pursuant to title 18
5 United States Code section 926B, a qualified law enforcement
6 officer shall comply with all state laws, including but not
7 limited to this chapter and rules adopted under this part. If a
8 qualified law enforcement officer is not on official duty with
9 the officer's government agency and is carrying a concealed
10 firearm pursuant to title 18 United States Code section 926B in
11 this State, state law shall apply to this officer as a person
12 with no law enforcement powers.

13 (b) To carry a concealed firearm in this State pursuant to
14 title 18 United States Code section 926C, a qualified retired
15 law enforcement officer shall comply with all state laws,
16 including but not limited to this chapter and rules adopted
17 under this part. Title 18 United States Code section 926C and
18 state law shall not authorize a qualified retired law
19 enforcement officer to act as a law enforcement officer in this
20 State.



1 §134- **Rules.** The department of the attorney general
2 shall adopt rules pursuant to chapter 91 to effectuate the
3 purposes of this part."

4 SECTION 3. Section 134-9, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "§134-9 **Licenses to carry.** (a) In an exceptional case,
7 when an applicant shows reason to fear injury to the applicant's
8 person or property, the chief of police of the appropriate
9 county may grant a license to an applicant who is a citizen of
10 the United States of the age of twenty-one years or more or to a
11 duly accredited official representative of a foreign nation of
12 the age of twenty-one years or more to carry a pistol or
13 revolver and ammunition therefor concealed on the person within
14 the county where the license is granted. Where the urgency or
15 the need has been sufficiently indicated, the respective chief
16 of police may grant to an applicant of good moral character who
17 is a citizen of the United States of the age of twenty-one years
18 or more, is engaged in the protection of life and property, and
19 is not prohibited under section 134-7 from the ownership or
20 possession of a firearm, a license to carry a pistol or revolver
21 and ammunition therefor unconcealed on the person within the



1 county where the license is granted. The chief of police of the
2 appropriate county, or the chief's designated representative,
3 shall perform an inquiry on an applicant by using the National
4 Instant Criminal Background Check System, to include a check of
5 the Immigration and Customs Enforcement databases where the
6 applicant is not a citizen of the United States, before any
7 determination to grant a license is made. Unless renewed, the
8 license shall expire one year from the date of issue.

9 (b) The chief of police of each county shall adopt
10 procedures to require that any person granted a license to carry
11 a concealed weapon on the person shall:

- 12 (1) Be qualified to use the firearm in a safe manner;
- 13 (2) Appear to be a suitable person to be so licensed;
- 14 (3) Not be prohibited under section 134-7 from the
15 ownership or possession of a firearm; and
- 16 (4) Not have been adjudged insane or not appear to be
17 mentally deranged.

18 (c) No person shall carry concealed or unconcealed on the
19 person a pistol or revolver without being licensed to do so
20 under this section or in compliance with sections 134-5(c) or
21 134-25.



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1 (d) A fee of \$10 shall be charged for each license and
 2 shall be deposited in the treasury of the county in which the
 3 license is granted.

4 (e) This section shall not apply to qualified law
 5 enforcement officers or qualified retired law enforcement
 6 officers in compliance with part _____ and the rules adopted
 7 pursuant to part _____."

8 SECTION 4. This Act does not affect rights and duties that
 9 matured, penalties that were incurred, and proceedings that were
 10 begun before its effective date.

11 SECTION 5. New statutory material is underscored.

12 SECTION 6. This Act shall take effect upon its approval.

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S.B. NO. 853

Report Title:

Firearms; Active and Retired Law Enforcement Officers; Carrying of a Concealed Firearm; LEOSA

Description:

Authorizes the department of the attorney general to develop and implement a state program to allow active and retired law enforcement officers to carry a concealed firearm in Hawaii pursuant to the federal Law Enforcement Officers Safety Act of 2004. Makes a conforming amendment to state firearm laws.

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